

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **September 25, 2014**
Time: **7:00 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.**

**Use Northeast parking lot via Lierman Ave.
and enter building through Northeast
door.**

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (August 28, 2014)
5. Continued Public Hearings

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

Case 766-AM-13 and Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping

Case 766-AM-13 Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13, on the subject property below.**

*Case 767-S-13 Request: **On the subject property described below, authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:**

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

Location: **A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
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6. New Public Hearings

***Case 784-V-14** Petitioner: **Jerry O. Kalk and Barbara J. Kalk**
Request: **Authorize the following in the AG-1 Agriculture Zoning District:**

Part C. **Variance for a side yard for a dwelling of 10 feet 10 inches in lieu of the minimum required 15 feet.**

Part D. **Variance for a side yard for a detached accessory building (garage) of 3 feet in lieu of the minimum required 10 feet.**

Location: **A ¼ acre tract in Ogden Township in the West Half of the Northwest Quarter of the Northeast Quarter of Section 17 of Township 19N Range 14E of the Second Principle Meridian and commonly known as the home at 1592 County Road 2650E, Ogden.**

***Case 786-V-14** Petitioner: **Toby Drollinger**
Request: **Authorize the following Variance in the R-1 Single Family Residence Zoning District:**

Part A. **A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet.**

Part B. **An existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet.**

Part C. **A second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.**

Location: **Lot 99 in Block 6 of the Edgewood Subdivision in Section 10 in Urbana Township and commonly known as the residence at 2404 John Drive, Urbana.**

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 61801**

5 **DATE: August 28, 2014**

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

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

10 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol

11 **MEMBERS ABSENT :** Roger Miller, Eric Thorslad

12 **STAFF PRESENT :** Connie Berry, Susan Chavarria, Jessica Gal, John Hall, Gabrielle Mattingly

13 **OTHERS PRESENT :** Randy Hopkins, Sue Hopkins, Chuck Stites, Mary Ellen Stites, Mitch
14 Osterbur, Jerry Kalk, Barbara Kalk, Kirsten Fantom, DVM, Jarrett Clem,
15 Dennis Wandell

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22 **1. Call to Order**

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

25
26 Mr. Hall informed the Board that due to the absence of Mr. Thorsland the Board needs to appoint an acting
27 Chair for tonight's meeting.

28
29 **Mr. Passalacqua moved, seconded by Ms. Lee to appoint Cathe Capel as the acting Chair for tonight's**
30 **meeting. The motion carried by voice vote.**

31
32 **2. Roll Call and Declaration of Quorum**

33
34 **The roll was called and a quorum declared present with two members absent.**

35
36
37 **3. Correspondence**

38
39 None

DRAFT

40
41 **4. Approval of Minutes**

42
43 None

44
45 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
46 witness register for that public hearing. She reminded the audience that when they sign the witness register
47 they are signing an oath.

5. Continued Public Hearing

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows: (1) require that each proposed residential lot shall have an area equal to the minimum required lot area in the zoning district that is not in the Special Flood Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation; (3) require a minimum driveway separation between driveways in the same development; (4) require minimum driveway standards for any residential lot on which a dwelling may be more than 140 feet from a public street; (5) require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6) require for any proposed RRO in a high probability area as defined in the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.

Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of his request.

Mr. John Hall, Zoning Administrator, stated that there is no new information available for the Board’s review and requested that Case 685-AT-11 be continued to the November 13, 2014, meeting.

Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the November 13, 2014, meeting. The motion carried by voice vote.

Case 771-AM-13 Petitioner: Randy and Sue Hopkins, d.b.a. Atlantic Services, Inc. Request to amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District in order to authorize the proposed Special Use in related zoning Case 772-S-13. Location: A five acre tract of land in the North Half of the Northwest Quarter of the Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and self-storage warehouse located at 31 East Hensley Road, Champaign.

Case 772-S-13 Petitioner: Randy and Sue Hopkins, d.b.a. Atlantic Services, Inc. Request: Authorize the following as a Special Use in the B-4 General Business Zoning District: Part A. Authorize multiple principal buildings on the same lot consisting of the following: (1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 101-S-97;

1 **and (2) a Landscaping and Maintenance Contractor's Facility with outdoor storage as proposed in**
2 **Part B. Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor**
3 **Facility. Location: An 11.8 acre tract of land in the North Half of the Northwest Quarter of the**
4 **Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and**
5 **self-storage warehouse located at 31 East Hensley Road, Champaign, and an adjacent tract of**
6 **farmland.**

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8 Ms. Capel informed the audience that Case 772-S-13 is an Administrative Case and as such the County
9 allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for
10 a show of hands for those who would like to cross examine and each person will be called upon. She
11 requested that anyone called to cross examine go to the cross examination microphone to ask any questions.
12 She said that those who desire to cross examine are not required to sign the witness register but are requested
13 to clearly state their name before asking any questions. She noted that no new testimony is to be given
14 during the cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-
15 Laws are exempt from cross examination.

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17 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
18 witness register for that public hearing. She reminded the audience that when they sign the witness register
19 they are signing an oath.

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21 Ms. Capel asked Mr. John Hall if he would like to review any new information with the Board.

22
23 Mr. Hall, Zoning Administrator, stated that there is no new memorandum for the Board's review tonight. He
24 said that the cases were continued to tonight's meeting only to allow more Board members to be in
25 attendance for final action. He said that at the last meeting the Finding of Fact and Summary of Evidence
26 were updated and the Board approved the Finding of Fact for both cases however he did notice that item #3
27 in the Finding of Fact for Case 771-AM-13, which is the item which reviews municipal jurisdiction, did not
28 contain all of the information contained in item #3 for the Summary of Evidence which reviewed municipal
29 jurisdiction and township planning jurisdiction. He recommended that the Board amend item #3 the Finding
30 of Fact for Case 771-AM-13 to be the same as item #3 in the Summary of Evidence for Case 772-S-13 and
31 re-adopt the amended Findings of Fact for both cases. He said that upon adoption of the amended Findings
32 of Fact for both cases the cases will be ready for final action, pending the petitioners' determination to
33 proceed or continue to another meeting.

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35 Ms. Griest asked Mr. Hall to explain what he is exactly proposing the Board to add to item #3 in Case 771-
36 AM-13.

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38 Mr. Hall stated that he is proposing that the Board make item #3 in Case 771-AM-13 identical to item #3 in
39 Case 772-S-13.

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41 **Ms. Griest moved, seconded by Mr. Randol to make item #3 in the Summary of Evidence for Case**
42 **771-AM-13 identical to item #3 in the Findings of Fact for Case 772-S-13. The motion carried by**

1 voice vote.

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3 **Ms. Griest moved, seconded by Mr. Passalacqua to approve the amended Findings of Fact for Cases**
4 **771-AM-13 and 772-S-13. The motion carried by voice vote with one opposing vote.**
5

6 Ms. Capel entertained a motion to move to the Final Determination for Cases 771-AM-13 and 772-S-13.
7

8 **Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Cases 771-AM-13**
9 **and 772-S-13. The motion carried by voice vote.**
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11 Ms. Capel informed the petitioners that two Board members were absent therefore it is at their discretion to
12 either continue Cases 771-AM-13 and 772-S-13 until a full Board is present or request that the present Board
13 move to the Final Determination. She informed the petitioners that four affirmative votes are required for
14 approval.
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16 Mr. Hopkins requested that the present Board proceed to the Final Determination.
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18 **Final Determination for Case 771-AM-13:**
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20 **Ms. Griest moved, seconded by Mr. Passalacqua that pursuant to the authority granted by Section 9.2**
21 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
22 **determines that the Zoning Ordinance Amendment requested in Case 771-AM-13 should BE**
23 **ENACTED by the County Board in the form attached hereto.**
24

25 Ms. Capel requested a roll call vote.
26

27 The roll was called:
28

29	Griest-yes	Lee-no	Miller-absent
30	Passalacqua-yes	Randol-yes	Thorsland-absent
31	Capel-yes		

32
33 **Final Determination for Case 772-S-13:**
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35 **Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**
36 **Appeals 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 9.1.6 B. of the Champaign Zoning Ordinance, determines that the Special Use requested in**
39 **Case 772-S-13 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants Randy and**
40 **Sue Hopkins d.b.a. Atlantic Services, Inc., to authorize the following as a Special Use in the B-4**
41 **District:**

42 **Part A. Authorize multiple principal buildings on the same lot consisting of the**

following:

- (1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 575-S-07; and
- (2) a Landscaping and Maintenance Contractor’s Facility with outdoor storage as proposed in Part B.

Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor Facility with outdoor storage.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

A. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.

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

That the drainage improvements conform to the requirements of the Stormwater Management Policy.

B. Heat and utilities provided to the individual self-storage units should be limited so that improper use cannot be made of those services. The following conditions will ensure that heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities:

- a. Heating in the individual storage units shall not be controllable by the individual storage unit renters and shall be controlled by the management as described in the Hensley Storage Security Notes submitted by the petitioner.
- b. No plumbing shall be provided within the individual self-storage units nor within the immediate vicinity of the self-storage units as described in the Hensley Storage Security Notes submitted by the petitioner.
- c. Electrical power within the individual self-storage units shall be limited to one 15 amp outlet as described in the Hensley Storage Security Notes submitted by the petitioner.

The above special conditions are required to ensure the following:

Heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities.

C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed contractor’s facility until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes:

- (A) The 2006 or later edition of the International Building Code.
- (B) The 2008 or later edition of the National Electrical Code NFPA 70.

- 1 **(C) The Illinois Plumbing Code.**
- 2 The special conditions stated above are required to ensure the following:
- 3 **New buildings shall be in conformance with Public Act 96-704.**
- 4
- 5 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner**
- 6 **has demonstrated that any new or proposed exterior lighting on the subject property**
- 7 **will comply with the lighting requirements of Section 6.1.2.**
- 8 The special conditions stated above are required to ensure the following:
- 9 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**
- 10
- 11 **E. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
- 12 **proposed contractor’s facility until the petitioner has demonstrated that the proposed**
- 13 **Special Use complies with the Illinois Accessibility Code.**
- 14 The special condition stated above is necessary to ensure the following:
- 15 **That the proposed Special Use meets applicable state requirements for accessibility.**
- 16
- 17 **F. The only two principal uses authorized by Case 772-S-13 are a Contractor’s Facility**
- 18 **with outdoor storage and/or outdoor operations and self-storage warehouses providing**
- 19 **heat and utilities to individual units.**
- 20 The special condition stated above is necessary to ensure the following:
- 21 **That the petitioner and future landowners understand the requirements of the Zoning**
- 22 **Ordinance.**
- 23
- 24 **G. The County Health Department recommends that the area for the subsurface septic**
- 25 **system be identified, marked off and protected from compaction prior to construction.**
- 26 **The following condition will ensure that the recommendations of the County Health**
- 27 **Department are a requirement for a Zoning Use Permit:**
- 28 **(1) The Zoning Administrator shall not accept a Zoning Use Permit Application for**
- 29 **the proposed contractor facility building unless there is a copy of an approved**
- 30 **septic system permit by the Champaign County Health Department.**
- 31 **(2) The area proposed for the septic system shall be identified, marked off, and**
- 32 **protected from compaction prior to any construction on the subject property**
- 33 **and the site plan shall include notes to that effect.**
- 34 **(3) The Zoning Administrator shall not issue a Zoning Compliance Certificate**
- 35 **without documentation of the approval of the as-built septic system by the**
- 36 **Champaign County Health Department.**
- 37 The special condition stated above is necessary to ensure the following:
- 38 **The septic system meets the requirements of the Champaign County Health Ordinance.**
- 39
- 40 **H. If access to the subject property is restricted there should be no vehicles or trailers**
- 41 **required to sit or stand on CR 2100N while access is provided (ie, a gate is unlocked**
- 42 **and opened).**

1 The special condition stated above is necessary to ensure the following:
 2 **Restricting access by customers should not create a traffic safety problem on CR**
 3 **2100N.**

4
5 Ms. Capel requested a roll call vote.

6
7 The roll was called:

8			
9	Passalacqua-yes	Randol-yes	Thorsland-absent
10	Griest-yes	Lee-no	Miller-absent
11	Capel-yes		

12
13 Mr. Hall informed the petitioners that they have received approvals for both cases. He said that the map
14 amendment case has been included on the Environment and Land Use Committee meeting agenda which
15 will be held on September 4th at 6:30 p.m. in the Lyle Shields Meeting Room.

16
17 **Case 778-S-14 Petitioner: Charles and Mary Ellen Stites Request to authorize continued use of a**
18 **Major Rural Specialty Business in the CR District on the following property as previously approved**
19 **for a limited time in Special Use Permit 610-S-08. Location: A 5.0 acre tract in the East Half of the**
20 **Southeast Quarter of the Northeast Quarter of Section 1, Township 18 North, Range 10 East of**
21 **Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR**
22 **2400E, St. Joseph.**

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

32
33 Mr. John Hall, Zoning Administrator, stated that this case was continued tonight with the anticipation that
34 more Board members would be present for final action. He said that the Summary of Evidence, Findings of
35 Fact and Documents of Record were approved at the last public hearing.

36
37 Ms. Capel stated that there are two names on the witness register. She asked the audience if anyone else
38 desired to sign the witness register to present testimony tonight.

39
40 Mr. Passalacqua stated that no new testimony should be received at this time because the Summary of
41 Evidence and Findings of Fact have already been approved.

42

1 Mr. Randol agreed.

2
3 Mr. Hall stated that every time there is a public hearing the State's Attorney has always advised the Board
4 that they should hear any testimony that witnesses would like to present. He said that hearing the testimony
5 does not mean that the Board has to revise the findings if the Board finds that the testimony does not merit
6 such but to take action there must be a public hearing and if someone desires to speak then the Board should
7 allow them the opportunity. He said that the Board may abide by the normal rules for testimony in that no
8 redundant testimony will be allowed.

9
10 Ms. Capel called Charles Stites to testify.

11
12 Mr. Charles Stites, who resides at 1161 CR 2400E, St. Joseph, stated that he signed the witness register in
13 case there were any questions from staff or the Board.

14
15 Mr. Hall stated that he had no questions for Mr. Stites at this time.

16
17 The Board indicated that they had no questions for Mr. Stites at this time.

18
19 Ms. Capel called Dennis Wandell to testify.

20
21 Mr. Dennis Wandell, who resides at 1167 CR 2400E, St. Joseph, stated that he also signed the witness
22 register in case there were any questions from staff or the Board.

23
24 Mr. Hall stated that he had no questions for Mr. Wandell at this time.

25
26 The Board indicated that they had no questions for Mr. Wandell at this time.

27
28 Ms. Capel entertained a motion to move to the Final Determination for Case 778-S-14.

29
30 **Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 778-S-14. The**
31 **motion carried by voice vote.**

32
33 Ms. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to
34 either continue Cases 771-AM-13 and 772-S-13 until a full Board is present or request that the present Board
35 move to the Final Determination. She informed the petitioner that four affirmative votes are required for
36 approval.

37
38 Mr. Stites requested that the present Board proceed to the Final Determination.

39
40 **Final Determination for Case 778-S-14:**

41
42 **Ms. Griest moved, seconded by Mr. Randol that the Champaign County Zoning Board of Appeals**

1 finds that, based upon the application, testimony, and other evidence received in this case, the
 2 requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted
 3 by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use
 4 requested in Case 778-S-14 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants
 5 Charles and Mary Ellen Stites d.b.a. River Bend Wild Game & Sausage Company to authorize the
 6 following as a Special Use in the CR District:

7
 8 **Authorize continued use of a Major Rural Specialty Business in the CR District**
 9 **On the following property as previously approved for a limited time in Special**
 10 **Use Permit 610-S-08 on the following property:**

11
 12 **A 5.0 acre tract in the East Half of the Southeast Quarter of the Northeast Quarter**
 13 **of Section 1, Township 18N, Range 10E, of Sidney Township and commonly**
 14 **known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.**

15
 16 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:’**

- 17
 18 **A. The Special Use Permit authorized herein is only for the final dressing of field**
 19 **dressed wild game and none of the following shall occur on the subject property.**
 20 **(1) No slaughtering of wild game or animals of any kind is authorized except**
 21 **for the final dressing (i.e., further processing) of field dressed wild game**
 22 **carcasses.**
 23 **(2) No meat preparation or packaging that is subject to the Meat and**
 24 **Poultry Inspection Act is authorized except for the final dressing and**
 25 **packaging of field dressed wild game carcasses.**
 26 **(3) There shall be no sales to the general public of products made from wild**
 27 **game that has been dressed onsite.**
 28 **(4) The sale of goods produced off the premises must constitute less than 50**
 29 **percent of the gross annual business income and less than 50 percent of**
 30 **the total annual stock in trade.**

31 The special condition stated above is required to ensure the following:
 32 **The continued operation of the Special Use Permit authorized herein shall be in**
 33 **conformance with the testimony and evidence presented and shall continue to**
 34 **qualify as a Rural Specialty Business in the CR District.**

- 35
 36 **B. The petitioner shall provide reasonable access to both the subject property and**
 37 **all relevant business records, including employee work records; the location**
 38 **where food supplies were purchased; food lot numbers; the identity of food**
 39 **purchasers; and other records as may be requested by the Champaign County**
 40 **Public Health Department pursuant to any complaint of food borne illness that**
 41 **is made after ingestion of products from the proposed special use.**
 42 **The proposed special condition stated above is required to ensure the following:**

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The Champaign County Public Health Department shall be provided necessary access to property and records to respond to any relevant complaints of food borne illness.

C. The following condition shall apply until such time that the petitioner is regulated by and has a license authorized by the Illinois Department of Agriculture:

- (1) the phrases “custom wild game processor” and “custom wild game processing” and the words “custom processor” and “custom processing” shall not be used in any advertising or description of services provided by the petitioner about the proposed special use; and**
- (2) The Petitioner shall conspicuously display a sign stating “NO SALES OF WILD GAME PRODUCTS PERMITTED” in the public area of the proposed special use and provide photographic proof of the sign’s installation within 30 days of the Special Use Permit approval.**

**The proposed special condition stated above is required to ensure the following:
The public has clear expectations of the types of services that may be provided at the proposed special use and the degree of public health regulation required of the petitioner.**

D. The Special Use Permit approved in Case 610-S-08 and renewed in Case 778-S-14 shall only be valid for the current owners, Chuck and Mary Ellen Stites, on the subject property and if the business is ever transferred to new ownership a new Special Use Permit shall be required.

**The proposed special condition above is required to ensure the following:
The risk to public health is adequately considered in management of the proposed Special Use.**

E. The Petitioner is responsible to ensure that there shall be no queuing of customer traffic in the public right-of-way of CR 2400E and that no parking related to the Special Use Permit shall occur within any street right-of-way or on nearby properties.

**The proposed special condition above is required to ensure the following:
There is no unreasonable risk to public safety caused either by on-street parking or long lines of standing traffic.**

F. The Petitioners shall ensure that all buildings, including the structures, rooms, and compartments used in the Special Use Permit are of sound construction and are kept in good repair to allow for processing, handling, and storage of product and waste materials in a manner that will not result in unsanitary or nuisance conditions.

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

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The proposed Special Use poses no risk to public health in general or to the immediate neighborhood.

G. In regards to the odors caused by the smoking and cooking of wild game products at the proposed Special Use, the Petitioners shall do the following:

- (1) The Enviro-Pak “Enviro-Kleen” Air Treatment System (or equivalent air treatment system) shall be used at all times during cooking and when the smokehouses are in operation.**
- (2) The Enviro-Pak “Enviro-Kleen” Air Treatment System (or equivalent air treatment system) is not expected to eliminate all odors from the smoking and cooking related to the Special Use Permit and some odor may still be present at the property line and adjacent dwellings.**
- (3) This condition does not exempt the proposed Special Use Permit from whatever Illinois Pollution Control Board or Environmental Protection Agency air pollution regulations are applicable or are later found to have been applicable and this Special Use Permit shall remain valid so long as the Petitioners comply with whatever air pollution regulations are found to be applicable.**

The proposed special condition stated above is required to ensure the following:
Odor from the cooking and smoking of wild game is reduced as much as practicable so as to preserve the essential character of the CR District and the Special Use shall comply with any Illinois air pollution regulations that are later found to be applicable.

H. In regards to the bone barrels and trash containers for the proposed Special Use, the Petitioners shall do the following:

- (1) No bone barrels shall be stored within 30 feet of any property line, except if stored within the walk-in cooler.**
- (2) No bone barrels shall be emptied within 70 feet of any property line.**
- (3) No more than 800 square feet of the proposed new storage building shall be used for storage of bone barrels, or any storage related to the proposed special use.**
- (4) All bone barrels shall be stored in a closed and secure building at all times except when being emptied into a rendering truck or a garbage truck for removal from the property.**
- (5) The bone barrels shall be stored in a cooled environment when necessary to maintain sanitary conditions.**
- (6) When the bone barrels and trash containers are not stored in a cooled environment they shall be covered adequately to prevent access by vermin.**
- (7) The bone barrels and trash containers shall be cleaned and sanitized when necessary to maintain sanitary conditions and all such cleaning**

1 and sanitizing shall occur in a closed and secure building and all wash
2 water from cleaning of the bone barrels shall be treated in the approved
3 wastewater treatment and disposal system for the Special Use and not
4 disposed of in an untreated condition and any solid waste from the
5 cleaning bone barrels shall also be properly disposed of and not dumped
6 on the surface of the ground.

7 The proposed special condition stated above is required to ensure the following:
8 **The bone barrels and trash containers shall be handled and used in a manner
9 that does not create unsanitary or nuisance conditions in the neighborhood.**

- 10
11 **I. Any new refrigeration units shall have all condensers located inside the building
12 except that the permanent bone barrel storage buildings may be cooled by a
13 through-the-wall air conditioner if necessary.**

14 The proposed special condition stated above is required to ensure the following:
15 **There is maximum noise shielding for neighboring residences.**

- 16
17 **J. The Special Use Permit authorized in Case 610-S-08 and renewed in Case 778-S-
18 14 shall be served by a wastewater disposal system as follows:**

19 (1) **A private sewage disposal system with subsurface discharge serving the
20 Special Use Permit activities shall be in general conformance with the
21 approved site plan.**

22 (2) **The private sewage disposal system serving the Special Use Permit shall
23 be maintained as necessary or as recommended by the County Health
24 Department but maintenance shall occur on at least a triennial basis and
25 all maintenance reports shall be made available for inspection by the
26 Zoning Administrator. Failure to keep copies of maintenance reports or
27 maintenance receipts when requested by the Zoning Administrator or
28 Champaign County Health Department shall constitute a violation of
29 this Special Use Permit approval and the Zoning Administrator shall
30 refer the violation to the Champaign County State's Attorney for legal
31 action.**

32 (3) **This Special Use Permit approval shall become void if the private sewage
33 disposal system with subsurface discharge fails and cannot be repaired
34 or if the system is repaired or modified later without the approval of
35 both the County Health Department and the Zoning Administrator, as
36 follows:**

37 (a) **The owner is obligated to provide notice of the failed system to
38 both the Zoning Administrator and the County Health
39 Department as soon as failure is suspected; and**

40 (b) **The Zoning Administrator and the County Health Department in
41 consultation or individually may make a determination that the
42 private sewage disposal system serving the Special Use Permit has**

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failed and the owner shall provide necessary access to the private sewage disposal system for the purpose of necessary inspections pursuant to such a determination; and

(c) Provided that all necessary permits are received from the County Health Department, repairs that can result in lawful ongoing use of the private sewage disposal system with subsurface discharge may be made subject to approval by the Champaign County Health Department including any special conditions imposed thereby and provided that the Zoning Administrator is provided copies of all applications and approvals and is allowed to conduct inspections; and

(d) In the event of failure of the Special Use Permit private sewage disposal system that cannot be repaired or in the event of unresponsiveness by the owner in repairing a failed system, the Zoning Administrator shall provide written notice to the owner that the Special Use Permit is void and there shall be no more Special Use Permit activities conducted. However, any deer carcasses that are onsite at the time of failure may be dressed subject to any necessary conditions that may be imposed by either the County Health Department or the Zoning Administrator.

