

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **May 14, 2015**  
Time: **7:00 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

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

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

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

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (March 26, 2015)
5. Continued Public Hearings

*Note: The full ZBA packet is now available  
on-line at: [www.co.champaign.il.us](http://www.co.champaign.il.us).*

**Case 685-AT-11**      Petitioner: **Zoning Administrator**

- Request: **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.**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
**NOTICE OF REGULAR MEETING**  
**MAY 14, 2015**

**\*Case 792-V-14** Petitioner: **Robert Frazier**

Request: **Authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District on the subject property described below:**

**Part A. Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.**

**Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.**

Location: **Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.**

**\*Case 793-S-14** Petitioner: **Lawrence Johnson and Fuad Handal**

- Request:
- 1) **Authorize a kennel as a Special Use on 1.8 acres located in the AG-1 Agriculture Zoning District.**
  - 2) **Authorize the following waivers to the standard conditions of the Kennel Special Use as per Section 6.1.3 of the Zoning Ordinance:**
    - a. ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet;~~  
**NOTE: WAIVER NOT NEEDED FOR REVISED SITE PLAN**
    - b. **No noise buffer of evergreen shrubs or trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent structure and/or use; and**
    - c. **A side yard setback of 85 feet in lieu of the required 200 feet.**

Location: **A 1.8 acre tract in the Southeast Quarter of the Southeast Quarter of Section 5, Township 19N, Range 8E. in Champaign Township with an address of 1211 North Staley Road, Champaign.**

6. New Public Hearings
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.**

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 **1776 E. Washington Street**

5 **Urbana, IL 61802**

7 **DATE: March 26, 2015**

**PLACE: Lyle Shield's Meeting Room**  
**1776 East Washington Street**

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

**Urbana, IL 61802**

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

13 **MEMBERS ABSENT :** None

14 **STAFF PRESENT :** Connie Berry, John Hall

15 **OTHERS PRESENT :** Steve Burdin, Herb Schildt

18 **1. Call to Order**

20 The meeting was called to order at 7:01 p.m.

**DRAFT**

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

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

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

30 **3. Correspondence**

32 None

34 **4. Approval of Minutes (February 26, 2015 and March 12, 2015)**

36 Mr. Thorsland entertained a motion to approve the February 26, 2015 and March 12, 2015, minutes.

38 **Ms. Griest moved, seconded by Ms. Lee to approve the February 26, 2015 and March 12, 2015,**  
39 **minutes.**

41 Mr. Thorsland asked the Board if there were any corrections or additions to the minutes.

43 Ms. Lee stated that prior to the meeting she discussed two very minor corrections to the February 26, 2015,  
44 minutes with staff.

45

1 The motion carried.  
2  
3

4 **5. Continued Public Hearing**  
5

6 **Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**  
7 **Ordinance by amending the Champaign County Storm Water Management Policy by changing the**  
8 **name to the Storm Water Management and Erosion Control Ordinance and amending the reference**  
9 **in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control**  
10 **Ordinance as described in the legal advertisement which can be summarized as follows: I. Revise**  
11 **existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to**  
12 **have authority to prevent pollution of any stream or body of water. (Part A of the legal**  
13 **advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be**  
14 **new Section 2 and add purpose statements related to preventing soil erosion and preventing water**  
15 **pollution and fulfilling the applicable requirements of the National Pollutant Discharge System**  
16 **(NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement); and III. Add new Section**  
17 **3 titled Definitions to include definitions related to fulfilling the applicable requirements of the**  
18 **National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of**  
19 **the legal advertisement); and IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11,**  
20 **12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance**  
21 **activities including a requirement for a Land Disturbance Erosion Control Permit including Minor**  
22 **and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional**  
23 **Area; add a requirement that land disturbance of one acre or more in a common plan of development**  
24 **must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add**  
25 **fees and time limits for each class of Permit; add requirements for administration and enforcement**  
26 **Permits; and add new Appendices with new standards and requirements for both Minor and Major**  
27 **Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement); and V. Revise existing**  
28 **Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent**  
29 **properties and add minimum erosion and water quality requirements for all construction or land**  
30 **disturbance; and VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of**  
31 **Best Management Practices. (Part H of the legal advertisement); and VII. Revise and reformat**  
32 **existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R,**  
33 **S and W of the legal advertisement).**  
34

35 **773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County Storm Water**  
36 **Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding**  
37 **the following: A. Add a requirement for a Grading and Demolition Permit for any grading or**  
38 **demolition that disturbs an acre or more of land or for any grading or demolition that is part of a**  
39 **larger common plan of development in which one acre or more of land disturbance will occur, and**



1 **that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;**  
2 **and C. Add required information to be provided in the application for a Grading and Demolition**  
3 **Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or**  
4 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General**  
5 **Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a**  
6 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations**  
7 **enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.**  
8 **Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other**  
9 **requirements related to Grading and Demolition Permits.**

10  
11 Mr. Thorsland called Cases 769-AT-13 and 773-AT-14 concurrently.

12  
13 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
14 the witness register for that public hearing. He reminded the audience that when they sign the witness  
15 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
16 time.

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

19  
20 Mr. John Hall, Zoning Administrator, distributed a version of the Storm Water Management and Erosion  
21 Control Ordinance dated March 6, 2015, to the Board for review. He said that this version should represent  
22 the current version of the Ordinance. He said that this version of the Ordinance includes all of the optional  
23 paragraphs and only indicates two kinds of changes to the existing Ordinance. He said that the single  
24 underline is new text that was included in the Draft Policy that ELUC reviewed in December, 2013 and the  
25 double underline is all of the new text that has been added during the public hearings. He said that the  
26 March 6, 2015, version of the Ordinance has been formatted to make sense to ELUC and this is the example  
27 of the Ordinance that will be attached to the Final Determination pending the ZBA's final recommendations  
28 regarding those optional parts. He said that Appendices E, D and F are not included with the text.

29  
30 Mr. Thorsland stated that the mailing included all of the things that the Board discussed at the last meeting  
31 regarding abandoned wells and demolition. He said that staff did a fine job in obtaining all of the  
32 information that the Board requested and he hopes that the Board had time to review that information. He  
33 asked the Board if there were any questions or comments regarding this information.

34  
35 Mr. Hall stated that regardless of what happens with Case 773-AT-14, it is very common for staff to receive  
36 calls about whether approvals are needed for demolition and staff has never had the need to prepare a  
37 checklist for what happens at demolition. He said that even if Case 773-AT-14 is not recommended this  
38 information will be useful for the department.

1 Mr. Passalacqua asked if this information is only about well abandonment. He said that the Board discussed  
2 the possibility of an existing well that is being preserved.

3  
4 Mr. Hall stated that information regarding well preservation is in the handouts.

5  
6 Mr. Thorsland stated that it is very possible that all of the Board's questions regarding wells have been asked  
7 before by someone else and were answered in this information. He said that staff gathered all of the  
8 pertinent information and distributed it to the Board for review.

9  
10 Ms. Lee stated that Mr. Hall previously indicated that if Champaign County doesn't do anything regarding  
11 storm water that the EPA will probably take the County to court. She asked if there was any way that the  
12 ZBA could make a recommendation on Case 769-AT-13 and exclude anything outside the MS4  
13 Jurisdictional Area and only do the MS4 Jurisdictional Area as required by the EPA.

14  
15 Mr. Hall stated that the ZBA can recommend whatever the Board believes is reasonable. He said that the  
16 approach he followed while drafting the Ordinance was that once the County has the infrastructure necessary  
17 for what is required in the MS4 Jurisdictional Area, why not use it when it is necessary to respond to  
18 complaints outside the MS4 Jurisdictional Area.

19  
20 Ms. Lee stated that if the Board does not agree with utilizing the Ordinance outside the MS4 Jurisdictional  
21 Area then the Board will be forced to deny the request even though they may agree that it should only be for  
22 the MS4 Jurisdictional Area.

23  
24 Mr. Hall stated no.