K. There shall be no burning or burial of carcass parts on the subject property. The special condition stated above is required to ensure the following: All carcass parts are removed from the subject property in an appropriate manner.

L. The petitioner shall provide reasonable access to the subject property and all structures where Special Use Permit activities take place to verify compliance with the special conditions in this case. The special condition stated above is required to ensure the following: The Zoning Administrator shall be provided necessary access to property to respond to any relevant complaints regarding the proposed Special Use Permit.

M. The approved site plan for Case 778-S-14 shall consist of the following Documents of Record:
(1) The revised site plan received on March 31, 2014
(2) The floor plan of the business building received on May 5, 2008
(3) The revised floor plan of the proposed storage building received on October 12, 2008
(4) The elevation of the proposed storage building received on October 1, 2008

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(5) The elevation of the front view of the business building received on October 12, 2008

The special condition stated above is required to ensure the following:
It is clear which Documents of Record constitute the proposed site plan for enforcement purposes.

N. Regarding required maintenance on the Enviro-Pak “Enviro-Kleen” Air Treatment System:

- (1) The Petitioner shall follow the manufacturer’s recommended maintenance for the Enviro-Pak “Enviro-Kleen” Air Treatment System (or equivalent air treatment system); and**
- (2) The Petitioner shall keep a written log of all maintenance performed on the Enviro-Pak “Enviro-Kleen” Air Treatment System (or equivalent air treatment system); and**
- (3) The Petitioner shall provide a copy of the maintenance log for inspection by the Zoning Administrator when necessary to respond to complaints.**

The above special condition is required to ensure the following:
To ensure that odors caused by the smoking are kept at the minimum acceptable level of odor control.

O. At the beginning of each annual smoking season the Petitioner shall provide an opportunity for the Zoning Administrator to visit the property while smoking is being done so that the Zoning Administrator may verify that the Enviro-Pak “Enviro-Kleen” Air Treatment System (or equivalent air treatment system) is in operation and so that the Zoning Administrator may experience the smoking odor.

The above special condition is required to ensure the following:
To ensure that the Zoning Administrator is familiar with the actual odors that are emitted during the operation of the smoker and the Air Treatment System.

Ms. Capel requested a roll call vote.

The roll was called:

Lee-yes	Miller-Absent	Passalacqua-yes
Randol-yes	Thorsland-absent	Griest-yes
Capel-yes		

Mr. Hall informed the petitioners that they have received an approval of their second and final Special Use Permit.

6. New Public Hearings

1
2 **Case 784-V-14 Petitioner: Jerry O. and Barbara J. Kalk Request to authorize the following in the AG-**
3 **1 Agriculture Zoning District: Part A. Variance for lot coverage of 21.7% in lieu of the maximum**
4 **allowed 20%; Part B. Variance for a rear yard for two existing accessory buildings of 3 feet in lieu of**
5 **the minimum required 10 feet by Section 7.2.1.C. Location: A ¼ acre tract in Ogden Township in the**
6 **West Half of the Northwest Quarter of the Northeast Quarter of Section 17 of Township 19N, Range**
7 **14E of the Second Principal Meridian and commonly known as the home at 1592 CR 2650E, Ogden.**
8

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

18 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
19 witness register for that public hearing. She reminded the audience that when they sign the witness register
20 they are signing an oath.
21

22 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.
23

24 Mr. Jerry Kalk, who resides at 1592 CR 2650E, Ogden, distributed photographs of the structures on the
25 subject property to the Board and staff for review. He submitted the photographs as Documents of Record.
26 He said that on the back side of the house where the concrete patio is located is where the proposed sunroom
27 will be located. He said that if you placed a stake from the east to the west and to the north and the south
28 you would find that the middle of the sunroom would almost be in the middle of the yard.
29

30 Mr. Randol asked Mr. Kalk if he has received any opinions or comments from the neighbors regarding his
31 request.
32

33 Mr. Kalk stated that the comments that he has received have all been positive. He said that some of the
34 neighbors offered to attend the meeting tonight but he informed them that their attendance was not
35 necessary.
36

37 Ms. Capel asked the Board if there were any questions for Mr. Kalk and there were none.
38

39 Ms. Capel asked if staff had any questions for Mr. Kalk and there were none.
40

41 Ms. Capel asked the audience if anyone desired to cross examine Mr. Kalk and there was no one.
42

- 1 Ms. Lee asked Mr. Hall how Parts C. and D. will be handled at tonight's meeting.
2
- 3 Mr. Hall stated that the Board could take action on Parts A. and B. and the unadvertised variances would be
4 Parts C. and D. of the same case with no fees imposed upon the Kalks. He said that the advertisement could
5 be placed in time so that the case could be on the agenda for the September 25th meeting and at that meeting
6 the Board will take final action on Parts C. and D. He said that if the Board takes action on Parts A. and B.
7 tonight, the Summary of Evidence for the Finding of Fact for Parts C. and D. would have all of the
8 information that is in front of the Board tonight plus the additional information in regards to those two parts
9 and at the end there will only be one Summary of Evidence, Findings of Fact and Final Determination.
10
- 11 Ms. Lee asked Mr. Hall if this case will be treated much like the previous cases were treated tonight in that
12 the Findings of Fact will be finalized but the Final Determination will not be until September 25th.
13
- 14 Mr. Hall stated that if the Board is comfortable they could take final action on Parts A. and B. tonight and
15 pretend that the other two things did not need addressed and then on September 25th the Board could take
16 action on Parts C. and D.
17
- 18 Mr. Passalacqua stated that Parts C. and D. do not change the lot coverage and are only in regards to the
19 location of the structures.
20
- 21 Mr. Hall stated that Mr. Passalacqua is correct because it is the same amount of coverage and is only
22 necessary due to the structures location.
23
- 24 Ms. Griest stated that there is no issue because the structure that is being authorized to be added on to is
25 nonconforming. She said that the Summary of Evidence indicates that the only reason why she is making
26 this assumption is because the Summary of Evidence indicates such.
27
- 28 Mr. Hall stated that the Summary of Evidence should be revised so that it is accurate but it does not increase
29 the nonconformity.
30
- 31 Ms. Griest stated that item #5.C.(3) indicates the following: Note that neither the nonconforming garage nor
32 the nonconforming dwelling were included in the legal advertisement for Parts A and B of the variance.
33 Nonconforming buildings cannot be rebuilt in the same location if damaged to more than 50% of
34 replacement value without first being authorized by variance.
35
- 36 Mr. Hall stated that the Board could take action on Parts A. and B. tonight and if we left it at that, even
37 though the Kalks would have gone through two variance cases, they would still have two nonconforming
38 buildings which could not be rebuilt without a third variance.
39
- 40 Ms. Lee stated that item #7.C.(4) states as follows: The existing property is a farm field with no structures.
41 She said that item #7.C.(4) should be revised as follows: The adjacent property is a farm field with no
42 structures.

1
2 Mr. Hall agreed.

3
4 Ms. Griest stated that item #7.C.(4) could read as follows: The adjacent property at the rear of the subject
5 property is a farm field with no structure.

6
7 Ms. Capel asked the audience if anyone desired to cross examine Mr. Kalk and there was no one.

8
9 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony and there
10 was no one.

11
12 Ms. Capel closed the witness register.

13
14 Ms. Capel stated that a new item #4 should be added to the Documents of Record as follows: Photos of
15 subject property submitted by Jerry Kalk at the August 28, 2014, public hearing.

16
17 **Findings of Fact for Case 784-V-14 Parts A & B:**

18
19 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
20 784-V-14 held on August 28, 2014, the Zoning Board of Appeals of Champaign County finds that:

- 21
22 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
23 **structure involved, which are not applicable to other similarly situated land and**
24 **structures elsewhere in the same district.**

25
26 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or
27 structure involved, which are not applicable to other similarly situated land and structures elsewhere
28 in the same district because the subject property is a 10,890 square feet, (.25 acre) lot that is 82 feet wide
29 and 132 feet long. She said that the dwelling and the garage existed in 1973 which was prior to the adoption
30 of Zoning and the variance for lot coverage is allowable within the Administrative Variance limits except
31 that there are other variances required on the subject property.

- 32
33 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
34 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
35 **the land or structure or construction.**

36
37 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of
38 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land
39 or structure or construction because for Part A, due to the small lot size and with the limit of 20% lot
40 coverage it would be impossible to add onto the home without the variance.

41
42 Ms. Griest stated that for Part B, the two small sheds are supposed to be movable but they have been in the

1 same location so long that moving them may destroy them.
2

3 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
4 **result from actions of the applicant.**
5

6 Ms. Griest stated that for the special conditions, circumstances, hardships, or practical difficulties DO NOT
7 result from actions of the applicant because for Part A, the lot to the south is a small nonconforming lot of
8 record and the adjacent lot to the north is also a nonconforming lot of record and no sale of land would be
9 possible to either the north or south and the adjacent land to the east is a farm field and any sale would
10 interrupt the line of tillage. She said that for Part B, relocation of the sheds could cause irreparable damage
11 to the sheds and the sheds would have to be replaced.
12

13
14 **4. The requested variance IS in harmony with the general purpose and intent of the**
15 **Ordinance.**
16

17 Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of the
18 Ordinance because, for both Parts A & B, it allows the petitioner to add on without being injurious to the
19 neighborhood and not interfering with the neighbors.
20

21 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
22 **detrimental to the public health, safety, or welfare.**
23

24 Ms. Griest stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
25 detrimental to the public health, safety, or welfare because, for both Parts A & B, the Ogden Township
26 Highway Commissioner and the Ogden-Royal Fire Protection District have both been notified and no
27 comments were received. She said that the variance will not increase traffic nor will the variance decrease
28 public safety.
29

30 Ms. Lee stated that no objections have been voiced by the neighbors.
31

32 **6. The requested variance IS the minimum variation that will make possible the**
33 **reasonable use of the land/structure.**
34

35 Ms. Griest stated that the requested variance IS the minimum variation that will make possible the
36 reasonable use of the land/structure.
37

38 **7. No special conditions are hereby imposed.**
39

40 Ms. Capel stated that no special conditions are hereby imposed.
41

42 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of

1 Fact as amended.

2

3 **Ms. Griest moved, seconded by Ms. Lee to adopt the Summary of Evidence, Documents of Record and**
4 **Findings of Fact as amended. The motion carried by voice vote.**

5

6 Ms. Capel entertained a motion to move to the Final Determination for Case 784-V-14.

7

8 **Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 784-V-14.**
9 **The motion carried by voice vote.**

10

11 Ms. Capel informed the petitioners that two Board members were absent therefore it is at their discretion to
12 either continue Cases 784-V-14 until a full Board is present or request that the present Board move to the
13 Final Determination. She informed the petitioners that four affirmative votes are required for approval.

14

15 Mr. Kalk requested that the present Board proceed to the Final Determination.

16

17 **Final Determination for Case 784-V-14, Parts A & B:**

18

19 **Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**
20 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
21 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
22 **granted in Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**
23 **of Champaign County determines that the Variance in Case 784-V-14 is hereby GRANTED to the**
24 **petitioners Jerry and Barbara Kalk to authorize the following in the AG-1 Agriculture Zoning**
25 **District:**

26

Part A. Variance for lot coverage of 21.7% in lieu of the maximum allowed 20%.

27

Part B. Variance for a rear yard of two existing accessory buildings of 3 feet in lieu
28 **of the minimum required 10 feet.**

29

30 Ms. Capel requested a roll call vote.

31

32 The roll was called:

33

34 **Lee-yes Miller-absent Passalacqua-yes**

35 **Randol-yes Thorsland-absent Griest-yes**

36 **Capel-yes**

37

38 Mr. Hall informed the petitioners that they have received an approval for the variance. He said that staff will
39 be in contact regarding the public hearing on September 25th.

40

41 Ms. Capel entertained a motion to continue Case 784-V-14, Parts C & D to the September 25, 2014,
42 meeting.

1
2 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 784-V-14, Parts C & D to the**
3 **September 25, 2014, meeting. The motion carried by voice vote.**
4

5 **Case 785-V-14 Petitioner: Jarrett Clem and Kirsten Fantom, DVM Request to authorize the creation**
6 **and use of a lot that is 9.23 acres in area on best prime farmland in lieu of the maximum allowed three**
7 **acres on best prime farmland required by Footnote 13 in Section 5.3 in the AG-1 Agriculture Zoning**
8 **District. Location: A proposed 9.23 acre tract in Compromise Township in the South Half of the**
9 **Northwest Quarter of the Southeast Quarter of Section 34 of Township 21N, Range 10E of the Third**
10 **Principal Meridian and commonly known as the farmstead located at 2429 CR 2200E, St. Joseph, and**
11 **adjacent farmland.**
12

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

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

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

28 Mr. Jarrett Clem, who resides at 1159 CR 2400E, St. Joseph, thanked the Board for hearing his case at
29 tonight's meeting. He said that his fiancé, Kirsten Fantom, DVM and Mitch Osterbur, tenant farmer for Mr.
30 Huls which is the owner of the subject property, are also present tonight to answer any questions that the
31 Board may have regarding the request. He said that he and Kirsten are getting married in November and
32 they are trying to start their own farm. He said that Kirsten is a large animal veterinarian whose practice is
33 located north of Paxton and he grew up outside of Homer and farms with his father. Mr. Clem stated that he
34 is an electrician by day but he does own farm ground of his own with hopes to acquire more in the future but
35 doing so is very hard to do. He said that he graduated from Parkland College with an agriculture degree and
36 showed hogs at the Champaign County Fair with his family.
37

38 Mr. Clem stated that as he said before, Kirsten's veterinary office is north of Paxton therefore she needs to
39 be close enough to the clinic to be on call and their family farm is too far away to get to the clinic for
40 emergencies. He said that he and Kirsten were blessed to find the opportunity to find a farm and when they
41 spoke with the owner he indicated that he would be willing to sell them the tract of ground. Mr. Clem stated
42 that when he hired Hartke Surveyors they discovered that a variance was required to obtain the amount of

1 land that they required for their farmstead. He said that they would use the land for agricultural purposes
2 because they currently have their own livestock which is located at his home, his dad's home and his uncle's
3 home, therefore it would be nice to have it all in the same location. He said that they do not have a lot of
4 livestock but they do have quality livestock and would like to be able to maintain that operation at their
5 property. He said that they would immediately put a hay crop on the property as well as pasture ground and
6 a garden therefore all of the property would be used for agricultural purposes including some of the areas of
7 the current homestead area. He said that there will be no part of the land wasted.
8

9 Mr. Clem stated that the map indicates that they are squaring up the property to make it easier for everyone
10 involved. He said that the house and barns and proposed pasture/livestock area are proposed to be
11 incorporated into a rectangular shape and if they used the allowed three acre configuration by the County the
12 back barn and pasture area would not have been included and the tenant farmer would have to farm around
13 the homestead. He said that he and Kirsten are good stewards to the farm ground and the ground that they
14 farm now, as well as anywhere that they reside, is and will be taken care of because they want it to last
15 forever so that they can pass it on to their children one day.
16

17 Mr. Passalacqua asked Mr. Clem what is on the 1.9 acres and 2.89 acres currently.
18

19 Mr. Clem stated that currently both acreages are row crop currently.
20

21 Mr. Passalacqua asked Mr. Clem if he would leave those acreages in row crop production.
22

23 Mr. Clem stated that he would put hay crop on the 1.9 acres but it depends upon the timeline of how soon he
24 can get it planted. He said that if he is unable to plant hay on the 1.9 acres he will plant soybeans on it.
25

26 Mr. Passalacqua asked Mr. Clem if his livestock will be placed in one of these two locations.
27

28 Mr. Clem stated yes. He said that hopefully the 2.9 acre tract will be pastured for his livestock which
29 consists of cattle and pure-bred boar goats, etc. He said that hopefully the 1.9 acre tract will produce enough
30 hay to feed the livestock.
31

32 Mr. Passalacqua asked Mr. Hall if there is any issue with the farm ground being turned over to livestock.
33

34 Mr. Hall stated no.
35

36 Ms. Capel stated that livestock is part of the definition of livestock.
37

38 Mr. Clem stated that they have no interest in having mass numbers of livestock.
39

40 Ms. Capel asked the Board and staff if there were any further questions for Mr. Clem and there were none.
41

42 Ms. Capel asked the audience if anyone desired to cross examine Mr. Clem and there was no one.

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Ms. Capel called Kirsten Fantom, DVM to testify.

Ms. Fantom declined to testify.

Ms. Capel called Mitch Osterbur to testify.

Mr. Mitch Osterbur, who resides at 2235 CR 2300E, St. Joseph, stated that he farms the ground around the farmstead and has done so for approximately 20 years. He said that the farmstead will be going back to the way it was 30 years ago. He said that the current owner, Melvin Huls, is 85 years old and does not have any livestock therefore the older barn was torn down before it fell down and the area was put into row crop. He said that what Mr. Clem and Ms. Fantom are proposing with farm ground on each side of the lane will actually revert the farmstead back to its original condition because over 30 years ago there were cattle and sheep on the property and the land on both sides of the lane was used for pasture. He said that he supports the proposal because squaring up the parcel will eliminate the need to farm the short rows which will be in front of the homestead.

Ms. Capel asked the Board and staff if there were any questions for Mr. Osterbur and there were none.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Osterbur and there was no one.

Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding this case and there was no one.

Ms. Capel closed the witness register.

Findings of Fact for Case 785-V-14:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 785-V-14 held on August 28, 2014, the Zoning Board of Appeals of Champaign County finds that:

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

Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the lot is going to be created on best prime farm ground but will used for agricultural purposes and the amount of the existing agricultural use will increase.

Ms. Griest stated that the current homestead sits in the middle of the field and the proposed lot will square up the lot lines. She said that the maximum three acre lot size would prevent the barns from being included

1 in the farmstead.

2
3 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
4 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
5 **the land or structure or construction.**
6

7 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of
8 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land
9 or structure or construction because it will not permit enough space to conduct the agricultural activities
10 permitted in the District.

11
12 Mr. Passalacqua asked Mr. Hall if the petitioner owns the property currently.

13
14 Mr. Hall stated no.

15
16 Mr. Passalacqua asked Mr. Hall if the variance is being given to the right person.

17
18 Mr. Hall stated that the current owner of the land is also a co-petitioner.

19
20 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
21 **result from actions of the applicant.**
22

23 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
24 result from actions of the applicant.

25
26 **4. The requested variance IS in harmony with the general purpose and intent of the**
27 **Ordinance.**
28

29 Ms. Griest stated that the requested variance IS in harmony with the general purpose and intent of the
30 Ordinance because the proposal is to start a small farming operation. The requested space is necessary to
31 have the small farm agricultural livestock and row crop operations at this location. She said that the current
32 row crop ground would remain in agricultural production.

33
34 Ms. Griest stated that we, as a County, and several of the County Board members are interested in the small
35 farm operation or farmettes whether the small farm operation involves animals or crops. She said that it is
36 very difficult for young farmers to get started in the farming operation in an area like ours where ground
37 prices are extraordinarily high.

38
39 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
40 **detrimental to the public health, safety, or welfare.**
41

42 Mr. Passalacqua stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise

1 detrimental to the public health, safety, or welfare because testimony has been received indicating that the
2 requested variance will be beneficial to both parties.

3
4 Mr. Randol stated that neither the township highway commissioner or the fire protection district have
5 provided any comments.

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

9
10 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the
11 reasonable use of the land/structure.

12
13 Ms. Griest stated that it squares up the boundary of the adjacent farm ground to make farming easier.

14
15 **7. No special conditions are hereby imposed.**

16
17 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
18 Fact as amended.

19
20 **Ms. Lee moved, seconded by Ms. Griest to adopt the Summary of Evidence, Documents of Record and**
21 **Findings of Fact as amended. The motion carried by voice vote.**

22
23 Ms. Capel entertained a motion to move to the Final Determination.

24
25 **Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 785-V-14. The**
26 **motion carried by voice vote.**

27
28 Ms. Capel informed the petitioners that two Board members were absent therefore it is at their discretion to
29 either continue Cases 784-V-14 until a full Board is present or request that the present Board move to the
30 Final Determination. She informed the petitioners that four affirmative votes are required for approval.

31
32 Mr. Clem requested that the present Board proceed to the Final Determination.

33
34 **Final Determination for Case 785-V-14:**

35
36 **Ms. Griest moved, seconded by Ms. Lee that the Champaign County Board of Appeals, finds that,**
37 **based upon the application, testimony, and other evidence received in this case, that the requirements**
38 **of Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the**
39 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
40 **determines that the Variance requested in Case 785-V-14 is hereby GRANTED to the petitioners,**
41 **Jarrett Clem and Kirsten Fantom, DVM, to authorize the creation and use of a lot that is 9.23 acres in**
42 **area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland**

1 **required by Footnote 13 in Section 5.3, in the AG-1 Agriculture Zoning District.**

2
3 Ms. Capel requested a roll call vote.

4
5 The roll was called:

6			
7	Passalacqua-yes	Randol-yes	Griest-yes
8	Miller-absent	Lee-yes	Thorsland-absent
9	Capel-yes		

10
11 Mr. Hall informed the petitioners that they have received an approval of their request therefore they are free
12 to move forward. He said that staff will send the appropriate paperwork in the near future. He said that if
13 there were any questions the petitioners should feel free to call the office at any time.

14
15 **7. Staff Report**

16
17 Mr. Hall introduced the Department of Planning and Zoning Interns. He said that Jessica Gal and Gabrielle
18 Mattingly prepared two of the memorandums for tonight’s public hearing.

19
20 Ms. Griest complimented Ms. Gal and Ms. Mattingly for their excellent work on the two memorandums.
21 She said that their good work made the Board’s work much easier tonight.

22
23 Mr. Hall stated that Ms. Gal and Ms. Mattingly have also assisted Ms. Hitt, Zoning Officer, with
24 enforcement and to date there have been approximately 200 enforcement cases resolved this year.

25
26 Mr. Passalacqua asked Mr. Hall if a letter has been sent to Wishall Trucking.

27
28 Mr. Hall stated yes. He said that there will be three zoning cases in the near future on the docket for Wishall
29 Trucking.