25  
26 Mr. Thorsland stated that the Board will be going through the Finding of Fact for Case 769-AT-13 and there  
27 are decision points regarding other portions of the County but that does not mean that the Board would not  
28 recommend the sections that don't apply to the MS4 Jurisdictional Area and the rest it will move forward.  
29 He said that a yes vote minus the additional parts means that the case still moves forward and satisfies the  
30 EPA requirement and it means that the ZBA does not recommend to the County Board the Ordinance outside  
31 of the MS4 Jurisdictional Area. He said that if the ZBA recommends the entire package, inside and outside  
32 the MS4 Jurisdictional Area, the County Board will take the ZBA's recommendation under advisement and  
33 either approve or deny it, send it back to the ZBA, or make their own recommendations.

34  
35 Mr. Thorsland stated that this will be a process of reviewing Case 769-AT-13 and including or not including  
36 the parts that are in addition to what is required. He said the parts that are required will more than likely be  
37 recommended by this Board because they are required and it is a matter of what the Board does beyond that  
38 requirement as to what is recommended to the County Board.

1 Ms. Lee asked Mr. Thorsland if the Board's discussion will be noted in the recommendation.

2  
3 Mr. Thorsland stated that the two final determinations have places where the Board either recommends or  
4 does not recommend or includes or does not include and the Board will go through those places tonight.

5  
6 Mr. Hall reminded the Board of the draft evidence under item #16.E on page 27. He said that item #16.E  
7 deals with the Ordinance's purpose promoting public health, safety, comfort, morals, and general welfare.  
8 He said that the evidence that he has proposed for the Board simply states that once the Board has all of the  
9 requirements for the MS4 Jurisdictional Area in place, not using them to solve problems that come up in the  
10 rest of the jurisdiction is not promoting public welfare because the Board will be preventing staff from  
11 promoting public welfare. He said that if the Board disagrees with the evidence under item #16.E then he  
12 will do everything he can to bring it in line with what the Board believes will be a more reasonable statement  
13 of fact. He said that if the finding is not up to the Board's satisfaction the case can be continued to a later  
14 date but he wants to make sure that if the Optional Minimum Requirements are not recommended by this  
15 Board that there is some evidence that he can point to when this case gets to the County Board as to why it  
16 was not recommended. He said that it does not establish any new requirement unless there is a valid  
17 complaint and it does not add any new fees. He said that the only cost that it imposes upon anyone is the  
18 cost to stop damage on other property and he cannot put into words why someone would not recommend that  
19 but he would be happy to try if the Board provides guidance.

20  
21 Ms. Griest stated that in the Summary of Evidence does not specifically read like the testimony that Mr. Hall  
22 just presented.

23  
24 Mr. Hall stated that usually his verbal statements are not as grammatical as he would like them to be and it is  
25 difficult to write the way you speak.

26  
27 Mr. Thorsland stated that item #16.E specifically states that one purpose of the zoning regulations and  
28 standards that have been adopted and established is to promote the public health, safety, comfort, morals and  
29 general welfare. The proposed amendment with the Optional Minimum Requirements in Section 6 and  
30 disregarding ILR10 compliance outside of the MS4 Jurisdictional Area, WILL promote the public health,  
31 safety, comfort, morals, and general welfare throughout the County, based upon the following. (1) The  
32 Optional Minimum Requirements do not require erosion and sedimentation controls to be put in place until  
33 there is a valid complaint of erosion and/or sedimentation on adjacent land. Mr. Thorsland stated that the  
34 text is a distinct version of what Mr. Hall said in that it does not put any burden upon anyone until they do  
35 something wrong. Mr. Thorsland stated that the Optional Minimum Requirements are not applicable to  
36 MS4 compliance and the intent of paragraph 6.1F and subsection 6.4 and 6.5 is to authorize the Zoning  
37 Administrator to require actions to be taken for land disturbance pursuant to a Zoning Use Permit if that land  
38 disturbance causes erosion or sedimentation on adjacent land. He said that this is a backstop on something  
39 that should not be done in the first place and is a more grammatically correct version of what Mr. Hall

1 summarized. Mr. Thorsland suggested that the Board review item #16.E(6).