30
31 Mr. Randol asked Mr. Hall why Mr. Clem was required to obtain a variance for an agricultural operation.

32
33 Mr. Hall stated that the County has a three acre maximum for best prime farmland. He said that the
34 conditions which favored the granting of Mr. Clem’s variance related to the land itself. He said that
35 variances for maximum lot size are the most difficult variances that he, as a staff person, ever deals with
36 because he cannot imagine the County Board approving an amendment to allow the maximum lot size to be
37 exceeded simply for squaring up lines of tillage. He said that time and time again we have found good
38 reasons to justify a variance for maximum lot size but they are so unique that at a staff level it is difficult to
39 formulate an amendment that the County Board will approve. He said that the County Board decided to
40 adopt the maximum lot size for best prime farmland and they believed that it would further their policies and
41 goals on agriculture, having to do with conversion of best prime farmland for non-agricultural purposes. He
42 said that this Board realizes that there are some good reasons to allow some cutting up of best prime

1 farmland because it makes it more affordable to those wanting to start their own farming operation. He said
2 again that this is the kind of variance that he has the most difficulty with yet he knows that there is strong
3 support for it.
4

5 Ms. Griest stated that when the County Board was adopting these policies they were looking at the
6 predominance of people that buy a tract for residential purposes as opposed to someone attempting to start
7 as a farm operation. She said that placing a house in the country on a ten acre tract which will be mostly
8 grass is very different than someone like our last petitioners who desired to start their own farm operation.
9 She said that requests like Mr. Clem’s are requests that have really evolved since the establishment of the
10 maximum lot size requirement in Champaign County. She said that there are many people who desire to
11 start their own small agricultural operation where they can raise locally grown produce and foods. She said
12 that having a large animal veterinarian in the local rural community is a huge asset to that community.
13

14 Ms. Capel stated that the idea of using the old farmstead is also desirable.
15

16 Mr. Hall stated that if over 50% of the last petitioners’ income was from farming then the lot would have
17 been considered agricultural and no variance would have been necessary for the lot size.
18

19 **8. Other Business**
20 **A. Review of Docket**
21

22 Mr. Hall stated that he did not have an opportunity to prepare an updated docket for distribution tonight. He
23 said that he will include an updated docket in the next mailing.
24

25 **9. Audience Participation with respect to matters other than cases pending before the Board**
26

27 None
28

29 **10. Adjournment**
30

31 Ms. Capel entertained a motion to adjourn the meeting.
32

33 **Ms. Griest moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**
34

35 The meeting adjourned at 8:04 p.m.
36
37
38
39

40 Respectfully submitted
41
42

ZBA

DRAFT SUBJECT TO APPROVAL DRAFT

8-28-14

- 1
- 2
- 3 Secretary of Zoning Board of Appeals

REVISED DRAFT

766-AM-13

**FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

Final Determination: ***{RECOMMEND ENACTMENT / RECOMMEND DENIAL}***

Date: **September 25, 2014**

Petitioner: **Eric L. Sebens d.b.a. Prairieview Landscaping**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13.**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014; March 13, 2014; June 12, 2014; July 17, 2014; September 11, 2014; and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that (Note that* indicates identical to evidence in related Case 767-S-13):

- *1. The petitioner Eric L. Sebens, 3008 Cherry Hills Drive, Champaign owns the subject property and d.b.a. Prairieview Landscaping Company at 1069 CR900E, Champaign.
- *2. The subject property is a 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and is and commonly known as Prairieview Landscape Company at 1069 CR900E, Champaign.
- *3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

4. Regarding comments by the petitioner on the Petition for Amendment:

- A. When asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner indicated the following:

“The current ordinance does not allow for the development and future use and improvement of the other half of the five acre property, which is adjacent to the existing contractor’s facility. The existing unused part of the property is not prime farm ground, nor is it suitable for tillage. It has been left in weeds/grass for decades with old dilapidated buildings on it. The potential uses of the property at this point are few, the original thinking at purchase as to eventually expand the contracting business into a retail garden center outlet, but with current economic conditions this is no longer a viable option. Rezoning to allow for other possibilities with the property is now about the only good option at this point. By allowing this zone amendment, the balance of the property becomes productive, improved and useful for the future. This fits well within the other adjacent uses and zoning, AG-2 district which is directly across the street, which allows for self-storage and contractor’s facilities, and is bordered by Willard Airport to the east, and we have I-57 just across the field to the west. We are a quarter of a mile from the significant intersection of I-57 & Monticello Road.”
- B. When asked on the petition what other circumstances justify the rezoning, the petitioner indicated the following:

“I have to this point invested approximately three quarters of a million dollars towards the improvement of this property; this includes the purchase, demolition of several old buildings, removal of truckloads of debris, and the construction of a new contractor’s facility and building. The ability to offer self-storage on the same property is a natural complementing business to the

contractor's facility. Quite often you see these two businesses paired together to help support one another. Contracting has become very unpredictable and unstable, the landscape contracting industry has experienced a devastating decline, sales are half of what they were just a few years ago, self-storage units would help pay for the property and provide a reasonable return on the investment I have made."

- C. Additional comments on the petition by the petitioner are as follows:
"My proposed plan is to remove the three remaining dilapidated buildings, plan and erect the first self-storage unit within a year then, add up to three additional units or a total of four buildings over a ten year time span, if the need is there. I would also plan to continue the contracting business as is currently being done for some time into the future. Any improvement I have done and would do in the future has and is always performed in a quality fashion, neat, clean, orderly, professional. This would be a significant improvement to the property and surrounding area."
5. When asked on the petition for the time schedule for development, the petitioner indicated the following:
"I would plan to remove the three remaining dilapidated buildings, and plan to erect the first building within the first year. Then as the need is justified add up to 3 more additional buildings, for a total of four buildings over a 10 year time span."

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *6. Land use and zoning on the subject property and in the vicinity are as follows:
- A. The subject property is currently zoned AG-1 Agriculture and is used for the operation of an existing Contractors Facility (landscape contractor) that was authorized by Case 101-S-97.
 - B. Land on the north, south, and west of the subject property is zoned AG-1 and is in agricultural production.
 - C. Land east of the subject property is zoned AG-2 Agriculture and is in agricultural production and is also the site of the UI-Willard Airport.
7. Previous zoning cases in the vicinity are the following:
- A. Case 107-S-95 authorized the current Contractors Facility (landscape contractor) on the subject property.
- *8. Regarding the site plan and operations of the proposed Special Use in related Case 767-S-13:
- A. Different versions of the site plan have been received on November 13, 2013; January 22, 2014; March 3, 2014; May 12, 2014; June 5, 2014; July 16, 2013; and September 3, 2014.

- B. The revised site plan received June 5, 2014, indicates the following existing and proposed improvements:
- (1) Existing improvements are as follows:
 - a. An existing dwelling, garage, quonset hut, and restored barn all predate the establishment of the existing contractor facility.
 - b. Prairieview Landscaping, a landscape contracting company, was authorized in Case 101-S-97 on 7/18/97 and Change of Use Permit #204-97-04 on 7/24/97 and received a Zoning Compliance Certificate on 1/15/98. Improvements related to Case 101-S-97 are the following:
 - (a) The large building on the northern part of the property houses Prairieview Landscaping and was constructed pursuant to Zoning Use Permit #317-97-03 and received a Zoning Compliance Certificate on 5/12/98.
 - (b) A sign shaped like a decorative boulder was authorized by Zoning Use Permit # 344-03-01 on 12/10/03 and received a Zoning Compliance Certificate on 12/03/08.
 - (c) In Case 101-S-97 outdoor storage was proposed west of both the contractor building and the dwelling and a plant holding area/nursery was proposed in the southwestern portion of the property. Existing outdoor storage also exists south of the dwelling and consists of open bins and hoop houses which have not been authorized by Zoning Use Permits. Hoop houses for propagation of nursery stock can be considered agricultural but bins for storage of landscaping materials are not agriculture and must be authorized by Zoning Use Permit.
 - (d) In Case 101-S-97 employee and customer parking were indicated south and west of the contractor building.
 - (e) Three driveways were indicated on the approved site plan for Case 101-S-97 and a fourth driveway has been added on the north side of the contractor building.
 - (f) The approved site plan for Case 101-S-97 did not indicate the locations of any well or septic system.
 - (g) Case 101-S-97 was exempt from the requirement for a stormwater drainage plan.
 - (2) Proposed improvements indicated on the Revised Site Plan received June 5, 2014 are the following:

- a. Regarding the existing contractor facility:
 - (a) The site plan shows the outline of the contractor building and crushed stone paving.
 - (b) None of the parking spaces or outdoor material storage areas are indicated.
 - (c) The existing sign is not indicated.
 - (d) A water well is indicated west of the house.
 - (e) Two existing septic systems are indicated. A septic tank and leach field is indicated northeast of the house and is not indicated to be disturbed. Another septic tank and leach field is indicated where one self-storage warehouse is proposed.

- b. Regarding proposed improvements for the contractor facility:
 - (a) A proposed hoop building is indicated at the southwest corner.
 - (b) A proposed chain link fence is indicated along and 5 feet inside of the west lot line. A proposed 5 feet wide grass buffer strip is indicated between the fence and the lot line.
 - (c) An approximately 270 feet long berm is proposed on the east side of the proposed chain link fence to create a detention area approximately 1.7 feet deep. The detention area is proposed to outlet through a proposed 8 inch PVC pipe connected to an existing surface inlet to an existing underground tile. Basic engineering data is provided for the north basin but it has not been reviewed by the County's consulting engineer.

- c. Regarding the proposed improvements for the proposed self-storage warehouse:
 - (a) Four self-storage warehouse buildings are proposed. The buildings are all proposed to be oriented with their long dimension north to south with the following overall dimensions:
 - i. The westernmost building is 30 feet by 200 feet.
 - ii. The easternmost building is 40 feet by 110 feet.
 - iii. Located between the westernmost and easternmost buildings are two buildings that are 40 feet by 200 feet and 40 feet by 130 feet, respectively.
 - iv. The total proposed square footage of self-storage buildings is 23,600 square feet. A note on the site plan indicates the total number of storage units to be between 108 and 150 units.

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- v. The two longer buildings are indicated with a stepped floor that is one foot higher on the northern portion.
 - (b) All self-storage buildings are separated by 30 feet wide traffic aisles that are indicated as “aggregate surface”. Drainage arrows indicate that the aisles are intended to drain toward the south. The traffic aisle east of the easternmost building appears to be 25 feet wide.
 - (c) All self-storage buildings are enclosed by a proposed security fence. An automatic gate is indicated at the northeast corner of the security fence approximately 42 feet from the edge of pavement of CR900E (Duncan Road).
 - (d) A detention basin is indicated south of the self-storage buildings. The basin is indicated to outlet into the drainage swale. Basic engineering data is provided for the south basin but it has not been reviewed by the County’s consulting engineer.
 - (e) Spot elevations are indicated on the proposed aggregate surface paving to indicate the general direction of drainage but proposed topography is not actually shown.
 - (f) The detention basin will take up some of the volume of the existing swale but the proposed topography is not indicated.
 - (g) The area of self-storage warehouses is indicated to be over an existing septic leach field.
 - (h) No outdoor storage in the self-storage building area has been included in the request nor is indicated on the site plan.
- (3) Generally regarding proposed security measures at the proposed self-storage warehouses:
- a. A note on the site plan indicates that full cut-off motion detection lighting will be used on all buildings.
 - b. All self-storage buildings are enclosed in a proposed security fence. An automatic gate is indicated at the northeast corner of the security fence approximately 55 feet from the edge of pavement of CR900E (Duncan Road).
- C. The revised site plan received July 16, 2014, indicates the following revisions:
- (1) The Revised Site Plan dated 7/16/14 includes a Preliminary Site Plan, Phase 1 Construction, and Phase 2 Construction.

- (2) The debris area on the southwest corner of the property has been moved to ensure 10 feet of space between the debris area and the property lines.
 - (3) The Hoop Shed has been moved from the southwest part of the property to an area just behind the existing house on the north-central part of the property.
 - (4) Grass areas and paved surface have been differentiated. An additional aggregate surface drive has been added to the area between the west property line and the westernmost self-storage building with a note "drive for landscaping access".
 - (5) "Stone Riprap, Class A3" has been noted on the south basin.
 - (6) At least 20 feet has been ensured for the area between the relocated polyhouses and self-storage warehouses identified in Phase 2 Construction. Further, Note 9 states that "A minimum of 20' separation will be required between buildings on the contractor's facility and the storage facility."
 - (7) The existing septic tank and leach field are demarcated at their existing location as well as where they will be relocated to an area in front of the house on the east-central part of the property.
 - (8) The driveway entrance to the storage facility has been widened.
 - (9) Regarding the use of gravel, Note 8 on the Preliminary Site Plan that "owner shall be responsible for maintaining aggregate drives in good condition."
 - (10) A note has been added on the Preliminary Site Plan on the north side property line that states "no parking within 5 feet of the property line".
- D. The revised site plan received September 3, 2014, indicates the following revisions from the previous site plan:
- (1) A free standing sign is proposed south of the proposed entrance to the self-storage warehouses. Note that the property already has one free-standing sign for the contractor facility and only one free-standing sign is allowed per property.
 - (2) There is no chain link fence indicated along the west lot line but a note (#10) has been added to Sheet 1 that states as follows:
A 6' tall chain link fence may be placed along the west and north property lines, subject to case specific special conditions.
 - (3) The following changes have been made regarding accessibility:
 - a. A total of 10 accessible storage units are indicated to be part of Phase 1 Construction.
 - b. Exterior paving at the 10 accessible storage units is indicated as asphalt.

- c. Note 12 on Sheet 1 of 3 indicates that accessible units will have automatic door openers and paved surfaces adjacent to the unit with slopes not exceeding 1:50 in any direction.

*Identical to evidence in related Case 767-S-13.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

9. Regarding the existing and proposed zoning districts:
 - A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:
 - (1) The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
 - (2) The B-1, Rural Trade Center DISTRICT is intended to provide areas for AGRICULTURAL related business services to rural residents.
 - B. Regarding the general locations of the existing and proposed zoning districts:
 - (1) The AG-1 District is generally located throughout the county in areas which have not been placed in any other Zoning Districts.
 - (2) The B-1 District is generally located in rural areas suitable for businesses operations to serve the needs of rural residents.
 - C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:
 - (1) There are 11 types of uses authorized by right in the AG-1 District and there are 25 types of uses authorized by right in the B-1 District:
 - a. The following 5 uses are authorized by right in the AG-1 District and are not authorized at all in the B-1 District:
 - Single family dwelling;
 - Roadside Stand operated by Farm Operator;
 - Plant Nursery;
 - Off-premises sign within 660 feet of interstate highway; and
 - Off-premises sign along federal highway except interstate highways;
 - b. The following 6 uses are authorized by right in both the AG-1 District and B-1 District:
 - Subdivisions of three lots or less;

- Agriculture;
 - Minor Rural Specialty Business;
 - Township Highway Maintenance Garage (must meet separations or a SUP is required);
 - Christmas Tree Sales Lot;
 - Temporary Uses
- c. The following 9 uses are authorized by right in the B-1 District and not at all in the AG-1 District:
- Parking garage or lot;
 - MINOR AUTOMOBILE REPAIR (all indoors)*;
 - Gasoline Service Station;
 - Agricultural services and businesses (roadside stand, feed/grain sales, equipment sales and service)
 - Miscellaneous business (cold storage, telegraph office, antique sales)

*Auto Repair may cause nuisance violations (junk cars, debris, etc) at this location. The Department of Planning and Zoning enforces the *Nuisance Ordinance* and can help resolve nuisance violations. "Minor Automobile Repair" is replacement of parts and motor services to passenger cars and trucks not exceeding one and one-half tons capacity, excluding body repairs.

- d. The following 10 uses are authorized by right in the B-1 District but require a Special Use Permit in the AG-1 District:
- Major RURAL SPECIALTY BUSINESS
 - Small Scale Metal Fabricating Shop (only if the building existed prior to 1988)
 - Public park or recreational facility
 - Public facilities (police station, library, government building, telephone exchange)
 - Agricultural services and businesses (fertilizer sales/storage, grain storage, specialty business)

(2) There are 42 types of uses authorized by Special Use Permit (SUP) in the AG-1 District (including the 9 uses authorized by right in the B-1 District see above) and 10 types of uses authorized by SUP in the B-1 District:

- a. The following 5 uses may be authorized by SUP in the both the AG-1 District and B-1 District:
- Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
 - Electrical Substation;

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- HELIPORT-RESTRICTED LANDING AREAS;
 - Livestock Sales Facility and Stockyards;
 - Slaughter Houses;
- b. The following 27 uses may be authorized by Special Use Permit in the AG-1 District and not at all in the B-1 District:
- Hotel with no more than 15 lodging units;
 - Residential PLANNED UNIT DEVELOPMENT;
 - Major RURAL SPECIALTY BUSINESS;
 - Artificial lake of 1 or more acres;
 - Mineral extraction, Quarrying, topsoil removal, and allied activities;
 - Elementary School, Junior High School, or High School;
 - Church, Temple or church related Temporary Uses on church Property;
 - Penal or correctional institution;
 - Sewage disposal plant or lagoon;
 - Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;
 - Radio or Television Station;
 - RESIDENTIAL AIRPORTS;
 - RESTRICTED LANDING AREAS;
 - Riding Stable;
 - Commercial Fishing Lake;
 - Cemetery or Crematory;
 - Pet Cemetery;
 - Kennel;
 - Veterinary Hospital;
 - Off-premises sign farther than 660 feet from an interstate highway;
 - Contractors Facilities with no outdoor operations or storage;
 - Contractors Facilities with outdoor operations and/or storage;
 - Gas Turbine Peaker;
 - BIG WIND TURBINE TOWER (1-3 turbines);
 - WIND FARM (County Board SUP)
 - Sawmills Planing Mills, and related activities; and
 - Pre-Existing Industrial Uses (existing prior to October 10, 1973)
- c. The following 5 uses may be authorized by SUP in the B-1 District and not at all in the AG-1 District:
- Self-storage Warehouses, providing heat and utilities to individual units;

- Self-storage Warehouses, not providing heat and utilities to individual units;
- Storage of gasoline, volatile oils, and liquefied petroleum gases.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

10. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:

A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows.”

B. The LRMP defines Goals, Objectives, and Policies as follows:

- (1) Goal: an ideal future condition to which the community aspires
- (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
- (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives

C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

REGARDING LRMP GOALS & POLICIES

11. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:

Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 has 4 objectives and 4 policies. The proposed rezoning will **NOT IMPEDE** the achievement of Goal 1.

(Note: bold italics typeface indicates staff’s recommendation to the ZBA)

12. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 has two objectives and three policies. The proposed rezoning will **NOT IMPEDE** the achievement of Goal 2.

13. LRMP Goal 3 is entitled “Prosperity” and states as follows:

Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.

Goal 3 has three objectives and no policies. The proposed rezoning will **HELP ACHIEVE** the achievement of Goal 3.

14. LRMP Goal 4 is entitled “Agriculture” and states as follows:

Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

Goal 4 has 9 objectives and 22 policies. The proposed **WILL HELP ACHIEVE** Goal 4 for the following reasons:

- A. Objective 4.1 states, “**Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.**”

The proposed rezoning **WILL HELP ACHIEVE** Objective 4.1 because of the following:

- (1) Policy 4.1.6 states, “**Provided that the use, design, site and location are consistent with County policies regarding:**

- i. **Suitability of the site for the proposed use;**
- ii. **Adequacy of infrastructure and public services for the proposed use;**
- iii. **Minimizing conflict with agriculture;**
- iv. **Minimizing the conversion of farmland; and**
- v. **Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres**

plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or

- b) On best prime farmland, the County may authorize non-residential discretionary development; or
- c) The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.1.6 for the following reasons:

- a. There is no Natural Resource Report for the subject property and no Natural Resource Report was required for the existing Special Use Permit, Case 101-S-97.
- b. As indicated on an excerpt of Sheet 62 of the *Soil Survey of Champaign County, Illinois*, 2003 edition, annotated to indicate subject property, the subject property consists primarily (approximately 80%) of soil map unit 171B Catlin silt loam (2% to 5% slopes) and soil map unit 152A Drummer silty clay loam.
- c. The *Champaign County Land Evaluation and Site Assessment System* as amended on October 24, 2013, identifies soil map unit 152A Drummer silty clay loam with a Land Evaluation rating of 100 and 171B Catlin silt loam with a Land Evaluation rating of 94. The Zoning Ordinance defines “best prime farmland” as any soil with an LE of 91 or higher.
- d. The proposed use requires a Special Use Permit in the B-1 Rural Trade Center District, which allows consideration of site suitability, adequacy of public infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas as part of the criterion regarding, “injurious to public health, safety, and welfare.”
- e. The subject property was a farmstead before it was authorized as a Contractor Facility in Case 101-S-97 on July 17, 1997.
- f. The proposed Special Use on the subject property will not increase the size of the subject property nor take any best prime farmland out of production.
- g. Achievement of Policy 4.1.6 requires achievement of related Objectives 4.2 and 4.3.

- B. Objective 4.2 states, “Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”

The proposed rezoning **WILL HELP ACHIEVE** Objective 4.2 because of the following:

- (1) Policy 4.2.1 states, **“The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a *rural* area than in an urban area.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1 because based on the evidence, the proposed Special Use in related Case 759-S-13 **WILL NOT** interfere with agricultural operations and is a service which is appropriate for the rural area and therefore **IS** a service better provided in rural area than in an urban area as follows:

- *a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- *b. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
- *c. The existing contractors' facility has been in operation since the mid 1990s and is a USE that has been determined to be appropriate in the rural area.
- *d. The proposed Self-Storage Warehouses is a USE that has been deemed appropriate for the rural area in the B-1 District provided that a Special Use Permit is authorized.
- *e. The subject property is located near to the urbanized area and is a little more than 1.5 miles from the Village of Savoy and about 2 miles from the City of Champaign and is within one road mile of the I-57 interchange at Monticello Road.

*Identical to evidence in related Case 767-S-13.

- (2) Policy 4.2.2 states, **“The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a. is a type that does not negatively affect agricultural activities; or**
 - b. is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
 - c. will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2 because based on the evidence, the proposed Special Use in related Case 767-S-13 **DOES NOT** negatively affect agricultural activities, or **IS** located and designed to minimize exposure to negative effects of agricultural activities, and **WILL NOT** interfere with agricultural activities based on the following:

- *a. The existing contractors' facility has been in operation since 1997 and is a USE that has been determined to be appropriate in the rural area.
- *b. The proposed self-storage warehouse is a USE that has been deemed appropriate for the rural area in the B-1 District provided that a Special Use Permit is authorized.
- *c. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
- *d. Scott Riefsteck who resides at 1341 CR600N, Tolono testified at the January 30, 2014, public hearing as follows:
 - (a) Mr. Riefsteck is the tenant farmer for his aunt who owns the property adjacent to the subject property.
 - (b) Mr. Riefsteck has known the petitioner Mr. Sebens for a long time and has had nothing but a good relationship with Mr. Sebens.
 - (c) He stated the current contractor facility is fairly compatible with the agriculture district.
 - (d) On the west side of the contractor facility there has been an issue with encroachment onto the farmland and that Mr. Sebens has done his best to contain it but with as many employees as there are at the contractor facility it is hard to regulate.
 - (e) He requested that some type of fencing should be required for the proposed self-storage buildings to minimize problems from blowing debris.
- *e. The traffic produced by the proposed use will be an increase in traffic, but its impact will be minimal.
- *f. None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73.
- *g. Petitioner Eric Sebens testified at the 3/13/14 public hearing that his intent is to correct the encroachments onto the farmland.
- *h. The Revised Site Plan received 5/12/14 indicates a five feet wide buffer strip and fence along the west property line.

*Identical to evidence in related Case 767-S-13

- C. Objective 4.3 states, **“Champaign County will require that each discretionary review development is located on a suitable site.”**

The proposed rezoning **WILL HELP ACHIEVE** Objective 4.3 because of the following:

- (1) Policy 4.3.2 states, **“On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2 for the following reasons:

- a. As reviewed under Policy 4.1.6, the subject property is best prime farmland.
- b. The property **IS WELL SUITED OVERALL** based on the following:
 - (a) The property is only five acres in area.
 - (b) A Special Use Permit was authorized in Case 101-S-97.
 - (c) The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
 - (d) The proposed development is subject to the *Stormwater Management Policy* and must provide adequate stormwater detention that will not harm the tile drainage to the west or the drainage swale on the south of the property.
 - (e) The subject property fronts and has access to Duncan Road (CR900E).
 - (f) A Traffic Impact Analysis was not required because the number of weekday and weekend peak hour trips generated by the proposed use will be minimal.
 - (g) Access to I-57 is approximately 1 road mile from the subject property.
 - (i) The subject property is served by a public water supply.
- (2) Policy 4.3.3 states, **“The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.3 for the following reason:

- a. The subject property is located approximately 4.3 miles from the Savoy Fire Protection District Station. The fire protection district was notified of the case and no comments have been received.
- (3) Policy 4.3.4 states, **“The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.4 for the following reason:

- a. The subject property has access to Duncan Road (CR900E). Duncan Road is an oil and chip road that is approximately 24 feet in width that has adequate capacity for the proposed use. Access to I-57 is approximately 1 road mile from the subject property.
 - b. No comments have been received from the Tolono Township Highway Commissioner.
- (4) Policy 4.3.5 states, **“On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a. **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
 - b. **the use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.5 for the following reasons:

- a. As reviewed under Policy 4.1.6, the subject property is best prime farmland.
- b. The property is only five acres in area.
- c. A Special Use Permit was authorized in Case 101-S-97 on July 17, 1997.
- d. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents. Contractors Facilities and Self-Storage Warehouses are USES that have been determined to be appropriate for the rural area in the B-1 DISTRICT.
- e. The proposed development is subject to the *Stormwater Management Policy* and must provide adequate stormwater detention.
- f. The subject property fronts and has access to Duncan Road (CR900E).

- g. Access to I-57 is approximately 1 road mile from the subject property.
- h. The subject property is served by a public water supply.

D. The proposed amendment **WILL NOT IMPEDE** the achievement of Objectives 4.6, 4.7, and 4.9 and Policies 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.8, 4.2.3, 4.2.4, 4.6.1, 4.6.2, 4.6.3, and 4.9.1. Objectives 4.4, 4.5, and 4.8 and Policies 4.1.7, 4.1.9, and 4.3.1 are **NOT RELEVANT** to the proposed amendment.

15. LRMP Goal 5 is entitled "Urban Land Use" and states as follows:

Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.

Goal 5 has 3 objectives and 15 policies. The proposed amendment **WILL NOT IMPEDE** Goal 5 for the following reasons:

A. Objective 5.1 states, "**Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new *urban development* in or adjacent to existing population centers.**"

The proposed rezoning **WILL NOT IMPEDE** Objective 5.1 because of the following:

- (1) Policy 5.1.3 states, "**The County will consider municipal extra-territorial jurisdiction areas that are currently served by or that are planned to be served by an available public sanitary sewer service plan as contiguous urban growth areas which should develop in conformance with the relevant municipal comprehensive plans. Such areas are identified on the Future Land Use Map.**"

The proposed rezoning **WILL NOT IMPEDE** Policy 5.1.3 for the following reasons:

- a. The subject property is only 5 acres in area.
- b. A Special Use Permit was authorized in Case 101-S-97 on July 17, 1997.
- c. In the Champaign County Land Resource Management Plan the subject property is not identified as being within the Contiguous Urban Growth Area.
- d. Neither of the proposed uses require urban services and are suitable for rural areas.
- e. The proposed self-storage warehouses will put the property to greater use, but not substantially different from what the property has been used for in the past.

- f. This location is more than 1.5 miles from the Village of Savoy and about 2 miles from the City of Champaign so this is not a municipal extra-territorial jurisdiction area.
- (2) Policy 5.1.4 states, **“The County may approve discretionary development outside contiguous urban growth areas, but within municipal extra-territorial jurisdictions areas only if:**
 - a. **the development is consistent with the municipal comprehensive plan and relevant municipal requirements;**
 - b. **the site is determined to be well-suited overall for the development if on best prime farmland or the site is suited overall, otherwise and**
 - c. **the development is generally consistent with all relevant LRMP objective and policies.”**

The proposed rezoning **WILL NOT IMPEDE** Policy 5.1.3 for the reasons stated under Policy 5.1.3. See above.

- B. Objective 5.3 states, **“Champaign County will oppose proposed new urban development unless adequate utilities, infrastructure, and public services are provided.”**

The proposed rezoning **WILL NOT IMPEDE** Objective 5.3 because of the following:

- (1) Policy 5.3.1 states, **“The County will:**
 - a. **require that proposed new urban development in unincorporated areas is sufficiently served by available public services and without undue public expense; and**
 - b. **encourage, when possible, other jurisdictions to require that proposed new urban development is sufficiently served by available public services and without undue public expense.”**

The proposed rezoning **WILL NOT IMPEDE** Policy 5.3.1 based on the same considerations as for Policy 4.3.3.

- (2) Policy 5.3.2 states, **“The County will:**
 - a. **require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense; and**
 - b. **encourage, when possible, other jurisdictions to require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense.”**

The proposed rezoning **WILL NOT IMPEDE** Policy 5.3.2 based on the same considerations as for Policy 4.3.4.

- C. The proposed amendment **WILL NOT IMPEDE** the achievement of Objective 5.2 and Policies 5.1.1, 5.1.2, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.2.1, 5.2.2, 5.2.3, and 5.3.3.

16. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

Champaign County will ensure protection of the public health and public safety in land resource management decisions.

Goal 6 has 4 objectives and 7 policies. The proposed rezoning **WILL HELP ACHIEVE** Goal 6 for the following reasons:

- A. Objective 6.1 states, “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**”

The proposed rezoning **WILL HELP ACHIEVE** Objective 6.1 because of the following:

- (1) Policy 6.1.3 states, “**The County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible.**”

The proposed rezoning **WILL HELP ACHIEVE** Policy 6.1.3 for the following reasons:

- (a) The proposed exterior lighting will comply with the standard condition in Section 6.1.2 regarding exterior lighting and will be full-cutoff light fixtures.

- B. The proposed amendment **WILL NOT IMPEDE** the achievement of Policies 6.1.1, 6.1.2, and 6.1.4. Objectives 6.2, 6.3, and 6.4 and Policies 6.2.1, 6.2.2, and 6.2.3 are **NOT RELEVANT** to the proposed amendment.

17. LRMP Goal 7 is entitled “Transportation” and states as follows:

Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.

Goal 7 has 2 objectives and 7 policies. The proposed rezoning **WILL HELP ACHIEVE** Goal 7 for the following reasons:

- A. Objective 7.1 states, “**Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.**”

The proposed rezoning **WILL HELP ACHIEVE** Objective 7.1 because of the following:

- (1) Policy 7.1.1 states, “**The County will include traffic analyses in discretionary review development proposals with significant traffic generation.**”

The proposed rezoning **WILL HELP ACHIEVE** Policy 7.1.1 for the following reasons:

(a) A Traffic Impact Analysis is not necessary because the number of weekday and weekend peak hour trips generated will be minimal.

B. The proposed amendment **WILL NOT IMPEDE** the achievement of Objective 7.2 and Policies 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, and 7.2.6.

18. LRMP Goal 8 is entitled “Natural Resources” and states as follows:
Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.

Goal 8 has 9 objectives and 36 policies. The proposed rezoning **WILL NOT IMPEDE** the achievement of Goal 8.

19. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:
Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

Goal 9 has 5 objectives and 5 policies. The proposed rezoning **WILL NOT IMPEDE** the achievement of Goal 9.

20. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:
Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

Goal 10 has 1 objective and 1 policy. The proposed rezoning **WILL NOT IMPEDE** the achievement of Goal 10.

GENERALLY REGARDING THE *LaSalle* Factors

21. In the case of *LaSalle National Bank of Chicago v. County of Cook* the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

A. **LaSalle factor: The existing uses and zoning of nearby property.**

Table 1 below summarizes the land uses and zoning of the subject property and properties nearby.

Table 1: Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	Contractors Facility (Case 101-S-97)	AG-1 Agriculture (proposed B-1)
North, South , West	Agriculture	AG-1 Agriculture
East	Agriculture	AG-2 Agriculture

B. **LaSalle factor: The extent to which property values are diminished by the particular zoning restrictions.**

- (1) It is impossible to establish values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- (2) In regards to the value of the subject property, the requested map amendment may have some positive effect or else the landowner would not have submitted the petition for the rezoning.

C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**

- (1) There has been no evidence submitted regarding property values.
- (2) The proposed rezoning should not have a negative effect on the public health, safety, and welfare and therefore, denying the request to rezone the property will not promote public health, safety, or welfare.

D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.**

- (1) The proposed rezoning and related Special Use will allow the petitioner to provide storage area for use by the public.
- (2) If the request is denied the hardship imposed on the property owner is that the added income from the self-storage area will not be realized.

E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**

- (1) The subject property is suitable for the current zoned purposes.
- (2) Based on the discussion of suitability under Item 14.C., the subject property **IS SUITABLE** for the proposed zoned purpose which is a self-storage warehouses and an existing contractors facility.

- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.**
- (1) The AG-1 District was planned in 1973 and thus was intended to protect areas of the County where soil and topographic conditions are best adapted to the pursuit of agricultural uses.
 - (2) Currently, there are several buildings on the subject property and a Special Use for Contractors Facility was authorized in Case 101-S-97.
- G. **Sinclair factor: The need and demand for the use.**
The existing contractors facility provides landscape contracting services to the rural and urban communities. The proposed Self-Storage Warehouses will also provide a service for rural and urban residents.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.**
- (1) The proposed self-storage warehouses will put the property to greater use, but not substantially different from what the property has been used for in the past. Self-storage warehouses are facilities that may be utilized by residential customers.
 - (2) The area in which the subject property is located is indicated as "Primarily Farmland- Best Prime" on the Land Resource Management (LRMP) map Future Land Use-2030. As described in the text of the LRMP, agriculture is the primary land use in this area but other land uses (residential, commercial/industrial, parks) are expected to locate in this area consistent with the LRMP.
 - (3) Based on the discussion above, the proposed Special Use **DOES CONFORM** to the Land Resource Management Plan.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

22. The proposed amendment **WILL HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:
- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
 - (1) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan in related Case 767-S-13 appears to be in compliance with those requirements.
 - B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, **BUILDINGS**, and **STRUCTURES** throughout the **COUNTY**.

- (1) The requested Special Use Permit should not decrease the value of nearby properties.
- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.
- (1) A Traffic Impact Analysis was not required because the number of weekday and weekend peak hour trips generated by the proposed use will be minimal.
- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.
- (1) The proposed construction on the subject property will trigger the need for stormwater management. The petitioner will need to submit a complete stormwater management plan that is in compliance with the *Stormwater Management Policy* before a Zoning Use Permit can be issued for the proposed construction.
- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.
- (1) 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.
 - (2) 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.
- F. 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.
- (1) 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.
- G. 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.

- (1) 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.
- H. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent 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.
- (1) The proposed Special Use will not be remodeling or altering existing structures.
- I. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.
- a. None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73.
 - b. The Special Use **WILL** be compatible with adjacent uses because the evidence established that the proposed Special Use **WILL NOT** interfere with agricultural operations (see item 14.B.) and the subject site **IS** suitable for the proposed Special Use (see item 14.C.).
- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.
- (1) The subject property does not contain nor pose risk to any natural features.
- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.
- (1) The proposed use will not require the development of public utilities or transportation facilities.
- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

- (1) None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73 and no agricultural areas are proposed to be taken out of production.
- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.
 - (1) The proposed use will impeded the development of renewable energy sources.

REGARDING SPECIAL CONDITIONS OF APPROVAL

23. Regarding proposed special conditions of approval:

- A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014; March 13, 2014; June 12, 2014; July 17, 2014; September 11, 2014; and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of the proposed amendment on the Land Resource Management Plan (LRMP):
 - A. **Regarding Goal 3:**
 - Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the Goal 3 objectives, the proposed rezoning will allow the petitioner to utilize the property somewhat more intensively and continue business operations in Champaign County.
 - Based on achievement of the above and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 3 Prosperity.**
 - B. **Regarding Goal 4:**
 - It **WILL HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it **WILL HELP ACHIEVE** the following:
 - Policy 4.3.5 requiring that a business or non-residential use on best prime farmland only if it serves surrounding agriculture and is appropriate in a rural area (see Item 14.C.(4)).
 - Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.C.(3)).
 - Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.C.(2)).
 - Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 14.C.(1)).
 - It **WILL HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it **WILL HELP ACHIEVE** the following:
 - Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 14.B.(2)).
 - Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 14.B.(1)).
 - It **WILL HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because it **WILL HELP ACHIEVE** the following:
 - Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 14.A.(1)).

- It will either not impede or is not relevant to the other Objectives and Policies under this goal.
- Based on achievement of the above Objectives and Policies, the proposed map amendment **WILL HELP ACHIEVE Goal 4 Agriculture.**

C. **Regarding Goal 6:**

- Objective 6.1 **ensuring that development does not endanger public health or safety** because it will **WILL HELP ACHIEVE** the following:
 - Policy 6.1.3 **preventing nuisances created by light and glare to limit excessive night lighting.**
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 6 Public Health and Public Safety (see Item 16.A.(1)).**

D. **Regarding Goal 7:**

- Objective 7.1 **consider traffic impact in land use decisions** because it **WILL HELP ACHIEVE** the following:
 - Policy 7.1.1 **requiring traffic impact analyses for projects with significant traffic generation.**
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 7 Transportation (see Item 17.A.(1)).**

E. The proposed amendment **WILL NOT IMPEDE** the following LRMP goal(s):

- **Goal 1 Planning and Public Involvement**
- **Goal 2 Governmental Coordination**
- **Goal 5 Urban Land Use**
- **Goal 8 Natural Resources**
- **Goal 9 Energy Conservation**
- **Goal 10 Cultural Amenities**

G. Overall, the proposed map amendment **WILL HELP ACHIEVE** the Land Resource Management Plan.

2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors because of the following:
- The amendment will allow the petitioners to continue to provide the existing landscaping services they offer and the proposed self-storage warehouses.
 - The subject property **IS** suitable (see item 21.E.) for the existing and proposed businesses.

- The proposed Special Use **DOES CONFORM** to the Land Resource Management Plan (see item 21.H.).
3. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE the purpose of the Zoning Ordinance.**
 4. Regarding the error in the present Ordinance that is to be corrected by the proposed change:
 - Approval of the amendment would allow the current business activities to continue and allow more productive use of this small property because of the proposed Special Use to be established subject to related Case 767-S-13.

DOCUMENTS OF RECORD

1. Application for Map Amendment received November 13, 2013, with attachments:
 - A Site Plan
2. Special Use Permit application received November 13, 2013, with attachments:
 - A Site Plan
3. Zoning Case 107-S-95 case file
4. ZUPA No. 204-97-04 case file
5. ZUPA No. 317-97-03 file
6. Copy of Warranty Deed received December 5, 2013
7. Revised Site Plan received January 22, 2014
8. Preliminary Memorandum for Cases 766-AM-13 and 767-S-13 dated January 24, 2013, with attachments:
 - A Case Maps from Case 101-S-97 (Location, Land Use, Zoning)
 - B Approved Site Plan from Case 101-S-97
 - C Excerpt from building plans in Permit #9449 (ZUPA #317-07-03)
 - D Aerial photograph of subject property
 - E Excerpt of Sheet 62 of *Soil Survey of Champaign County, Illinois*, 2003 edition. Annotated to indicate subject property.
 - F Revised Site Plan received 11/13/03
 - G LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
 - H LRMP Land Use Management Areas Map (included separately)
 - I Preliminary Draft Finding of Fact for Case 766-AM-13
9. Revised Site Plan received 3/5/14
10. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated March 7, 2014, with Attachments
 - A Revised Site Plan received 3/5/14
 - B Annotated Site Plan
 - C Letter to Scott Riefsteck dated 3/4/14
11. Revised Site Plan received 5/12/14
12. Revised Site Plan received 6/5/14 (three sheets total)

13. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated June 6, 2014, with Attachments:
 - A Approved Minutes of January 30, 2014, ZBA Meeting for Cases 766-AM-13 and 767-S-13 (included separately)
 - B Revised Site Plan received 6/5/14 (three sheets total)
 - C Preliminary Draft Summary of Evidence and Finding of Fact for Case 767-S-13
 - D Revised Draft Finding of Fact for Case 766-AM-13
14. Revised site plan received July 16, 2014 (three sheets total)
15. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated July 17, 2014, with Attachments:
 - A Draft Minutes of June 12, 2014 ZBA Meeting (included separately)
 - B Revised Site Plan received 7/16/14
 - C Zoning Administrator Example Accessibility
16. Revised site plan received September 3, 2014
17. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated September 4, 2014, with Attachments:
 - A Approved Minutes of July 17, 2014, public hearing for Cases 766-AM-13 and 767-AM-13 (included separately)
 - B Emails between Chad Osterbur, design engineer, and Doug Gamble, Accessibility Specialist, Illinois Capital Development Board
 - C Revised Site Plan received 9/3/14 (3 sheets total)
 - D Champaign County Right to Farm Resolution # 3425
 - E Preliminary Draft Summary of Evidence and Finding of Fact for Case 767-S-13
 - F Revised Draft Finding of Fact for Case 766-AM-13
18. Revised Draft Finding of Fact for Case 766-AM-13 dated September 12, 2014

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in **Case 766-AM-13** should *{BE ENACTED / NOT BE ENACTED}* by the County Board subject to the following special condition:

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

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

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767-S-13

**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: **September 25, 2014**

Petitioners: **Eric L. Sebens d.b.a. Prairieview Landscaping**

Request: **Authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:**

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor’s facility with outdoor storage that was originally authorized in Case 101-S-97; and**
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.**

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014; March 13, 2014; June 12, 2014; July 17, 2014; September 11, 2014; and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that:

- *1. The petitioner Eric L. Sebens, 3008 Cherry Hills Drive, Champaign, d.b.a. Prairieview Landscaping owns the subject property.
- *2. The subject property is a 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping located at 1069 CR900E, Champaign.
- *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 5 acres in area and is zoned AG-1 Agriculture, but is proposed to be rezoned in related Case 766-AM-13. The subject property is used to operate an existing contractors facility pursuant to Case 101-S-97. None of the subject property is used for agricultural production.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north, west, and south sides are zoned AG-1 Agriculture and are in agricultural production.
 - (2) Land east of the subject property (across Duncan Road) is zoned AG-2 Agriculture and in agricultural production.

*Identical to evidence in related Case 767-AM-13.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

- *5. Regarding the site plan and operations of the proposed Special Use:
 - A. Different versions of the site plan have been received on November 13, 2013; January 22, 2014; March 3, 2014; May 12, 2014; June 5, 2014; July 16, 2013; and September 3, 2014.
 - B. The revised site plan received June 5, 2014, indicated the following existing and proposed improvements:
 - (1) Existing improvements are as follows:
 - a. An existing dwelling, garage, quonset hut, and restored barn all predate the establishment of the existing contractor facility.

- b. Prairieview Landscaping, a landscape contracting company, was authorized in Case 101-S-97 on 7/18/97 and Change of Use Permit #204-97-04 on 7/24/97 and received a Zoning Compliance Certificate on 1/15/98. Improvements related to Case 101-S-97 are the following:
 - (a) The large building on the northern part of the property houses Prairieview Landscaping and was constructed pursuant to Zoning Use Permit #317-97-03 and received a Zoning Compliance Certificate on 5/12/98.
 - (b) A sign shaped like a decorative boulder was authorized by Zoning Use Permit # 344-03-01 on 12/10/03 and received a Zoning Compliance Certificate on 12/03/08.
 - (c) In Case 101-S-97 outdoor storage was proposed west of both the contractor building and the dwelling and a plant holding area/nursery was proposed in the southwestern portion of the property. Existing outdoor storage also exists south of the dwelling and consists of open bins and hoop houses which have not been authorized by Zoning Use Permits. Hoop houses for propagation of nursery stock can be considered agricultural but bins for storage of landscaping materials are not agriculture and must be authorized by Zoning Use Permit.
 - (d) In Case 101-S-97 employee and customer parking were indicated south and west of the contractor building.
 - (e) Three driveways were indicated on the approved site plan for Case 101-S-97 and a fourth driveway has been added on the north side of the contractor building.
 - (f) The approved site plan for Case 101-S-97 did not indicate the locations of any well or septic system.
 - (g) Case 101-S-97 was exempt from the requirement for a stormwater drainage plan.
- (2) Proposed improvements indicated on the Revised Site Plan received June 5, 2014 are the following:
 - a. Regarding the existing contractor facility:
 - (a) The site plan shows the outline of the contractor building and crushed stone paving.
 - (b) None of the parking spaces or outdoor material storage areas are indicated.

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- (c) The existing sign is not indicated.
 - (d) A water well is indicated west of the house.
 - (e) Two existing septic systems are indicated. A septic tank and leach field is indicated northeast of the house and is not indicated to be disturbed. Another septic tank and leach field is indicated where one self-storage warehouse is proposed.
- b. Regarding proposed improvements for the contractor facility:
- (a) A proposed hoop building is indicated at the southwest corner.
 - (b) A proposed chain link fence is indicated along and 5 feet inside of the west lot line. A proposed 5 feet wide grass buffer strip is indicated between the fence and the lot line.
 - (c) An approximately 270 feet long berm is proposed on the east side of the proposed chain link fence to create a detention area approximately 1.7 feet deep. The detention area is proposed to outlet through a proposed 8 inch PVC pipe connected to an existing surface inlet to an existing underground tile. Basic engineering data is provided for the north basin but it has not been reviewed by the County's consulting engineer.
- c. Regarding the proposed improvements for the proposed self-storage warehouse:
- (a) Four self-storage warehouse buildings are proposed. The buildings are all proposed to be oriented with their long dimension north to south with the following overall dimensions:
 - i. The westernmost building is 30 feet by 200 feet.
 - ii. The easternmost building is 40 feet by 110 feet.
 - iii. Located between the westernmost and easternmost buildings are two buildings that are 40 feet by 200 feet and 40 feet by 130 feet, respectively.
 - iv. The total proposed square footage of self-storage buildings is 23,600 square feet. A note on the site plan indicates the total number of storage units to be between 108 and 150 units.
 - v. The two longer buildings are indicated with a stepped floor that is one foot higher on the northern portion.
 - (b) All self-storage buildings are separated by 30 feet wide traffic aisles that are indicated as "aggregate surface". Drainage arrows indicate

that the aisles are intended to drain toward the south. The traffic aisle east of the easternmost building appears to be 25 feet wide.