2  
3 Ms. Griest stated that she did review item #16.E(6) but it does not jump out at her. She said that when Mr.  
4 Hall summarizes item #16.E as a specific point it becomes very significant but it is buried in the text. She  
5 asked if all of the text could be left as written and highlight “do not require” in item #16.E(1).

6  
7 Mr. Hall stated that there will be no underlined text in the final version. He asked Ms. Griest if she would  
8 like to keep the underlined text, add double underlined text or indicate specific text in bold lettering.

9  
10 Ms. Griest stated that she would like something to make the text jump off the page to where it stands out that  
11 only when there is a complaint does this begin to become a tool.

12  
13 Mr. Passalacqua agreed with Ms. Griest. He said that if it could be clearly stated that there is no net change  
14 unless there is a complaint then everyone could swallow this a lot easier.

15  
16 Ms. Capel stated that one thing that Mr. Hall stated was that it won’t add any additional public expense  
17 which is a clear and positive statement.

18  
19 Mr. Thorsland stated that perhaps the “do not require” in item #16.E(1) should be indicated in bold italics or  
20 underlined.

21  
22 Mr. Hall stated that the following statement could be added to the last sentence in item #16.E(1): only a valid  
23 complaint triggers enforcement of the Optional Minimum Requirements. He said that he would also add this  
24 statement as a new #16.E(7).

25  
26 Ms. Griest stated that she would make the statement as a new item #16.E(1) and renumber everything else  
27 because much like a flow chart if there is no complaint everything else becomes irrelevant.

28  
29 Mr. Thorsland stated that if the Board is comfortable the Board could begin reviewing the Finding of Fact  
30 for Case 769-AT-14.

31  
32 Ms. Griest asked Mr. Hall if the Board will be reviewing the Draft Finding of Fact dated January 15, 2015.

33  
34 Mr. Hall stated yes. He said that it is up to the Board whether they would like to take some time during the  
35 meeting to verify that the Draft Ordinance dated March 6, 2015, represents all of the changes to date. He  
36 said that if there is something in particular that a Board member was interested in that has been changed then  
37 he encouraged the Board to take the time to verify that the text is in the Draft Ordinance as it should be. He  
38 said that most of the changes had to do with Section 4 and the last changes that are mentioned on the pink  
39 sheet, Guide to Case 769-AT-13, are the minor edits from the State’s Attorney’s office (Attachment III to the



1 Supplemental Memorandum January 15, 2015); and the Revised Requirement for Stockpiles (Attachment  
2 JJJ to the Supplemental Memorandum dated January 15, 2015; and Proposed Revisions to Paragraphs 4.1.B.  
3 and C. (Supplemental Memorandum dated March 6, 2015). He said that the revisions to Paragraphs 4.1.B  
4 and C. have always been one of the more problematic of this Draft Ordinance. He said that the present Draft  
5 Ordinance is the simplest version that there ever has been distributed to the Board for review and he believes  
6 that it does convey everything that it needs to convey. He said that he wants to make sure that every member  
7 on the Board is convinced that this is the version that they expect the public to see.

8  
9 Mr. Hall stated that on page 49 of the Draft Finding of Fact dated January 15, 2015, indicates the proposed  
10 amendment and is what will be recommended to the County Board.

11 1. Revise Section 4.3.10 of the Zoning Ordinance to be as follows:

12 4.3.10 Storm Water Management and Erosion Control Ordinance

13 A. Any USE or CONSTRUCTION for which a Zoning Use Permit is required shall  
14 also comply with the relevant requirements of the *Champaign County Storm Water*  
15 *Management and Erosion Control Policy*.

16 B. The limits on maximum LOT COVERAGE contained in Section 5.3  
17 notwithstanding, no more than 16 percent of the surface of any LOT or LOTS in  
18 common ownership on January 1, 1998, shall consist of impervious area,  
19 including paving consisting of gravel and rock and including any specific impervious  
20 area addition adjacent public STREETS that is required to accommodate the USE  
21 or CONSTRUCTION, unless the LOT is exempt pursuant to, or complies with, the  
22 *Storm Water and Erosion Control Policy*.