- (c) All self-storage buildings are enclosed by a proposed security fence. An automatic gate is indicated at the northeast corner of the security fence approximately 42 feet from the edge of pavement of CR900E (Duncan Road).
 - (d) A detention basin is indicated south of the self-storage buildings. The basin is indicated to outlet into the drainage swale. Basic engineering data is provided for the south basin but it has not been reviewed by the County's consulting engineer.
 - (e) Spot elevations are indicated on the proposed aggregate surface paving to indicate the general direction of drainage but proposed topography is not actually shown.
 - (f) The detention basin will take up some of the volume of the existing swale but the proposed topography is not indicated.
 - (g) The area of self-storage warehouses is indicated to be over an existing septic leach field.
 - (h) No outdoor storage in the self-storage building area has been included in the request nor is indicated on the site plan.
- (3) Generally regarding proposed security measures at the proposed self-storage warehouses:
- a. A note on the site plan indicates that full cut-off motion detection lighting will be used on all buildings.
 - b. All self-storage buildings are enclosed in a proposed security fence. An automatic gate is indicated at the northeast corner of the security fence approximately 55 feet from the edge of pavement of CR900E (Duncan Road).
- C. The revised site plan received July 16, 2014, indicates the following revisions:
- (1) The Revised Site Plan dated 7/16/14 includes a Preliminary Site Plan, Phase 1 Construction, and Phase 2 Construction.
 - (2) The debris area on the southwest corner of the property has been moved to ensure 10 feet of space between the debris area and the property lines.
 - (3) The Hoop Shed has been moved from the southwest part of the property to an area just behind the existing house on the north-central part of the property.

- (4) Grass areas and paved surface have been differentiated. An additional aggregate surface drive has been added to the area between the west property line and the westernmost self-storage building with a note "drive for landscaping access".
 - (5) "Stone Riprap, Class A3" has been noted on the south basin.
 - (6) At least 20 feet has been ensured for the area between the relocated polyhouses and self-storage warehouses identified in Phase 2 Construction. Further, Note 9 states that "A minimum of 20' separation will be required between buildings on the contractor's facility and the storage facility."
 - (7) The existing septic tank and leach field are demarcated at their existing location as well as where they will be relocated to an area in front of the house on the east-central part of the property.
 - (8) The driveway entrance to the storage facility has been widened.
 - (9) Regarding the use of gravel, Note 8 on the Preliminary Site Plan that "owner shall be responsible for maintaining aggregate drives in good condition."
 - (10) A note has been added on the Preliminary Site Plan on the north side property line that states "no parking within 5 feet of the property line".
- D. The revised site plan received September 3, 2014, indicates the following revisions from the previous site plan:
- (1) A free standing sign is proposed south of the proposed entrance to the self-storage warehouses. Note that the property already has one free-standing sign for the contractor facility and only one free-standing sign is allowed per property.
 - (2) There is no chain link fence indicated along the west lot line but a note (#10) has been added to Sheet 1 that states as follows:
A 6' tall chain link fence may be placed along the west and north property lines, subject to case specific special conditions.
 - (3) The following changes have been made regarding accessibility:
 - a. A total of 10 accessible storage units are indicated to be part of Phase 1 Construction.
 - b. Exterior paving at the 10 accessible storage units is indicated as asphalt.
 - c. Note 12 on Sheet 1 of 3 indicates that accessible units will have automatic door openers and paved surfaces adjacent to the unit with slopes not exceeding 1:50 in any direction.

*Identical to evidence in related Case 766-AM-13.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for multiple principal uses on one lot and contractors facilities in the B-1 Rural Trade Center Zoning District in the *Zoning Ordinance*:
 - A. Section 4.2.1F.1 requires the following:
 - (1) It shall be unlawful to erect or establish more than on MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT having more than one existing PRINCIPAL STRUCTURE or BUILDING constructed prior to the adoption of this Ordinance in the following zoning DISTRICTS except as provided in Section 4.2.1D unless a SPECIAL USE permit has been obtained from the BOARD:
 - R-4, Multiple Family Residence
 - B-1, Rural Trade Center
 - B-2, Neighborhood Business
 - B-3, Highway Business
 - B-4, General Business
 - B-5, Central Business
 - I-1, Light Industrial
 - I-2, Heavy Industrial
 - B. Section 4.2.1F.2. requires the following:
 - (1) Such SPECIAL USE permit shall be issued only if the following criteria have been met:
 - (a) The requirements of Section 9.1.11, SPECIAL USES, shall be met.
 - (b) The USES are permitted either by right or as a SPECIAL USE in the DISTRICT in which the LOT or parcel of land is located.
 - (c) The regulations and standards for the DISTRICT in which the LOT is located shall be met.
 - (d) A LOT may be occupied by two or more MAIN or PRINCIPAL STRUCTURES or BUILDINGS as authorized by a SPECIAL USE under this section, when adequate OPEN SPACE is provided between all STRUCTURES or BUILDINGS in accordance with the following standards:
 - i. For STRUCTURES in the Business or Industrial DISTRICTS the required minimum depth of OPEN SPACE shall be determined by doubling the required SIDE YARD in the DISTRICT in which the LOT or parcel of land is located.
 - ii. The minimum depth of such OPEN SPACE, for the purpose of these standards, shall be measured at the closest point between BUILDINGS including any projecting eave, balcony, canopy, awning, or other similar projection.

- iii.* Single Family, Two Family, Multiple Family or institutional BUILDINGS shall be located on the LOT in conformance to the provisions of Section 4.2.2C.
 - iv.* In the case of the B-1 Rural Trade Center Zoning District the required amount of open space is 20 feet.
- C. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 establishes the following standard conditions for Contractors Facilities with or without Outdoor STORAGE and/or Outdoor OPERATIONS:
 - (a) In all DISTRICTS other than the B-5 DISTRICT, outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE subject to subsection 7.6.
 - (b) In the B-5 DISTRICT, Outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE provided as follows:
 - i.* No outdoor STORAGE and/or outdoor OPERATIONS shall be visible from any second floor DWELLING UNIT.

- ii. Outdoor STORAGE and/or outdoor OPERATIONS may be located at the property line but shall be screened by a Type D SCREEN consistent with 4.3.3H.1.

- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “ACCESSORY USE” is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (2) “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.
 - (3) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (4) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (5) “ESTABLISHMENT” is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
 - (6) “OPEN SPACE” is the unoccupied space open to the sky on the same LOT with a STRUCTURE.
 - (7) “OPERATIONS” are processing, assembly, fabrication, or handling of materials or products or movement of bulk materials or products not in containers or pipelines.
 - (8) “PARKING SPACE” is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
 - (9) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.

- (10) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (11) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
 - (12) "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.
 - (13) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
 - (14) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare 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.
- F. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
 - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- G. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
 - A. The Petitioner has testified on the application that **“Centrally located to meet the needs of several communities and rural areas. No other self-storage on this side of Champaign area.”**
 - B. The subject property is located a little more than 1.5 miles from the Village of Savoy and about 2 miles from the City of Champaign and is within one road mile of the I-57 interchange at Monticello Road.
 - C. None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73.
 - D. Case 101-S-97 for a contractor facility was authorized on 7/18/97.
 - *E. Regarding whether the proposed use is better provided in a rural area:
 - (a) The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination much be made in each zoning case.
 - (b) The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
 - (c) The existing contractor facility was first authorized on 7/18/97 and is a USE that has been determined to be appropriate in the rural area.
 - (d) The proposed Self-Storage Warehouses is a USE that has been deemed appropriate for the rural area provided that a Special Use Permit is authorized.
- *Identical to evidence in related Case 766-AM-13.
- F. The evidence in related Case 766-AM-13 established that the proposed Special Use **IS** a service better provided in a rural area than in an urban area. See the analysis of Policy 4.2.1 in the Finding of Fact for related Case 766-AM-13.

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 that **“The land is not prime farm ground nor is it tillable. If you visit the site you will see that I go above and beyond the expected in maintaining and operating the current business and property in a professional manner, I weekly mow the roads on both sides of the road beyond the frontage of my property. I control the weeds and maintain all structures that are planned to keep. Being in an outdoor beautification business, my goal is always to maintain and operate the business in a top notch manner, clean, safe and orderly.”**
- B. Regarding the soil on the subject property:
- (1) Because of the small size of the property and the fact that it had not been in agricultural production, the Champaign County Soil and Water Conservation District declined to prepare a Natural Resource Report for the previous Special Use Permit (Case 101-S-97) on this property.
 - (2) The soil on the subject property is considered Best Prime Farmland and consists primarily of Catlin silt loam (171B) with an LE of 94 with the southeastern quarter being Drummer silty clay loam (152A) an LE of 100.
- C. Regarding surface and subsurface drainage on the subject property:
- (1) Most of the subject property drains to the swale that enters the property on the east and drains toward the southwest and leaves the property at about the midpoint of the south property line but a little more than half of the northern half of the property drains to the west and a small strip of the south half of the property also drains to the west.
 - (2) The swale that drains toward the southwest also drains more than 200 acres of land from the east. The swale is a grass waterway for about a quarter of a mile downstream. Surface drainage is to Interstate 57 that is one-half mile to the west.
 - (3) A 2011 aerial photograph of the subject property was attached to the Preliminary Memorandum and illustrates the following:
 - a. The northern one-third of the subject property appears to be impervious area consisting of building area and gravel pavement.
 - b. A line of field erosion is visible on the adjacent property immediately west of the contractor building on the subject property.
 - c. The west half of the southern two-thirds of the subject property appears to be a combination of disturbed soil and/or gravel paving.
 - (4) Scott Riefsteck who resides at 1341 CR600N, Tolono has testified as follows regarding drainage on the subject property:
 - a. At the 1/30/14 public hearing Mr. Riefsteck testified as follows:

- (a) Mr. Riefsteck is the tenant farmer for his aunt who owns the property adjacent to the subject property.
 - (b) Mr. Riefsteck has known the petitioner Mr. Sebens for a long time and has had nothing but a good relationship with Mr. Sebens.
 - (c) The big shed that was built for Mr. Sebens' contractor facility significantly increased the amount of water that goes down that drainageway and in 2011 Mr. Riefsteck installed a six-inch tile many hundreds of feet from the Sebens property to the west and built a small retaining wall around the inlet to the tile to catch the water and keep it from going down the field.
 - (d) There is an eight or ten inch tile that runs through the swale at the south of the Sebens property.
 - (e) There is a saturated area about 20 feet north of the south property line of the Sebens property and the saturated area extends about 150 south onto his aunt's property.
- b. At the 3/13/14 public hearing Mr. Riefsteck testified as follows:
- (a) One of his main concerns is how the surface water will be directed around the buildings.
 - (b) He did not want any more water to go down the west side tile or to the drainage swale because there is already a terrible erosion problem with no good solution.
- D. The subject property is accessed from Duncan Road (CR 900E) on the east side of the property. Regarding the general traffic conditions on Duncan Road (CR 900E) 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 Duncan Road (CR 900E) in front of the subject property is 900 AADT.
 - (2) Duncan Road (CR 900E) is a Minor Street as indicated in the Champaign County Zoning Ordinance.
 - (3) Pavement width in front of the subject property is approximately 24 feet.
 - (4) Tolono Township is the relevant road jurisdiction and has been notified of this case but no comments have been received from the Tolono Township Highway Commissioner.

- (5) Regarding the proposed special use and the anticipated traffic impacts:
- a. A Traffic Impact Analysis was not required because the number of weekday and weekend peak hour trips generated by the proposed use will be minimal.
- (6) There is some vertical curvature (hill) on Duncan Road but there appears to be adequate visibility of the existing driveways. Regarding visibility concerns related to this vertical curve:
- a. The relevant geometric standards for traffic visibility are found in the *Manual of Administrative Policies of The Bureau of Local Roads and Streets* prepared by the Bureau of Local Roads and Streets of the Illinois Department of Transportation. The “minimum stopping sight distance” is determined by design speed and varies as follows:
 - A design speed of 30 miles per hour requires a minimum distance of 200 feet.
 - A design speed of 40 miles per hour requires a minimum sight distance of 275 feet.
 - A design speed of 50 miles per hour requires a minimum sight distance of 400 feet.
 - A design speed of 60 miles per hour requires a minimum sight distance of 525 feet.
 - A design speed of 70 miles per hour requires a minimum sight distance of 625 feet.
 - b. The speed limit on Duncan Road (CR 900E) is 55 miles per hour.
 - c. The proposed driveway entrance to the self-storage buildings appears to be located such that a vehicle entering or exiting the driveway is visible at a distance of approximately 1,000 feet from an automobile traveling from the north over the crest of the vertical curve (hill) to the north and should have more than minimum stopping sight distance for a speed of 55 miles per hour. In regards to an automobile traveling from the south, the driveway is visible for a distance of approximately 900 feet.
- E. Regarding fire protection on the subject property, the subject property is within the protection area of the Savoy 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.
- F. No part of the subject property is located within the mapped floodplain.
- G. Regarding outdoor lighting on the subject property:
- (1) The Revised Site Plan received 5/12/14 indicates that “Full cutoff motion detected lighting will be used on all buildings.”

- H. Regarding wastewater treatment and disposal on the subject property, the Revised Site Plan received 5/12/14 indicates that one of the proposed self-storage buildings will be located where an existing septic leach field is located. No information is provided regarding replacement of that septic leach field.
- I. 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.

- 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.
- k. In emails dated 7/29/14 and 8/6/14, Doug Gamble, Accessibility Specialist with the Illinois Capital Development Board, stated the following as accessibility requirements for the proposed self-storage warehouses:
 - (a) Five percent of the storage units must be accessible.
 - (b) An accessible storage unit must have an unassisted entrance and asphalt or concrete paving at the unit.
 - (c) If no parking spaces are actually designated (ie, striped) then no accessible parking space is required.
- l. The Revised Site Plan received 9/3/14 (3 sheets total) indicates the following regarding accessibility:
 - (a) A total of 10 accessible storage units are indicated to be part of Phase 1 Construction. The maximum proposed number of storage units is 150 and 10 accessible units is a little more than 6% of the 150.
 - (b) Exterior paving at the 10 accessible storage units is indicated as asphalt.
 - (c) Note 12 on Sheet 1 of 3 indicates that accessible units will have automatic door openers and paved surfaces adjacent to the unit with slopes not exceeding 1:50 in any direction.

- m. The Revised site plan received 9/3/14 does not indicate that the accessible units will have a concrete floor but it is assumed that each accessible unit will have a concrete floor. Based on the emails received from Doug Gamble, Accessibility Specialist with the Illinois Capital Development Board, the Revised Site Plan received 9/3/14 complies with accessibility requirements and no special conditions appear to be required for accessibility.
- (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.
 - c. A special condition has been proposed to ensure compliance.
- J. Generally regarding security measures at the proposed self-storage warehouses:
 - (1) Fencing will be installed around the perimeter of the proposed self-storage buildings.
 - (2) Petitioner Eric Sebens testified at the 3/13/14 public hearing that he plans to provide adequate lighting to deter any unwanted activity.
 - (3) Petitioner Eric Sebens testified at the 3/13/14 public hearing that he is considering allowing customers to access the storage units for no more than 16 hours each day from 6AM to 10 PM.
- *K. Generally regarding interference with agricultural operations:
 - (1) The existing contractors facility has been in operation since 1997 and is a USE that has been determined to be appropriate in the rural area.
 - (2) The proposed self-storage warehouse is a USE that has been deemed appropriate for the rural area in the B-1 District provided that a Special Use Permit is authorized.
 - (3) The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
 - (4) Scott Riefsteck who resides at 1341 CR600N, Tolono testified at the January 30, 2014, public hearing as follows:

- a. Mr. Riefsteck is the tenant farmer for his aunt who owns the property adjacent to the subject property.
 - b. Mr. Riefsteck has known the petitioner Mr. Sebens for a long time and has had nothing but a good relationship with Mr. Sebens.
 - c. He stated the current contractor facility is fairly compatible with the agriculture district.
 - d. On the west side of the contractor facility there has been an issue with encroachment onto the farmland and that Mr. Sebens has done his best to contain it but with as many employees as there are at the contractor facility it is hard to regulate.
 - e. He requested that some type of fencing should be required for the proposed self-storage buildings to minimize problems from blowing debris.
- (5) The traffic produced by the proposed use will be an increase in traffic, but its impact will be minimal.
 - (6) None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73.
 - (7) Petitioner Eric Sebens testified at the 3/13/14 public hearing that his intent is to correct the encroachments onto the farmland.
 - (8) The Revised Site Plan received 5/12/14 indicates a five feet wide buffer strip and fence along the west property line.

*Identical to evidence in related Case 766-AM-13

- L. The Special Use **WILL** be compatible with adjacent uses because the evidence in related Case 766-AM-13 established that the proposed Special Use **WILL NOT** interfere with agricultural operations (see the analysis of Policy 4.2.1 in the Finding of Fact for Case 766) and the subject site **IS** suitable for the proposed Special Use (see the analysis of Policy 4.3.2 in the Finding of Fact for Case 766).
- M. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **“Yes, this will be a quality project that will be a major improvement not only to the property but the surrounding area. This is a complementing business to the existing contracting facility and will be constructed to blend in well with the existing structures.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) More than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT is authorized as a Special Use in the R-4, B-1, B-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
 - (2) Self-storage Warehouses, providing heat and utilities to individual units are authorized as a Special Use in the B-1, B-3, and B-5 Zoning DISTRICTS.
 - (3) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, B-4, I-1, and I-2 Zoning DISTRICTS.
 - (4) Regarding compliance with Subsection 4.2.1F.2.:
 - a. The minimum required depth of the OPEN SPACE between the PRINCIPAL BUILDINGS on the subject property is 20 feet, and there is a more than the minimum of 20 feet between the PRINCIPAL BUILDINGS.
 - (5) All existing and proposed structures meet setback and front, side and rear yard requirements.
 - (6) Regarding parking on the subject property:
 - a. Regarding the existing contractor facility:
 - (a) 25 parking spaces were provided for the contractor facility in Zoning Use Permit #317-97-03.
 - (b) If more company vehicles and or employees have been added since that time there must be additional parking provided.
 - (c) Petitioner Eric Sebens testified at the 3/13/14 public hearing as follows:
 - i. The proposed site plan with self-storage buildings provides enough space for parking of the landscaping business’ trucks and trailers. All of the trucks are parked along the property

line on the northwest side of the property and they do not park any trucks where the storage facility is proposed.

- ii. The bulk storage on the property needs to be coordinated with the layout of the proposed detention basin but there should still be adequate room.

- b. Regarding parking for the proposed self-storage warehouse buildings:
 - (a) The Zoning Ordinance does not contain specific parking requirements for self-storage warehouses and the relevant requirement is paragraph 7.4.1 C.1.e. that requires ESTABLISHMENTS other than specified above: one such PARKING SPACE for every 200 square feet of floor area or portion thereof.
 - (b) The proposed Special Use has 23,600 square feet of storage buildings divided into as many as 150 storage units. The required number of spaces based on 7.4.1C.1.e. is 118 spaces.
 - (c) Note that paragraph 7.4.1D.1. requires for industrial uses (ie, warehouse) that one space shall be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
 - (d) The Revised Site Plan received 5/12/14 could provide as many as 58 parallel parking spaces (at the minimum 9' x 20' dimension) in a single row around the fencing and on one side of all buildings and have 21 feet of aisle width for traffic or as many as 101 spaces if parking occurs on all sides of all buildings within the line of fencing.
 - (e) The Revised Site Plan received 5/12/14 does not provide adequate space for one parking space per 200 square feet of storage building but it does provide 86% of that requirement (101 spaces) which equates to providing 2 parking spaces for each 3 storage units.
 - (f) Based on the above analysis, the ZBA finds that the proposed Special Use provides ADEQUATE parking.
- (7) Regarding loading berths on the subject property:
 - a. Regarding the minimum required loading berth for the contractor facility:
 - (a) The existing contractor building is approximately 9,576 square feet in area based on the application for permit #317-97-03.

- (b) Paragraph 7.4.2 C.5. requires one 10 feet × 40 feet loading berth for commercial establishments with less than 10,000 square feet of floor area.
 - (c) The site plan for permit #317-97-03 indicates the loading berth was located south of the house in the area proposed for the self-storage buildings. Therefore, a new loading berth area must be located elsewhere on the property.
 - (d) There is plenty of space to locate a 10 feet x40 feet loading berth in the outdoor area west of the contractor building.
- b. Regarding the minimum required loading berth for the self-storage buildings:
- (a) The proposed Special Use has 23,600 square feet of storage buildings.
 - (b) Paragraph 7.4.2 C.5. two 10' × 40' loading berths for commercial establishments with 10,000 – 24,999 square feet of floor area.
 - (c) There is adequate area in the traffic aisles to accommodate the loading berth requirements for the proposed self-storage buildings.
- (8) Regarding screening of outdoor storage:
- a. OUTDOOR STORAGE as an ACCESSORY USE is allowed by right when all OUTDOOR STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN meeting the provisions of Section 7.6.3.
 - b. A Type D SCREEN is a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
 - c. A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for OUTDOOR STORAGE and/or OUTDOOR OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
 - i. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or

- (3) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, B-4, I-1, and I-2 Zoning DISTRICTS.
 - (4) Subject to the proposed special conditions, the proposed use will not hinder agricultural production on adjacent properties.
 - (5) There will be no significant traffic impacts.
 - (6) Subject to the proposed special conditions, there will be no significant drainage impacts because the proposed Special Use will comply with the *Stormwater Management Policy*.
 - (7) There will be no significant impact on public health and safety because the proposed buildings will comply with the International Building Code as required by Public Act 96-704.
- G. Currently, the subject property is zoned AG-1 Agriculture and the Petitioner has requested to rezone the subject to B-1 Rural Trade Center Zoning District in related Case 766-AM-13. Regarding whether or not the proposed Special Use will preserve the essential Character of the surrounding AG-1 District:
- (1) As reviewed in Case 766-AM-13 the types of uses authorized by right in the AG-1 District are different from the by-right uses in the B-1 District. Any proposed Special Use on the subject property should be evaluated for compatibility with the adjacent AG-1 uses.
 - (2) Compatibility of the proposed Special Use with surrounding agriculture was evaluated in related Case 766-AM-13 under review of Land Resource Management Plan Objective 4.2 regarding interference with agricultural operations and the Zoning Board of Appeals found the proposed Special Use **WILL NOT** interfere with agricultural operations.
 - (3) The proposed Special Use will have no significant impact on traffic, drainage, public health or safety, or visual character of the surrounding AG-1 District.
 - (4) The subject property is located on Duncan Road. Land use and zoning in the immediate neighborhood area of the subject property are as follows:
 - (a) Land on the north, west, and south is zoned AG-1 Agriculture and is in agricultural production.
 - (b) Land east of the subject property is zoned AG-2 Agriculture and is in agricultural production.
- H. 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. More than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT is authorized as a Special Use in the R-4, B-1, B-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
 - B. Self-storage Warehouses, providing heat and utilities to individual units are authorized as a Special Use in the B-1, B-3, and B-5 Zoning DISTRICTS.
 - C. Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, B-4, I-1, and I-2 Zoning DISTRICTS.
 - D. 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 B-1 District and states as follows (capitalized words are defined in the Ordinance):

The B-1, Rural Trade Center DISTRICT is intended to provide areas for AGRICULTURAL related business services to rural residents.
 - (2) The types of uses authorized in the B-1 District are in fact the types of uses that have been determined to be acceptable in the B-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.
 - E. 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. The requested Special Use Permit should not decrease the value of nearby properties.