23  
24 2. Change the title of the Champaign County Stormwater Management Policy to be Champaign County  
25 Storm Water Management and Erosion Control Ordinance and revise the text to be as follows:

26  
27 Mr. Thorsland stated that if the Board has any questions during their review of the Ordinance then now  
28 would be a good time to voice those questions to staff.

29  
30 Ms. Lee asked if page 49 of the Draft Finding of Fact only changes the name of the Policy and nothing else.

31  
32 Mr. Passalacqua asked Mr. Hall if he increased the stockpile from 100 cubic yards to 150 cubic yards. He  
33 said that Section 11.5 of the *Draft Storm Water and Erosion Control Policy* still states 100 cubic yards.

34  
35 Mr. Hall stated that Section 11.5 is the part that applies to the MS4 Jurisdictional Area and that was left at  
36 100 cubic yards because it is really what the EPA would expect to see.

37  
38 Ms. Lee stated that Paragraph 13.A.(2)a.(b) on Page 5 of the Draft Finding of Fact for Case 769-AT-13,  
39 discusses land disturbance. She said that previously the Board and staff discussed that the Policy would only



1 be for land disturbance of one acre or more but Subparagraph 13.A.(2)a.(b) states the following: If adopted,  
2 the minimum erosion control and water quality requirements will authorize the Zoning Administrator to  
3 require actions to be taken for land disturbance pursuant to any Zoning Use Permit if that land disturbance  
4 causes erosion or sedimentation on adjacent land and thereby minimize impacts on adjacent properties.  
5

6 Mr. Hall stated that the Optional Minimum Requirements apply to any Zoning Use Permit Application. He  
7 said that the Optional Minimum Requirements only apply when there is a violation.  
8

9 Mr. Passalacqua stated that it is confusing because it is included in Case 769-AT-13 and Subparagraph  
10 13.A.(2)a.(b) begins with the following: "If adopted." He said that it is an option in Case 773-AT-14.  
11

12 Mr. Hall stated that Case 769-AT-13 has three optional parts and they are as follows: 1. Optional Minimal  
13 Requirements; and 2. Requiring ILR10 compliance outside of the MS4 Jurisdictional Area; and 3. Requiring  
14 the minimum \$50 fee for the Minor LDEC Permit. He said that Case 773-AT-14 has no optional parts  
15 because the entire thing is optional and it would only be recommended if the Optional Minimum  
16 Requirements are recommended. He said that he now realizes that calling the Optional Minimum  
17 Requirements as requirements makes it sound like they require something to be done but that is the way it is.  
18

19 Ms. Griest asked Mr. Hall if renaming the Optional Minimum Requirements to Optional Minimum  
20 Standards would be a less confusing nomenclature.  
21

22 Mr. Hall stated that he would be more than happy to bring this back using that nomenclature if that would  
23 help. He said that if everywhere that states requirements would be changed to standards the idea might get  
24 across that something only happens if it needs to happen.  
25

26 Ms. Griest stated that changing requirements to standards might clarify it.  
27

28 Mr. Hall stated that he would be more than happy to just state right now that anywhere where it says  
29 Optional Minimum Requirements or Minimum Requirements to change it to Optional Minimum Standards  
30 or Minimum Standards.  
31

32 Mr. Randol agreed.  
33

34 Mr. Thorsland asked the Board if they were comfortable with this proposed change the Board indicated yes.  
35

36 Ms. Lee stated that she still believes that Subparagraph 13.A.(2)a.(b) on page 5 of the Draft Finding of Fact  
37 still makes it in the all of the unincorporated areas of the County and not just in the MS4 Jurisdictional Area.  
38

39 Mr. Hall stated that Subparagraph 13.A.(2)a.(b) is dealing with the Optional Minimum Standards which only

1 kick in when there is a valid complaint. He asked Ms. Lee if there is some reason that the Board can put  
2 down on paper as to why we shouldn't have an enforceable standard when one landowner is causing land  
3 erosion or sedimentation on an adjacent landowner.  
4

5 Ms. Lee stated that she feels that this was originally done for the MS4 Jurisdictional Area which is what the  
6 County is required to do, but this goes beyond the MS4 Jurisdictional Area therefore the Board is being  
7 forced to decide that if they do not like everything that is in the Policy then they should say no. She said that  
8 she is in favor of doing all of this in the MS4 Jurisdictional Area because that is what the County is required  
9 to do but when we get into the entire unincorporated area we are dealing with an area that isn't just the MS4  
10 Jurisdictional Area.  
11

12 Mr. Passalacqua stated that with the wording that Mr. Hall has presented to the Board it does not make any  
13 change on anyone unless there is a complaint filed.  
14

15 Mr. Hall stated that the County has development which occurs next to drainage ditches in organized drainage  
16 districts and for example, in Hensley Township someone needed fill for their construction and rather than  
17 getting the fill material from the 12 acres that was outside the drainage ditch easement they got it next to the  
18 Beaver Lake Drainage Ditch. He said that the person who did this received a letter from the Beaver Lake  
19 Drainage District within one week indicating that they do not want anything happening to their drainage  
20 ditch where the fill material was removed. He said that removing fill from a drainage ditch easement is  
21 probably not something that he could do anything about under this Ordinance but if they had made a  
22 stockpile next to the drainage ditch when they excavated the fill causing sedimentation into the ditch he  
23 could require them to correct that with the Optional Minimum Standards. He said that without the Optional  
24 Minimum Standards he could not do a thing. He said that back in the 90's there was a subdivision  
25 constructed near Lake of the Woods and one summer weekend there was big rain storm which caused  
26 sedimentation into the Lake of the Woods and no one had any regulations that could do anything about it.  
27 He said that the only thing that the Optional Minimum Standards would do is presumably make sure that it  
28 didn't happen again because that is the problem with having something that kicks in when there is a  
29 complaint. He said that he would never propose anything more than this for the other 99% of the County's  
30 jurisdiction.  
31

32 Mr. Thorsland asked Ms. Lee if she would be more comfortable with the Ordinance if the "Optional  
33 Minimum Requirements" were changed to "Optional Minimum Standards". He asked if Mr. Hall's  
34 explanation regarding the drainage districts helped.  
35

36 Mr. Hall stated that his point was that we have no protection for drainage ditches unless we have the  
37 Optional Minimum Standards in the other 99% of our jurisdiction and it will be between the drainage district  
38 and the landowner.  
39

1 Mr. Thorsland stated that, as an example, his pet peeve as a two-wheeled traveler is a dirt covered road when  
2 a new house is started. He said that once the construction begins you can look forward to about four months  
3 of three acres of dirt in the street rather than on the lot, thus creating a mess. He said that the Ordinance  
4 would give staff the mechanism to require the contractor to clean up the road.  
5

6 Ms. Lee stated that it is being said that this is all complaint driven although Subparagraph 13.A.(2)a.(a)  
7 indicates the following: The “minimum erosion control and water quality requirements” in Section 6.1, 6.4  
8 and 6.5 are proposed to be required in the entire unincorporated area for any land disturbance and/or  
9 construction.  
10

11 Mr. Hall stated that perhaps the following revision will help: The “minimum erosion control and water  
12 quality requirements” in Section 6.1, 6.4 and 6.5 are proposed to be required in the entire unincorporated  
13 area for any land disturbance and/or construction that causes erosion and sedimentation on adjacent land.  
14

15 Ms. Griest asked Mr. Hall if he is carefully choosing those words so as to indicate that by causing erosion  
16 and sedimentation on adjacent land that staff has probably received a complaint.  
17

18 Mr. Hall stated that Ms. Griest was absolutely correct. He assured everyone that staff will not be cruising the  
19 County’s roads looking for erosion and sedimentation.  
20

21 Ms. Lee agreed with Mr. Hall’s revision of Subparagraph 13.A(2)a.(a).  
22

23 Mr. Hall stated that he wants to be clear that the stockpile requirements in Section 6.4 of the Draft Policy  
24 that applies to 150 cubic yards. He said this is a requirement that states that staff is going to make sure that  
25 150 cubic yard stock stockpiles are no closer than 50 feet to the top of a stream or drainage ditch and no  
26 closer than 30 feet to a property line or township highway ditch. He said that this is something that applies  
27 even if there is no problem but the whole point is that if you provide that much separation then there really  
28 should not be a problem.  
29