- (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 Traffic Impact Analysis was not required because the number of weekday and weekend peak hour trips generated by the proposed use will be minimal.
- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.
 - a. The proposed construction on the subject property will trigger the need for stormwater management. The petitioner will need to submit a complete stormwater management plan that is in compliance with the *Stormwater Management Policy* before a Zoning Use Permit can be issued for the proposed construction.
- (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.
 - a. 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.

- a. 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.
 - a. The proposed Special Use will not be remodeling or altering existing structures.
 - (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.
 - a. None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73.
 - b. The Special Use **WILL** be compatible with adjacent uses because the evidence in related Case 766-AM-13 established that the proposed Special Use **WILL NOT** interfere with agricultural operations and the subject site **IS** suitable for the proposed Special Use. See the discussion under item 8.L. on p. 17.
 - (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.
 - a. The subject property does not contain nor pose risk to any natural features.
 - (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.
 - a. The proposed use will not require the development of public utilities or transportation facilities.
 - (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.

- a. None of subject property has been in agricultural production since the adoption of the Zoning Ordinance on 10/10/73 and no agricultural areas are proposed to be taken out of production.
- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.
- a. The proposed use will impeded the development of renewable energy sources.

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: “NA”
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
- A. **The only two principal uses authorized by Case 767-S-13 are a Contractors Facility with outdoor storage and/or outdoor operations and self-storage warehouses providing heat and utilities to individual units. Other uses that can be established by right in the B-1 District may be established if they are the only use on the subject property other than agriculture.**

The special condition stated above is necessary to ensure the following:
That the petitioner and future landowners understand the requirements of the Zoning Ordinance.

- B. **The development of the site must be the same as in the approved site plan that consists of the following:**
 - (1) **the Revised Site plan received September 3, 2014.**

The special condition stated above is required to ensure the following:
That the development of the site is the same as described in the public hearing.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit without an approved septic system permit from the County Health Department for the replacement leach field.**

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

That the septic system conforms to the requirements of the County Health Ordinance.

- D. **Complete Stormwater Drainage Plan for both the North and South detention basins that conform to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

That the drainage improvements conform to the requirements of the Stormwater Management Policy.

- E. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance .

- F. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed self-storage warehouses until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**

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

That the proposed structure is safe and in conformance with Public Act 96-704.

- G. **Regarding security on the subject property:**
(1) **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until written documentation has been provided from the petitioner that the relevant fire protection district will have access through the security gate at all times.**

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

That the petitioner provides adequate security measures and provides access to appropriate public safety agencies.

- H. The property shall be enclosed by a six-foot tall chain link fence as follows:**
- (1) The self-storage buildings and related parking area shall be enclosed by a six-foot tall chain link fence prior to occupancy and at all times during occupancy.**
 - (2) Doors shall not be installed on any storage unit for which the exterior of that unit is not enclosed by a six-foot tall chain link fence.**
 - (3) The west and north sides of the property shall only need to be fenced with a six-foot tall chain link fence at such time as (a) windblown litter has become a problem on the adjacent farmland or (b) contractor operations have encroached onto the adjacent farmland, and the adjacent landowner has submitted to the Zoning Administrator a written request for installation of fencing, in which case the petitioner shall install a six-foot tall chain link fence within two months of receiving said notification to install the fencing from the Zoning Administrator.**

The special condition above is required to ensure the following:

That the proposed Special Use does not interfere with adjacent agriculture.

- I. The normal (i.e., non-emergency overflow) discharge of storm water from the northwest detention basin shall discharge directly into the neighbor's six-inch diameter tile with no overland flow and the discharge into the tile shall be limited to an amount that does not exceed the discharge capacity of the six-inch diameter tile.**

The special condition above is required to ensure the following:

Normal (i.e., non-emergency overflow) flow of storm water from the proposed Special Use does not create erosion on the adjacent farmland or surcharge the existing six-inch diameter tile.

DOCUMENTS OF RECORD

1. Application for Map Amendment received November 13, 2013, with attachments:
 - A Site Plan
2. Special Use Permit application received November 13, 2013, with attachments:
 - A Site Plan
3. Zoning Case 107-S-95 case file
4. ZUPA No. 204-97-04 case file
5. ZUPA No. 317-97-03 file
6. Copy of Warranty Deed received December 5, 2013
7. Revised Site Plan received January 22, 2014
8. Preliminary Memorandum for Cases 766-AM-13 and 767-AM-13 with Attachments:
 - A Case Maps from Case 101-S-97 (Location, Land Use, Zoning)
 - B Approved Site Plan from Case 101-S-97
 - C Excerpt from building plans in Permit #9449 (ZUPA #317-07-03)
 - D Aerial photograph of subject property (included separately)
 - E Excerpt of Sheet 62 of *Soil Survey of Champaign County, Illinois*, 2003 edition. Annotated to indicate subject property.
 - F Revised Site Plan received 11/13/03 (included separately)
 - G LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
 - H LRMP Land Use Management Areas Map (included separately)
 - I Preliminary Draft Finding of Fact for Case 766-AM-13
9. Revised Site Plan received 3/5/14
10. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated March 7, 2014, with Attachments
 - A Revised Site Plan received 3/5/14
 - B Annotated Site Plan
 - C Letter to Scott Riefsteck dated 3/4/14
11. Revised Site Plan received 5/12/14
12. Revised Site Plan received 6/5/14 (three sheets total)

13. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated June 6, 2014, with Attachments
 - A Approved Minutes of January 30, 2014, ZBA Meeting for Cases 766-AM-13 and 767-S-13 (included separately)
 - B Revised Site Plan received 6/5/14 (three sheets total)
 - C Preliminary Draft Summary of Evidence and Finding of Fact for Case 767-S-13
 - D Revised Draft Finding of Fact for Case 766-AM-13
14. Revised site plan received July 16, 2014 (three sheets total)
15. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated July 17, 2014, with Attachments:
 - A Draft Minutes of June 12, 2014 ZBA Meeting (included separately)
 - B Revised Site Plan received 7/16/14
 - C Zoning Administrator Example Accessibility
16. Revised site plan received September 3, 2014
17. Supplemental Memorandum for Cases 766-AM-13 and 767-AM-13 dated September 4, 2014, with Attachments:
 - A Approved Minutes of July 17, 2014, public hearing for Cases 766-AM-13 and 767-AM-13 (included separately)
 - B Emails between Chad Osterbur, design engineer, and Doug Gamble, Accessibility Specialist, Illinois Capital Development Board
 - C Revised Site Plan received 9/3/14 (3 sheets total)
 - D Champaign County Right to Farm Resolution # 3425
 - E Preliminary Draft Summary of Evidence and Finding of Fact for Case 767-S-13
 - F Revised Draft Finding of Fact for Case 766-AM-13
18. Revised Draft Finding of Fact for Case 766-AM-13 dated September 12, 2014

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 767-S-13 held on **January 30, 2014; March 13, 2014; June 12, 2014; July 17, 2014; September 11, 2014; and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit **IS** necessary for the public convenience at this location because **all evidence concluded that the proposal followed County requirements; the subject property has not been in agricultural production since the Zoning Ordinance was adopted in 1973; the proposed Special Use is located in an area where it can meet the needs of several communities; and there is no self-storage facility on this side of Champaign.**

2. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN** is so designed, located, and proposed to be operated so that it **WILL NOT** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has **ADEQUATE** traffic capacity and the entrance location has **ADEQUATE** visibility.
 - b. Emergency services availability is **ADEQUATE**.
 - c. The Special Use **WILL** be compatible with adjacent uses.
 - d. Surface and subsurface drainage will be **ADEQUATE**.
 - e. Public safety will be **ADEQUATE**.
 - f. The provisions for parking will be **ADEQUATE**.
 - g. The property is **BEST PRIME FARMLAND** and the property with the proposed improvements **IS WELL SUITED OVERALL**.
 - h. The existing public services **ARE** 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** adequate to support the proposed development effectively and safely without undue public expense.

- 3a. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN DOES** 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** preserve the essential character of the **DISTRICT** in which it is located because:

- a. The Special Use will be designed to **CONFORM** to all relevant County ordinances and codes.
 - b. The Special Use **WILL** be compatible with adjacent uses.
 - c. Public safety will be **ADEQUATE**.
4. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN IS** in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit **IS** necessary for the public convenience at this location.
 - c. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN** is so designed, located, and proposed to be operated so that it **WILL NOT** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN DOES** preserve the essential character of the **DISTRICT** in which it is located.
5. The requested Special Use **IS NOT** an existing nonconforming use.
6. **THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
- A. The only two principal uses authorized by Case 767-S-13 are a Contractors Facility with outdoor storage and/or outdoor operations and self-storage warehouses providing heat and utilities to individual units. Other uses that can be established by right in the B-1 District may be established if they are the only use on the subject property other than agriculture.**
- The special condition stated above is necessary to ensure the following:
That the petitioner and future landowners understand the requirements of the Zoning Ordinance.
- B. The development of the site must be the same as in the approved site plan that consists of the following:**
- (1) the Revised Site plan received September 3, 2014.**
- The special condition stated above is required to ensure the following:
That the development of the site is the same as described in the public hearing.
- C. The Zoning Administrator shall not authorize a Zoning Use Permit without an approved septic system permit from the County Health Department for the replacement leach field.**

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

That the septic system conforms to the requirements of the County Health Ordinance.

- D. Complete Stormwater Drainage Plan for both the North and South detention basins that conform to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

That the drainage improvements conform to the requirements of the Stormwater Management Policy.

- E. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance .

- F. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed self-storage warehouses until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**

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

That the proposed structure is safe and in conformance with Public Act 96-704.

- G. Regarding security on the subject property:**

- (1) The Zoning Administrator shall not authorize a Zoning Compliance Certificate until written documentation has been provided from the petitioner that the relevant fire protection district will have access through the security gate at all times.**

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

That the petitioner provides adequate security measures and provides access to appropriate public safety agencies.

- H. The property shall be enclosed by a six-foot tall chain link fence as follows:
- (1) The self-storage buildings and related parking area shall be enclosed by a six-foot tall chain link fence prior to occupancy and at all times during occupancy.
 - (2) Doors shall not be installed on any storage unit for which the exterior of that unit is not enclosed by a six-foot tall chain link fence.
 - (3) The west and north sides of the property shall only need to be fenced with a six-foot tall chain link fence at such time as (a) windblown litter has become a problem on the adjacent farmland or (b) contractor operations have encroached onto the adjacent farmland, and the adjacent landowner has submitted to the Zoning Administrator a written request for installation of fencing, in which case the petitioner shall install a six-foot tall chain link fence within two months of receiving said notification to install the fencing from the Zoning Administrator.

The special condition above is required to ensure the following:

That the proposed Special Use does not interfere with adjacent agriculture.

- I. The normal (i.e., non-emergency overflow) discharge of storm water from the northwest detention basin shall discharge directly into the neighbor's six-inch diameter tile with no overland flow and the discharge into the tile shall be limited to an amount that does not exceed the discharge capacity of the six-inch diameter tile.

The special condition above is required to ensure the following:

Normal (i.e., non-emergency overflow) flow of storm water from the proposed Special Use does not create erosion on the adjacent farmland or surcharge the existing six-inch diameter tile.

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 767-S-13 is hereby *{GRANTED/ GRANTED WITH SPECIALCONDITIONS/ DENIED }* to the applicant to Eric L. Sebens to authorize the following in the B-1 District:

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and**
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.**

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The only two principal uses authorized by Case 767-S-13 are a Contractors Facility with outdoor storage and/or outdoor operations and self-storage warehouses providing heat and utilities to individual units. Other uses that can be established by right in the B-1 District may be established if they are the only use on the subject property other than agriculture.**
- B. The development of the site must be the same as in the approved site plan that consists of the following:**
 - (1) the Revised Site plan received September 3, 2014.**
- C. The Zoning Administrator shall not authorize a Zoning Use Permit without an approved septic system permit from the County Health Department for the replacement leach field.**
- D. Complete Stormwater Drainage Plan for both the North and South detention basins that conform to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**
- E. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

- F. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed self-storage warehouses until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**
- G. Regarding security on the subject property:**
- (1) The Zoning Administrator shall not authorize a Zoning Compliance Certificate until written documentation has been provided from the petitioner that the relevant fire protection district will have access through the security gate at all times.**
- H. The property shall be enclosed by a six-foot tall chain link fence as follows:**
- (1) The self-storage buildings and related parking area shall be enclosed by a six-foot tall chain link fence prior to occupancy and at all times during occupancy.**
 - (2) Doors shall not be installed on any storage unit for which the exterior of that unit is not enclosed by a six-foot tall chain link fence.**
 - (3) The west and north sides of the property shall only need to be fenced with a six-foot tall chain link fence at such time as (a) windblown litter has become a problem on the adjacent farmland or (b) contractor operations have encroached onto the adjacent farmland, and the adjacent landowner has submitted to the Zoning Administrator a written request for installation of fencing, in which case the petitioner shall install a six-foot tall chain link fence within two months of receiving said notification to install the fencing from the Zoning Administrator.**
- I. The normal (i.e., non-emergency overflow) discharge of storm water from the northwest detention basin shall discharge directly into the neighbor's six-inch diameter tile with no overland flow and the discharge into the tile shall be limited to an amount that does not exceed the discharge capacity of the six-inch diameter tile.**

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

Champaign County
Department of

**PLANNING &
ZONING**

Brookens Administrative
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1776 E. Washington Street
Urbana, Illinois 61802

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CASE NO. 784-V-14 Parts C and D

SUPPLEMENTAL MEMORANDUM
September 18, 2014

Petitioners: Jerry and Barbara Kalk

Request: Authorize the following variances in the AG-1 Agriculture Zoning District on the subject property described below, in order to construct a sunroom addition:

Part C. Variance for a side yard for a dwelling of 10 feet 10 inches in lieu of the minimum required 15 feet.

Part D. Variance for a side yard for a detached accessory building (garage) of 3 feet in lieu of the minimum required 10 feet, on the following property:

Subject Property: A ¼ acre tract in Ogden Township in the West Half of the Northwest Quarter of the Northeast Quarter of Section 17 of Township 19N Range 14 E of the second Principle Meridian and commonly known as the home at 1592 County Road 2650 E, Ogden.

Site Area: 0.25 acres gross

Time Schedule for Development: Already exists

Prepared by: **John Hall**
Zoning Administrator

BACKGROUND

The petitioners were authorized a variance for Parts A and B at the August 28, 2014, public hearing. The legal advertisement for Parts A and B did not include the nonconforming north side yard of the dwelling or the nonconforming south side yard of the detached garage. A previous variance granted for the dwelling in Case 371-V-80 also did not include either of those nonconformities. And as required by Section 8.3.2 of the *Zoning Ordinance*, the petitioners could not rebuild either the dwelling or garage in these existing locations if either were damaged by any means to an extent of more than 50% of the replacement cost at the time of destruction, without an additional variance.

The Board continued Parts C and D to the September 25, 2014, public hearing. Parts C and D were advertised in a new legal advertisement and new notices were sent to neighbors and relevant jurisdictions.

ATTACHMENTS

- A Annotated Site Plan Parts C and D
- B Supplemental Draft Summary of Evidence, Finding of Fact, and Final Determination for Parts C and D

West

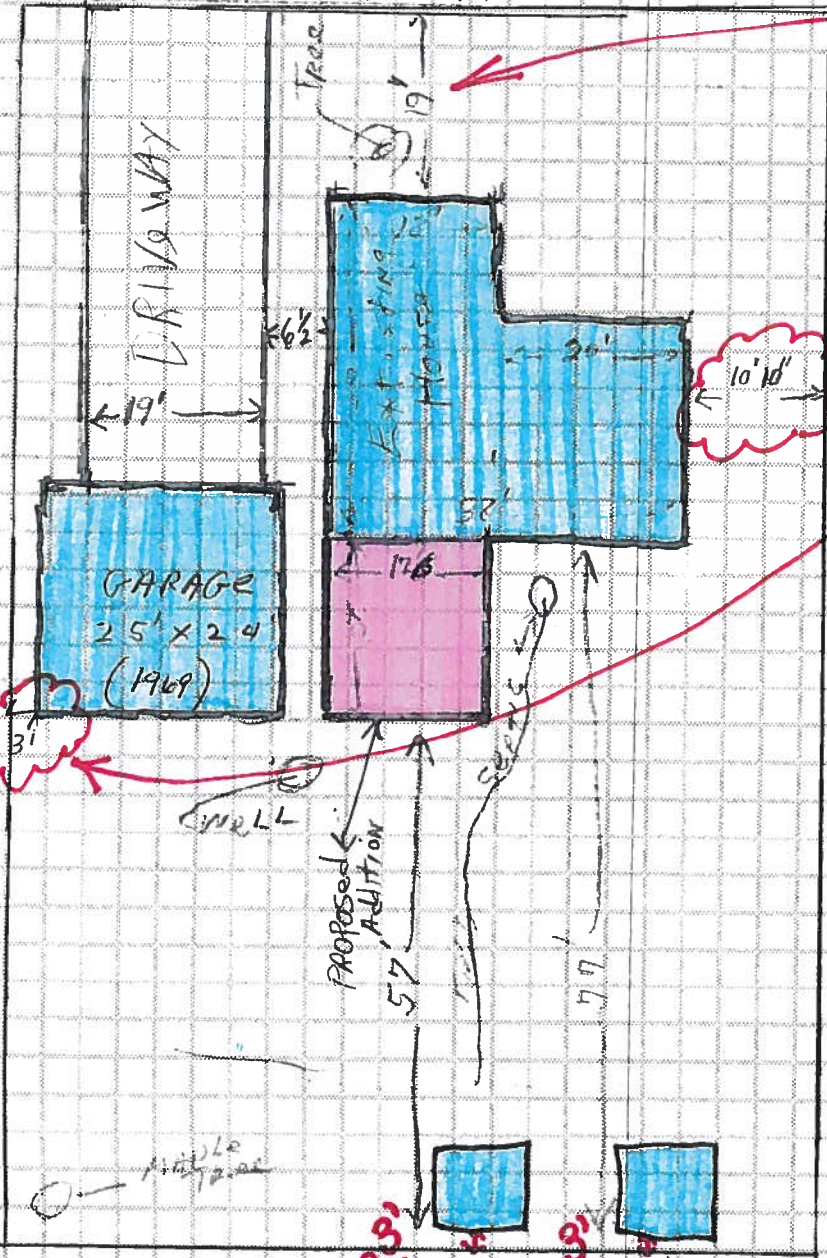
Co Rd 2650 E

82 1/2 FT

AUTHORIZED IN CASE 371-V-80

South

132 FT



PART C PART D

WELL

PROPOSED ADDITION

10' x 4' (3' RT)

10' x 4' (3' RT)

Legend

- existing*
- proposed addition

* Adds up to 21% of Lot coverage (PART A)

RECEIVED

JUN 23 2014

CHAMPAIGN CO. P & Z DEPARTMENT

EAST REVISED ANNOTATED SITE DIA

* See Comments on structural pg. 3

SUPPLEMENTAL DRAFT Parts C and D

784-V-14

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

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

Date: **August 28, 2014**

Petitioners: **Jerry and Barbara Kalk**

Request: Authorize the following in the AG-1 Agriculture Zoning District:

GRANTED ON 8/28/14 Part A. Variance for lot coverage of 21.7% in lieu of the maximum allowed 20%;

GRANTED ON 8/28/14 Part B. Variance for a rear yard for two existing accessory buildings of 3 feet in lieu of the minimum required 10 feet.

Part C. Variance for a side yard for a dwelling of 10 feet 10 inches in lieu of the minimum required 15 feet.

Part D. Variance for a side yard for a detached accessory building (garage) of 3 feet in lieu of the minimum required 10 feet.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 28, 2014; and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners Jerry and Barbara Kalk own the subject property.
2. The subject property is A ¼ acre tract in Ogden Township in the West Half of the Northwest Quarter of the Northeast Quarter of Section 17 of Township 19N Range 14 E of the Second Principle Meridian and commonly known as the home at 1592 County Road 2650 E, Ogden.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Odgen, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned AG-1 Agriculture and is in residential use.
 - B. Land to the north is zoned AG-1 Agriculture and is vacant.
 - C. Land to the east is zoned AG-1 Agriculture and is in agricultural use.
 - D. Land to the south is zoned AG-1 Agriculture and is in residential use.
 - D. Land to the west is zoned AG-1 Agriculture and is in agricultural use

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is a 10,890 square feet (.25 acre) lot that is 82.5 feet wide and 132 feet long.
 - B. The Site Plan includes the following:
 - (1) The existing buildings which area as follows:
 - a. An existing dwelling with a footprint of approximately 1,128 square feet. The dwelling existed in 1973 and was previously granted a variance for a 216 square feet addition with a front yard of 19 feet in lieu of the minimum required 25 feet in Case 371-V-80 on March 13, 1980. ~~However,~~ The north side yard of the dwelling is only 10 feet 10 inches which is less than the minimum required 15 feet and that yard was not included in Case 371-V-80 nor was it included in the legal advertisement for parts A and B of this variance.

- b. An existing 24' × 25' detached garage with a footprint of 600 square feet. This garage existing in 1973 and is nonconforming with a side yard of three feet from the south lot line in lieu of the minimum required 10 feet. That side yard was not included in Case 371-V-80 nor was it included in the legal advertisement for parts A and B of this variance.
 - c. Two small outbuildings constructed since 1973 and each has a footprint of 140 square feet and are located three feet from the rear lot line.
- (2) A proposed 352 square feet addition to the dwelling.
- C. The requested variance is as follows:
- (1) For Part A, a variance for lot coverage of 21.7% in lieu of the maximum allowed 20%.
 - (2) For Part B, a variance for the rear yard for the two small existing accessory buildings of 3 feet in lieu of the minimum required 10 feet.
 - (3) ~~Note that the nonconforming garage was not included in the legal advertisement for the variance. Nonconforming buildings cannot be rebuilt in the same location if damaged to more than 50% of replacement value without first being authorized by variance.~~For Part C, a variance for the north side yard of the dwelling for a side yard of 10 feet 10 inches in lieu of the minimum required 15 feet.
 - (4) For Part D, a variance for the south side yard of the detached garage for a side yard of 3 feet in lieu of the minimum required 10 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.

SUPPLEMENTAL DRAFT Parts C and D

- (3) "AREA, LOT" is the total area within the LOT LINES.
- (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (5) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (7) "LOT LINES" are the lines bounding a LOT.
- (8) "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.
- (9) "NONCONFORMING PREMISES" is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
- (10) "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.
- (11) "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.
- (12) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (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.

- (14) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.

D. Section 8.3.2 of the *Zoning Ordinance* states the following regarding a NONCONFORMING STRUCTURE:

Should such STRUCTURE be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

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

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.

F. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

SUPPLEMENTAL DRAFT Parts C and D

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 **“There was no zoning when I bought this home in 1963. It had a leaking flat roof, single car garage with flat roof and was in poor condition throughout. I have done much remodeling and yard landscape work to improve and beautify the neighborhood. We are proud of our home.”**
 - B. Regarding Part A of the Variance:
 - (1) The subject property is a nonconforming lot of record that is only .25 acre in area (not including the adjacent right-of-way).
 - (2) The 2,360 square feet of lot coverage that would result from the proposed addition is only 1.7% greater than otherwise allowed and the total proposed building area does not seem excessive.
 - (3) The lot coverage allowed on a minimum one acre lot is 20% of 43,560 square feet or 8,712 square feet which is about 3.7 times as much actual building area (2,360 square feet) as is actually proposed.
 - C. Regarding Part B of the Variance:
 - (1) The two small sheds are so small that a Zoning Use Permit is not required but the minimum yards are still required.
 - (2) The subject property is a .25 acre nonconforming lot of record with much less open space than is available on a minimum one acre lot.
 - (3) The two small sheds are supposed to be movable but have been in these locations so long that moving them could destroy them.
 - (4) The existing adjacent property at the rear of the subject property is a farm field with no structures.
 - D. Regarding Parts C and D of the Variance:
 - (1) The home and garage existed in the current locations when the Zoning Ordinance was adopted in 1973.
 - (2) The subject property is a nonconforming lot of record with an area of only .25 acre and an average lot width of only 82.5 feet and therefore the lot has much less open space than is available on a minimum required lot of one acre with a minimum required average lot width of 200 feet.

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 **“If, we cannot build this sunroom because of the provisions it creates a hardship for me and my wife to have family for various times like Christmas, Thanksgiving, etc. since we don’t have room for everyone. The house is only 1128 sq. feet (outside dimensions). We have 4 children, 9 grandkids, 5 great-grandkids, husbands, wives and other close family.”**
 - B. Regarding Part A of the Variance:
 - (1) The requested variance is the minimum amount of variation that will accommodate the petitioner’s proposed 352 square feet addition.
 - (2) Without the requested variance in Part A the proposed addition would have to be reduced to only 170 square feet in area or, alternatively, some existing building area (presumably the garage or the small sheds) would have to be removed.
 - (3) Regarding whether or not other land is available for sale that would mitigate the need for Part A of the variance:
 - a. The adjacent lot to the south is also a small nonconforming lot of record and also has a dwelling and presumably, that lot should not be made any smaller.
 - b. The adjacent lot to the north is also a nonconforming lot of record and any land sale to the petitioner would also require a variance.
 - c. The adjacent land to the east is a farm field and any sale of land would interrupt the current line of tillage.
 - C. Regarding Parts B of the Variance:
 - (1) The two small sheds are supposed to be movable but have been in these locations so long that moving them could destroy them.
 - (2) Without the requested variance in Part A the sheds would have to be relocated which would result in a smaller open space on the subject property, and if the relocation damaged the sheds, the sheds would have to be replaced.

SUPPLEMENTAL DRAFT Parts C and D

D. Regarding Parts C and D of the Variance:

- (1) The requested variance is the minimum amount of variation that will accommodate the petitioner's home and garage.
- (2) Without the requested variance in Parts C and D the existing home and/ or garage could not be rebuilt in the same locations if damaged to more than 50% of the replacement value.

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 **“Knowing what I do now I should have bought a larger home fifty years ago but couldn't afford one. I bought this house in December 1963. At that time many lot sizes were one-quarter of an acre. Now in 2014 many houses are 5,000 square feet and maybe house only 2 people.”**
 - B. Regarding Part A of the Variance:
 - (1) The petitioner did not create the nonconforming lot of record.
 - (2) Regarding the amount of building area on the subject property that has been added by the petitioners:
 - a. The petitioners have expanded the dwelling that existed when they purchased the property but even with the proposed addition the dwelling will total less than 1,500 square feet so the dwelling is not unusually large.
 - b. The detached garage has been the same size since before the adoption of the Zoning Ordinance on October 10, 1973, and is a typical size (600 square feet in area) for a two-car garage.
 - c. The small sheds have been added by the petitioners but total less than 300 square feet and so are not unusually large.
 - C. Regarding Part B of the Variance:
 - (1) This small nonconforming lot has less than $\frac{1}{4}$ the amount of open space that a minimum one acre lot would have and therefore the petitioners have less flexibility in where to locate outbuildings.
 - (2) The locations of the small sheds maximize the amount of open space on this small nonconforming lot.
 - D. Regarding Parts C and D of the Variance, the home and garage existed in the current locations when the Zoning Ordinance was adopted in 1973.

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 **“By granting the request where the addition would be built it wouldn’t interfere with anyone around.”**
 - B. The requested variance is as follows:
 - (1) Regarding Part A of the variance, the requested variance for a lot coverage of 21.7% is 108.5% of the maximum allowed lot coverage of 20% for a variance of 8.5%.
 - (2) Regarding Part B of the variance, the requested variance for a rear yard for an existing accessory building of 3 feet is 30% of the minimum required rear yard of 10 feet for a variance of 70%.
 - (3) For Part C, the requested variance for a side yard of a dwelling of 10 feet 10 inches is 72.2% of the minimum required side yard of 15 feet for a variance of 27.8%.
 - (4) For Part D, the requested variance for a side yard of a detached garage of 3 feet is 30% of the minimum required 10 feet for a variance of 70%.
 - C. Regarding Part A of the Variance, presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, recreational areas, and areas for septic systems. The subject property has adequate area for all of these considerations.
 - D. Regarding Parts B of the Variance, the Zoning Ordinance does not clearly state the considerations that underlay the rear yard requirements. A rear yard is presumably intended to ensure the following:
 - (1) A minimum amount of onsite recreational area. There is adequate recreational area elsewhere on the property.
 - (2) Area for a septic system, when necessary. There is a septic system installed on the property.
 - (3) Adequate light and air: The subject property is in residential use and there appears to be adequate light and air.
 - (4) Separation of structures to prevent conflagration: The subject property is within the Ogden-Royal Fire Protection District and the station is within one mile of the subject property. The nearest structure to the shed is in the Village of Ogden approximately ¼ mile northeast of the subject property.

SUPPLEMENTAL DRAFT Parts C and D

(5) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

E. Regarding Parts C and D of the Variance, the Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements and the considerations for a side yard are presumed to be similar to those of a rear yard.

F. No part of the requested variance is not prohibited by the Zoning Ordinance.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“Where it would be built most people would never notice it unless they were in the backyard. No Way it could harm anyone.”**
 - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
 - D. The requested variance will not increase traffic to the subject property nor will it result in decreasing public safety.
 - E. The petitioner indicated on the application that there are no immediate neighbors and from the road no visual difference exists.
12. When asked on the application to describe any other circumstances which justify the variance, the petitioner has testified on the application **“If building this would harm or interfere with anyone around us I wouldn’t do it.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No Special Conditions of Approval are proposed

DOCUMENTS OF RECORD

1. Zoning Use Permit Application #174-14-01 with site plan received on June 23, 2014
2. Variance Application received on July 2, 2014
3. Preliminary Memorandum dated August 22, 2014, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received June 23, 2014
 - C Annotated Site Plan
 - D Preliminary Draft Summary of Evidence, Finding of Fact, and Final Determination
4. Seven photographs of subject property submitted by the petitioners at the 8/28/14 public hearing
5. Supplemental Memorandum for Parts C and D dated September 18, 2014, with attachments:
 - A Annotated Site Plan Parts C and D
 - B Supplemental Draft Summary of Evidence, Finding of Fact, and Final Determination for Parts C and D

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 784-V-14 held on **August 28, 2014, and September 25, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because **for Parts A and B, the subject property is a 10,890 square feet, (.25 acre) lot that is 82 feet wide and 132 feet long and the dwelling and the garage existed in 1973 which was prior to the adoption of Zoning and the variance for lot coverage is allowable within the Administrative Variance limits except that there are other variances required on the subject property; and***

For **Parts C and D**, 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** prevent reasonable or otherwise permitted use of the land or structure or construction because **for Part A, due to the small lot size and with the limit of 20% lot coverage it would be impossible to add onto the home without the variance; and for Part B, the two small sheds are supposed to be movable but they have been in the same location so long that moving them may destroy them; and***

For **Parts C and D**, 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: _____

*Bold underlined text is the Findings that were adopted for Parts A and B on August 28, 2014.

- 3. The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because **for Part A, the lot to the south is a small nonconforming lot of record and the adjacent lot to the north is also a nonconforming lot of record and no sale of land would be possible to either the north or south and the adjacent land to the east is a farm field and any sale would interrupt the line of tillage; and for Part B, relocation of the sheds could cause irreparable damage to the sheds and the sheds would have to be replaced; and***

For **Parts C and D**, special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

- 4. The requested variance **IS** in harmony with the general purpose and intent of the Ordinance because **for both Parts A & B, it allows the petitioner to add on without being injurious to the neighborhood and not interfering with the neighbors; and***

For **Parts C and D**, the requested variance *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: _____

- 5. The requested variance **WILL NOT** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because **for both Parts A & B, the Ogden Township Highway Commissioner and the Ogden-Royal Fire Protection District have both been notified and no comments were received and the variance will not increase traffic nor will the variance decrease public safety; and***

For **Parts C and D**, the requested variance *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

*Bold underlined text is the Findings that were adopted for Parts A and B on August 28, 2014.

SUPPLEMENTAL DRAFT Parts C and D

6. The requested variance *IS* the minimum variation that will make possible the reasonable use of the land/structure **for both Parts A & B; and***

For **Parts C and D**, the requested variance *{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;}***

*Bold underlined text is the Findings that were adopted for Parts A and B on August 28, 2014.

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*** 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 **784-V-14 Parts A and B** is hereby **GRANTED*** to the petitioners **Jerry and Barbara Kalk** to authorize the following in the AG-1 Agriculture Zoning District:

Part A. Variance for lot coverage of 21.7% in lieu of the maximum allowed 20%; and

Part B. Variance for a rear yard for two existing accessory buildings of 3 feet in lieu of the minimum required 10 feet; and

*Determination in Parts A and B on August 28, 2014

Parts C and D, 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 **784-V-14 Parts C and D** is hereby **GRANTED / GRANTED WITH CONDITIONS / DENIED** to the petitioners **Jerry and Barbara Kalk** to authorize the following in the AG-1 Agriculture Zoning District:

Part C. Variance for a side yard for a dwelling of 10 feet 10 inches in lieu of the minimum required 15 feet; and

Part D. Variance for a side yard for a detached accessory building (garage) of 3 feet in lieu of the minimum required 10 feet.

{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

CASE NO. 786-V-14

PRELIMINARY MEMORANDUM

September 17, 2014

Champaign
County
Department of



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

(217) 384-3708

Petitioner: **Toby Drollinger**

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

- (1) **A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet.**
- (2) **An existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet.**
- (3) **A second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.**

Subject Property: **A 13,068 square foot lot (0.3 acre) that is on Lot 99 in Block 6 of the Edgewood Subdivision in Section 10 in Urbana Township and commonly known as the residence at 2404 John Drive, Urbana.**

Site Area: **13,068 square feet (0.3 acre)**

Time Schedule for Development: **As Soon as Possible**

Prepared by: **Susan Chavarria**
Interim Associate Planner

John Hall
Zoning Administrator

BACKGROUND

The petitioner requests a variance to construct a detached garage that provides less of a side yard than the minimum required by ordinance. The garage's proposed distance from the next property is to accommodate a 24-foot wide garage and sufficient space between the garage and the petitioner's existing residence to maneuver yard equipment between the proposed garage and a fireplace that protrudes from the residence. The lot is pentagonal with an irregular perimeter and has utility easements on three sides. The application review process also resulted in determining that two existing sheds on the property rest on the easements, which is not permitted by the Zoning Ordinance. The existing residence was constructed prior to the October 10, 1973 Zoning Ordinance adoption.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Residence	R-1 Single Family Residence
North	Single Family Residence	R-1 Single Family Residence
East	Single Family Residence	R-1 Single Family Residence
West	Single Family Residence	R-1 Single Family Residence
South	Single Family Residence	R-1 Single Family Residence

EXISTING CONDITIONS

The existing residence, with a driveway on the west end, sits on an irregularly shaped lot with significant landscaping investment. These elements limit where placement of the proposed garage and existing sheds could logically occur.

IMPACTS OF PROPOSED GARAGE CONSTRUCTION

The petitioner spoke with adjacent neighbors, the closest of whom has a residence 40 feet from the proposed garage. The neighbors signed a statement written by the petitioner stating "I have no objection for Toby Drollinger or Naomi Drollinger getting a variance permit for garage." The petitioner would have difficulty moving garden equipment between the front and back yards without the side yard variance.

PROPOSED SPECIAL CONDITIONS

Regarding proposed special conditions of approval:

- A. Regarding the small sheds that are the subjects of Parts 2 and 3 of the variance:
 - (1) **In the case either of the small sheds is ever destroyed or damaged to more than 50% of replacement value, the shed(s) shall not be replaced within the utility easements.**
 - (2) **Upon written request of any utility, the owner will be required to remove either of the sheds from the easement area.**

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

To ensure that utility companies have appropriate access to their easements.

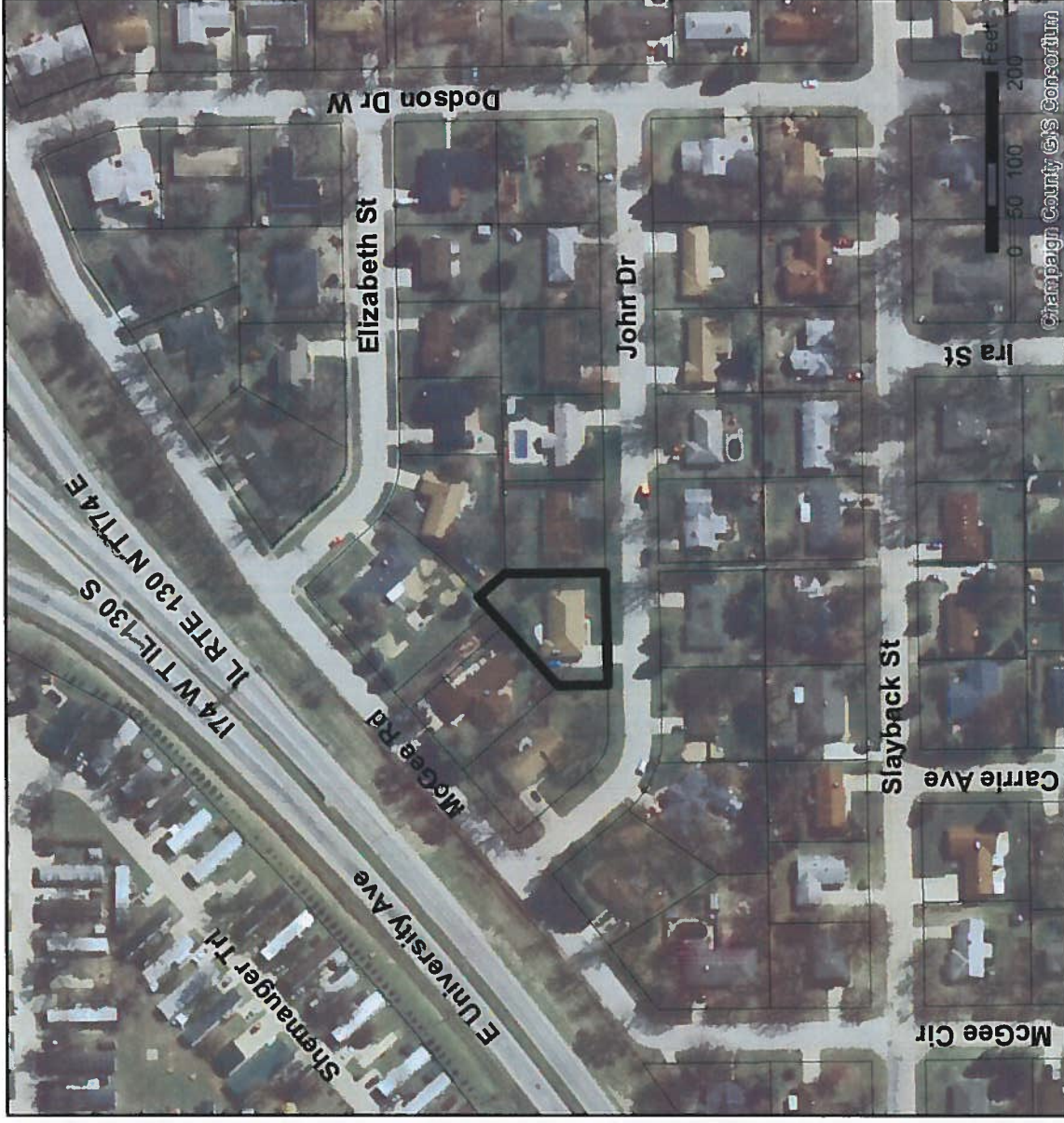
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning, Average Lot Width)
- B Site Plan received August 12, 2014
- C Images of Subject Property taken August 27, 2014
- D Plat of Edgewood Sixth Subdivision showing utility easements
- E Draft Summary of Evidence, Finding of Fact, and Final Determination

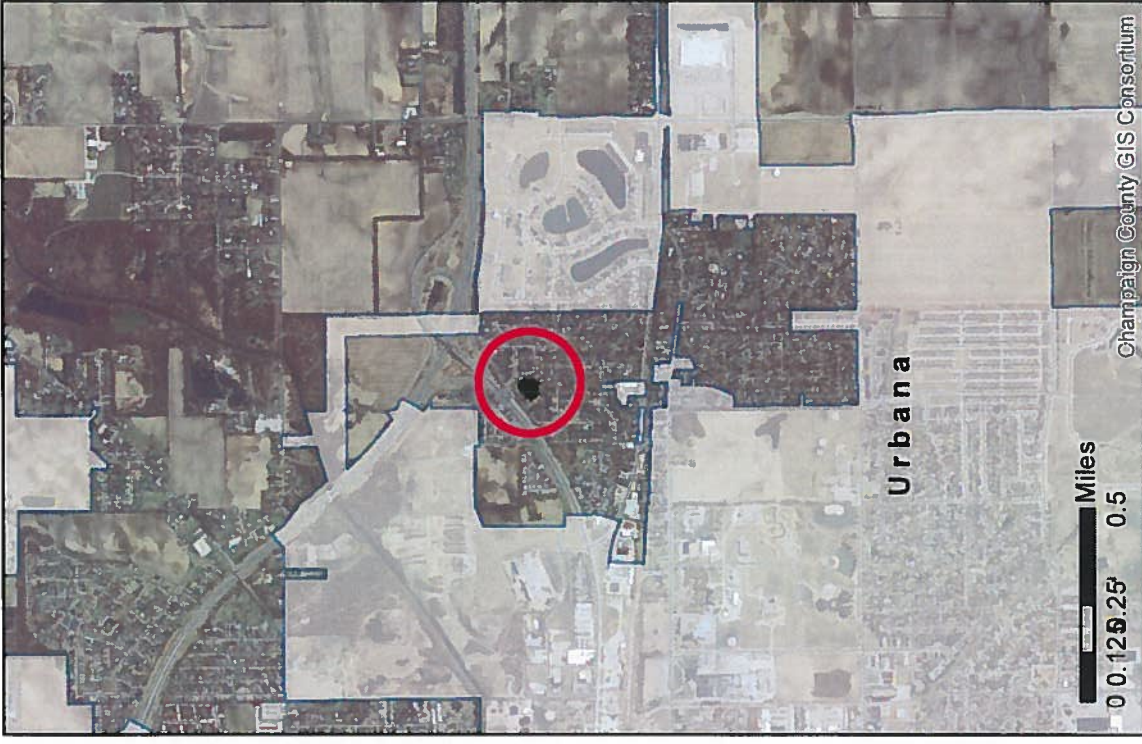
Location Map

Case 786-V-14
September 25, 2014

Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Parcels



Champaign County
Department of
PLANNING &
ZONING

Land Use Map

Case 786-V-14
September 25, 2014



Champaign County GIS Consortium

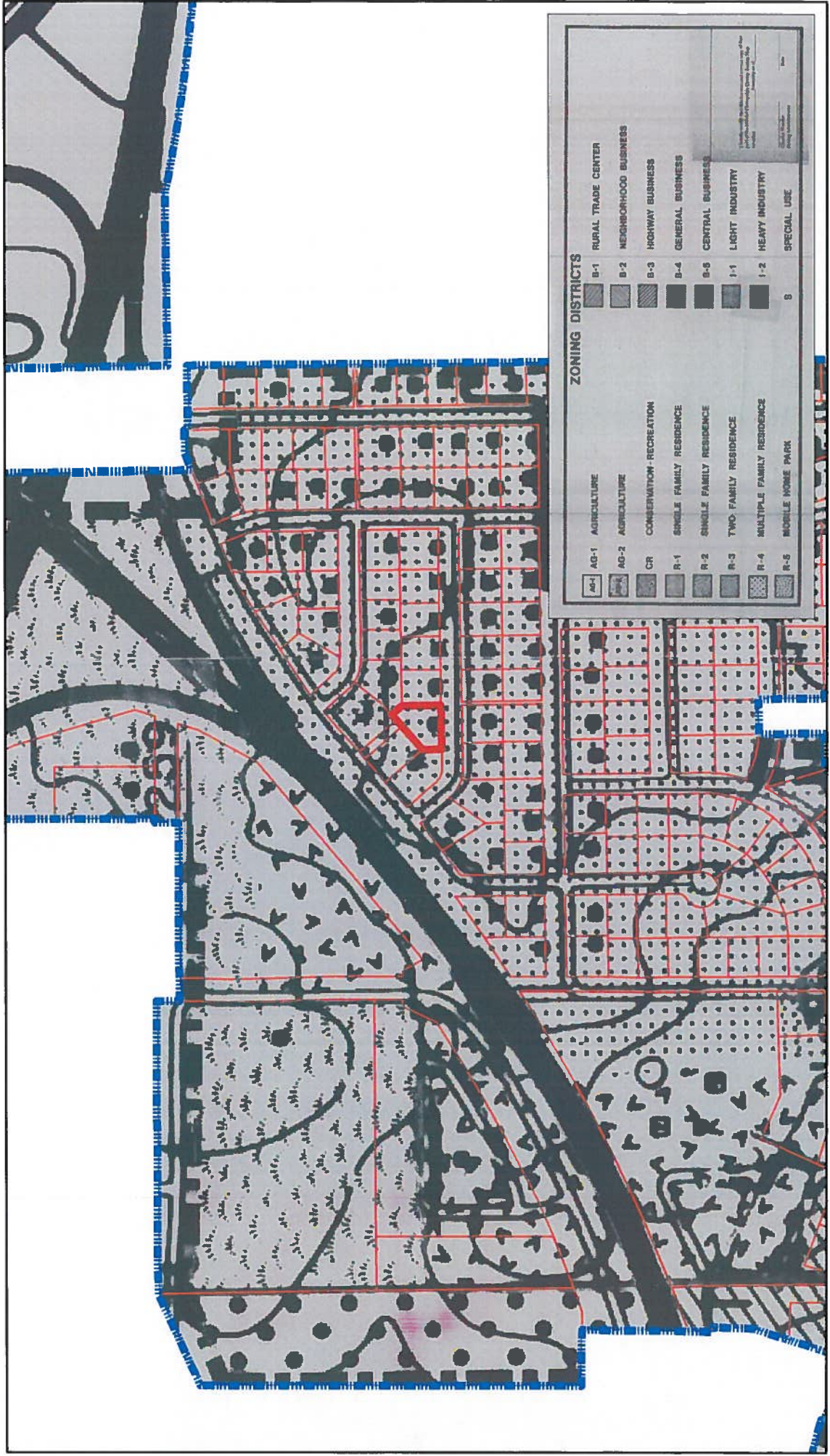


Legend

- Urbana Corporate Limits
- Subject Property
- SF Residential
- Duplex Residential
- Mobile Home Park
- Non-residential

Zoning Map

Case 786-V-14
September 25, 2014



Legend

- Subject Property
- Urbana Corporate Limits




Champaign County
Department of
PLANNING &
ZONING

Average Lot Width

Case 786-V-14
September 25, 2014



Legend

 Subject Property

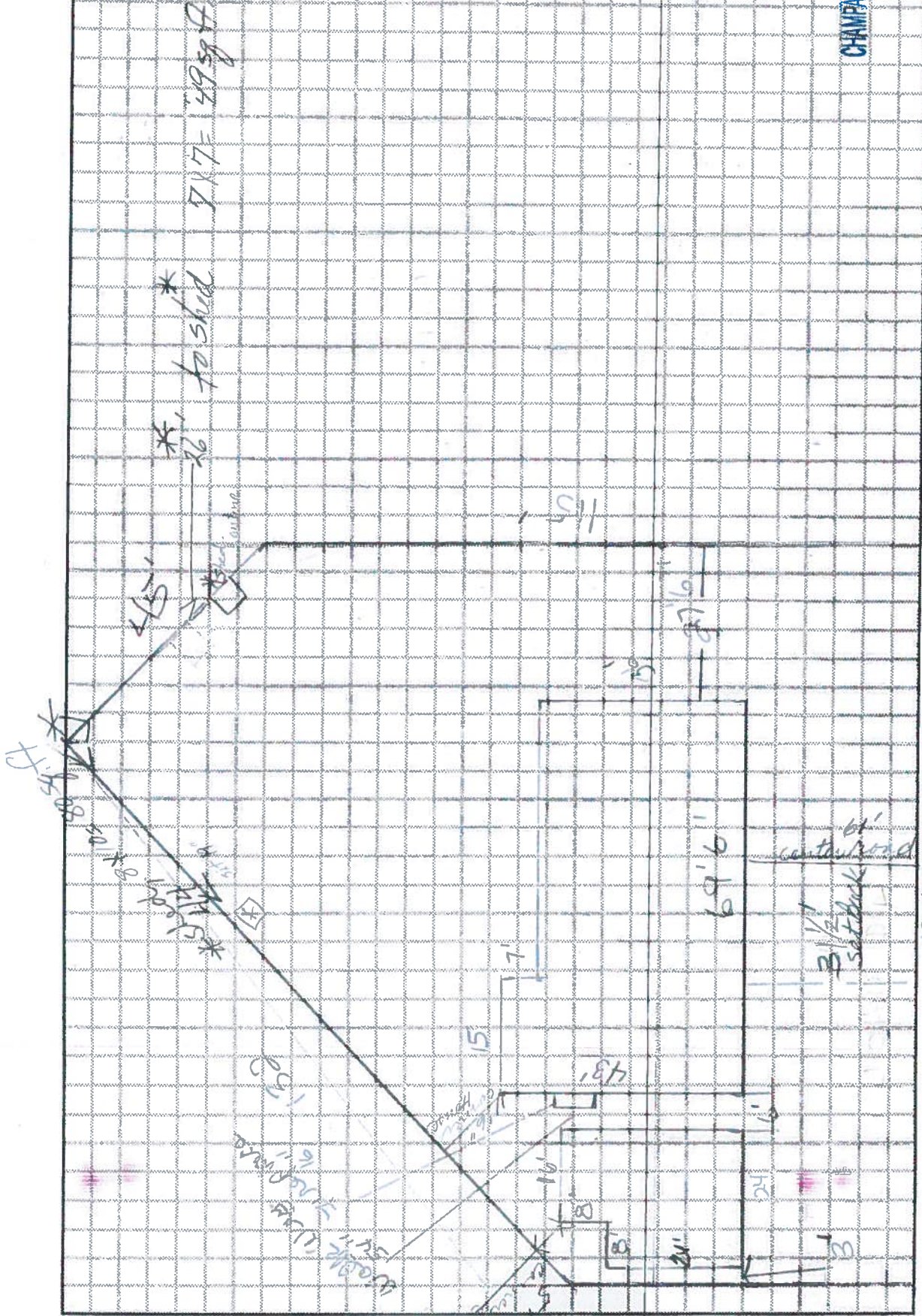
AVERAGE LOT WIDTH: The LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.



RECEIVED

06-19-2014

CHAMPAIGN CO. P & Z DEPARTMENT



786-V-14 Drollinger Images



From SW corner of property facing NE - proposed garage area and house



From driveway facing NW – neighbor's property

786-V-14 Drollinger Images



From driveway facing NW – proposed garage area



From driveway facing N – proposed garage area and existing driveway

786-V-14 Drollinger Images



From NW corner of house facing SW – proposed garage area



From NW corner of house facing SW – proposed garage area

786-V-14 Drollinger Images

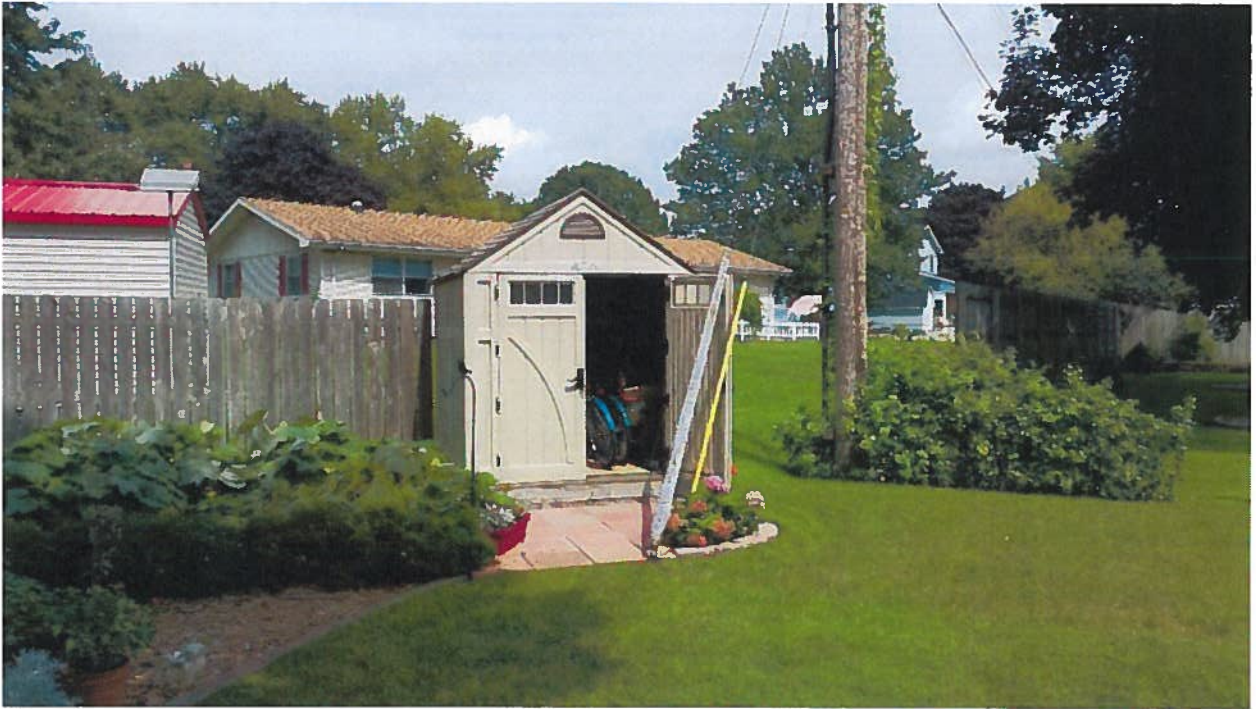


West shed showing property line fence behind it



West shed showing property line fence behind it

786-V-14 Drollinger Images

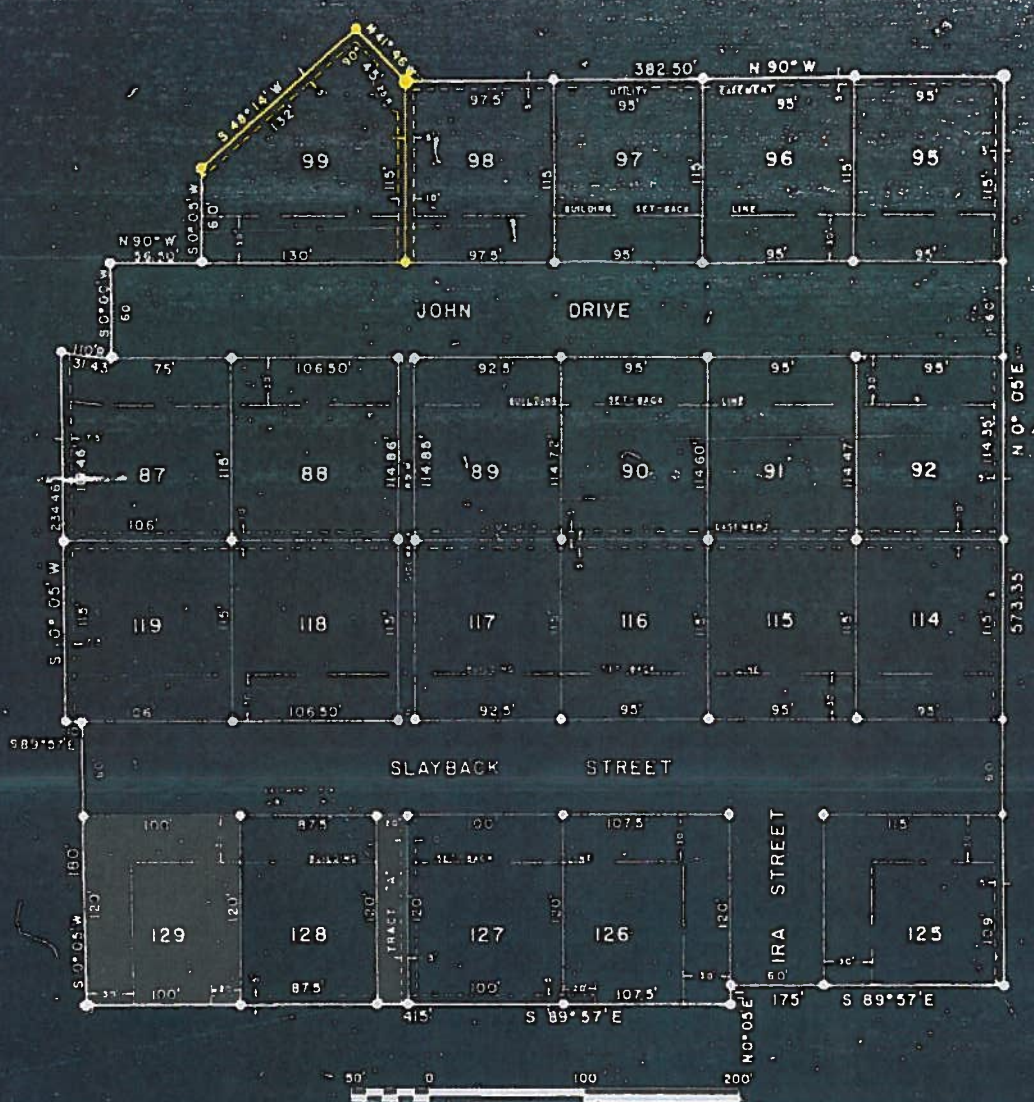


North shed showing property line fence and power lines



North shed showing property line fence and utility pole

PLAT OF EDGEWOOD SIXTH SUBDIVISION CHAMPAIGN COUNTY, ILLINOIS



SCALE IN FEET
0 100 200

AREA - 7.685 ACRES

- LEGEND
- UTILITY EASEMENT
 - IRON PIPES SET
 - IRON PIPES FOUND IN PLACE
 - PERMANENT CONCRETE MONUMENTS



APPROVED:
THE PLAN COMMISSION OF THE CITY OF URBANA, ILL.
DATE March 1958 BY [Signature]
CHAIRMAN

APPROVED
THE CITY COUNCIL OF THE CITY OF URBANA, ILL.
DATE April 20 1958 BY [Signature]
MAYOR



CITY CLERK
[Signature]

APPROVED
THE PLAT COMMITTEE OF THE COUNTY BOARD
DATE March 1958 BY [Signature]
[Signature]

[Signature]
CHARLES E. DANFORD
ILL. # 1470
MARCH 25 1958

9/17/14 DRAFT

786-V-14

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: {date of final determination}

Petitioners: Toby Drollinger

Request: Authorize the following Variance in the R-1 Single Family Residence Zoning District: 1) A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet. 2) An existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet. 3) A second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 28, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Toby Drollinger, owns the subject property.
2. The subject property is a 13,068 square feet lot (0.3 acre) that is on Lot 99 in Block 6 of the Edgewood Subdivision in Section 10 in Urbana Township and commonly known as the residence at 2404 John Drive, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within Urbana Township, which does not have a Planning Commission.

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 a 13,068 square feet lot and is currently zoned R-1 Single Family Residential. Land use is a single family residence.
 - B. Land on the north, south, east, and west of the subject property is zoned R-1 Single Family Residential and is residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The Petitioner's Site Plan, received August 12, 2014 indicates the following:
 - (1) Existing buildings consist of the following:
 - (a) A 2,300 square feet dwelling;
 - (b) A 7 feet by 7 feet shed located in a utility easement on the northwest side of the property;
 - (c) An 8 feet by 10 feet shed located in a utility easement on the north side of the property.
 - (2) Proposed construction of a 512 square foot detached garage on the west side of the residence.
 - B. There are no previous Zoning Use Permits on the subject property; the house was constructed prior to the Zoning Ordinance adoption on October 10, 1973.

9/17/14 DRAFT

Case 786-V-14
Page 3 of 14

- C. The required variance is as follows:
- (1) A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet.
 - (2) An existing detached shed that is seven feet by seven feet and that is located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet.
 - (3) A second detached shed that is eight feet by ten feet and that is located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (2) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
 - (3) "AREA, LOT" is the total area within the LOT LINES.
 - (4) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (5) "BUILDING, ATTACHED" is a BUILDING having two walls in common with other BUILDINGS.
 - (6) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.

- (7) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (8) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (9) "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.
- (10) "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.
- (11) "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.
- (12) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of 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 the maximum distance from the FRONT LOT LINE or said tangent.
- (13) "LOT LINES" are the lines bounding a LOT.
- (14) "NONCONFORMING LOT, STRUCTURE or USE" is a LOT, SIGN, STRUCTURE, or USE that existed on the effective date of the adoption or amendment of this ordinance which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (15) "RIGHT -OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (16) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT -OF -WAY line.
- (17) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (18) "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.

9/17/14 DRAFT

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- (19) "STRUCTURE, DETACHED" is a STRUCTURE not connected to another STRUCTURE.
 - (20) "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.
 - (21) "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.
 - (22) "YARD" is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (23) "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 but a STREET RIGHT-OF-WAY both such YARDS shall be classified as front YARDS.
 - (24) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (25) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. The R-1 Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
- C. 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 9.1.9 D.2.
- D. Minimum SIDE YARD in the R-1 Residential District is established in Section 5.3 of the Zoning Ordinance as 10 feet.
 - E. Within the one and one-half mile extraterritorial jurisdiction of a zoned home rule municipality the minimum SIDE YARD shall equal the SIDE YARD of the comparable municipal zoning district in effect on January 1, 2004 as established by the translation table of the municipal ordinance. The City of Urbana requires a minimum five foot side yard in its R-1 District.
 - F. Minimum REAR YARD in the R-1 Residential District is established in Section 5.3 of the Zoning Ordinance as 20 feet.
 - G. Section 4.2.2.D states that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.

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, **“In maintaining 5’ side yard to build 24’ wide garage would leave only 30” walk between house in area of fireplace protrusion, which is restrictive off rear yard accessibility.”**
 - B. The subject property is nearly triangular in shape with 13,068 square feet in area compared to the minimum required lot area of 9,000 square feet and with an average lot width of 103 feet compared to the minimum required average lot width of 90 feet.

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- C. Regarding Part 1 of the Variance, for a proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet: the petitioner gathered signatures from surrounding neighbors, who have no objection to the petitioner getting a variance permit for the garage.
- D. Regarding Parts 2 and 3 of the Variance, for existing detached sheds located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches and 1 foot 7 inches, respectively, in lieu of the minimum required 5 feet:
- (1) The recorded Plat of the Edgewood Sixth Subdivision indicates a 5 feet wide utility easement along the northwest, northeast, and east property lines.
 - (2) The Urbana-Champaign Sanitary District (UCSD) sanitary sewer map indicates that an approved, active collector sewer line is located within the recorded utility easement along the northwest, northeast, and east property lines.
 - (3) There is an electric utility pole and easement for Ameren along the north property line. The Petitioner spoke with someone in the Decatur Ameren office on 8/12/14. The Ameren representative said that the petitioner does not need permission ahead of time to place the sheds in one of their easements; rather, Ameren would ask the owner to move the shed if they have work that needs to be done.
 - (4) The sheds are not anchored to footing.

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, **“Desire to build 24’ wide and stay within Ordinance would create hardship of moving mowers and equipment between house and proposed garage because there would only be 30 inches.”**
 - B. Regarding the proposed Variance:
 - (1) Without Part 1 of the proposed variance, the petitioner would have a four foot path between the garage and the residence. There would be a 16 inch pinch point within that path where the fireplace protrudes from the west side of the residence. This would leave only 32 inches of space, which would be insufficient for larger pieces of lawn equipment.
 - (2) Without Parts 2 and 3 of the proposed variance the petitioner could not maintain the location of the existing sheds within the utility easement. There appears to be adequate area to place the sheds in the rear of the residence that would not encroach within the utility easement.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“Yes and No, to have more space between house and garage to avoid the fireplace protrusion.”**
 - B. Regarding Part 1 of the Variance, the Petitioner does not have another location where a detached 24 foot square garage could be constructed.
 - C. According to the Assessor’s property records, the Petitioner has owned the property since 1979.
 - D. Regarding Parts 2 and 3 of the Variance, the Petitioner stated in an in-person conversation with Susan Chavarria on August 27, 2014 that the small sheds were placed about four or five years ago.

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, **“Yes, neighbor property have detached garage and sheds.”**
 - B. Regarding Part 1 of the Variance, for a proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet: the requested variance is 60% of the minimum required, for a variance of 40%.
 - C. Regarding Part 2 of the Variance, for an existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet: the requested variance is 0% of the minimum required, a variance of 100%.
 - D. Regarding Part 3 of the Variance, for a second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet: the requested variance is 32% of the minimum required, a variance of 68%.
 - E. Regarding Part 1 of the Variance:
 - (1) The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
 - (a) Adequate light and air: The subject property is in residential use. The surrounding properties are in residential use.

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- (b) Separation of structures to prevent conflagration: The subject property is within the Edge-Scott Fire Protection District and the station is approximately 0.4 road miles from the subject property. The nearest structure on adjacent property to the proposed garage is approximately 50 feet away.
 - (c) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- F. Regarding Parts 2 and 3 of the Variance:
- (1) Regarding the considerations related to the prohibition on construction in drainage easements and utility easements:
 - (a) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

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: **“The nearest neighbor to proposed variance area is 40 feet; variance would not harm any view or affect neighbors.”**
 - B. The Township Road Commissioner has been notified of this variance but no comments have been received.
 - C. The Edge-Scott Fire Protection District has been notified of this variance but no comments have been received.
 - D. The nearest building on neighboring property is approximately 50 feet from the shared property line.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
- A. The Petitioner has testified on the application: **“Greater distance between existing house and proposed detached garage.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. Regarding the small sheds that are the subjects of Parts 2 and 3 of the variance:

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- (1) **In the case either of the small sheds is ever destroyed or damaged to more than 50% of replacement value, the shed(s) shall not be replaced within the utility easements.**
- (2) **Upon written request of any utility, the owner will be required to remove either of the sheds from the easement area.**

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

To ensure that utility companies have appropriate access to their easements.

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DOCUMENTS OF RECORD

1. Variance Application received on August 12, 2014, with attachments:
 - A Site Plan received August 12, 2014

2. Preliminary Memorandum dated September 17, 2014 with attachments:
 - A Case Maps (Location, Land Use, Zoning, Average Lot Width)
 - B Site Plan received August 12, 2014
 - C Images of Subject Property taken August 27, 2014
 - D Plat of Edgewood Sixth Subdivision showing utility easements
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **786-V-14** held on **September 25, 2014**, 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:}***
 - A. Regarding the small sheds that are the subjects of Parts 2 and 3 of the variance:
 - (1) **In the case either of the small sheds is ever destroyed or damaged to more than 50% of replacement value, the shed(s) shall not be replaced within the utility easements.**
 - (2) **Upon written request of any utility, the owner will be required to remove either of the sheds from the easement area.**

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

To ensure that utility companies have appropriate access to their easements.

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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 786-V-14 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Toby Drollinger** to authorize the following variances in the R-1 Residential Zoning District:

- Part 1.** A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet.
- Part 2.** An existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet.
- Part 3.** A second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. Regarding the small sheds that are the subjects of Parts 2 and 3 of the variance:
- (1) **In the case either of the small sheds is ever destroyed or damaged to more than 50% of replacement value, the shed(s) shall not be replaced within the utility easements.**
 - (2) **Upon written request of any utility, the owner will be required to remove either of the sheds from the easement area.**

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

To ensure that utility companies have appropriate access to their easements.

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

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ATTEST:

Secretary to the Zoning Board of Appeals
Date