30 Mr. Passalacqua stated that this makes perfect sense because that is the worst type of material for moving  
31 around.  
32

33 Mr. Thorsland stated that there are two things that create the biggest problems which are the stockpiles when  
34 they go forward with construction and when a good gravel base is not put down to provide a parking and off  
35 -loading area.  
36

37 Mr. Passalacqua stated that the County does not require it.  
38

39 Mr. Hall stated that Mr. Passalacqua was correct in that the County does not require the good gravel base but

1 when they are tracking mud onto the street and do not clean it off at the end of the day and staff receives a  
2 complaint staff can contact them. He said that a repeated occurrence will cause him to recommend the  
3 installation of a stabilized construction entrance or they will receive a Notice of Violation.  
4

5 Mr. Thorsland stated that during recent construction near his farm a two foot culvert and two small loads of  
6 gravel was placed onto the grass and driven across and within one day the culvert was converted to two  
7 vertical stovepipes with very little gravel and it stayed like that for approximately four weeks. He said that  
8 every night the entire front yard was in the street. He said that this would be the kind of thing that would  
9 trigger a complaint to staff.  
10

11 Mr. Hall stated that there is nothing in this Ordinance which states that if the Zoning Administrator is driving  
12 in the County and sees construction without a stabilized construction entrance or dirt on the road during the  
13 day outside of the construction entrance that it is a problem but what is a problem or violation is if there is  
14 dirt on the road after the job site is shut down for the day. He said that staff will not be driving around the  
15 County looking for things like that and staff has to receive a complaint. He noted that this is all complaint  
16 driven.  
17

18 Ms. Lee asked Mr. Hall if he or the Board has the authority to file a complaint to staff if they find dirt on the  
19 road after a job site is shut down for the day.  
20

21 Mr. Hall stated that he would not want to take this to a court of law and indicate that the complaint came  
22 from the Zoning Administrator because that is not the intent. He said that he will not say that a future  
23 Zoning Administrator would not do so but he believes that it would be foolish to do so because it is clearly  
24 not the intent.  
25

26 Mr. Thorsland stated that this is not a police action ordinance but is merely setting minimum standards and  
27 using them as tools to solve complaints in the rest of the County. He said that it doesn't give authority for  
28 the office to go out there and catch you in the act or patrol the area but is a way to address a complaint with a  
29 definition and a standard. He said that someone is going to call staff and indicate that his neighbor's entire  
30 front yard is in his in-ground pool and currently staff could only indicate that it is a civil matter between the  
31 two landowners. He said that if there is a minimum standard for controlling more than one acre of land  
32 disturbance that may end up in the neighbor's pool then staff could notify the neighbor and indicate why this  
33 cannot happen.  
34

35 Ms. Lee asked Mr. Hall if the Board could file a complaint.  
36

37 Mr. Hall stated that he would leave it up to the Board members but if they would file a complaint against a  
38 property and the property becomes the subject of a zoning case the filing Board member would need to  
39 abstain from the case.

1

2 Mr. Thorsland stated that since the Board members have accepted their position on the Board they have to  
3 filter themselves. He said that every property could potentially wind up before the Board. He said that the  
4 Zoning Administrator and the Board should never be the police of the County. He said that there have been  
5 many times that he would like to file a complaint but it would not be appropriate for him to do so as a  
6 member of this Board.

7

8 Ms. Griest asked Mr. Hall if the remedy for the pool situation is still a matter between the two neighbors  
9 because the Ordinance is only giving the Zoning Administrator the authority to indicate that they should stop  
10 doing it.

11

12 Mr. Hall stated that the only tool that he has is to tell the landowner to cease sedimentation into the pool and  
13 if it happens again they will be required to install erosion controls. He said that if the landowner refuses to  
14 install the erosion controls then staff could take them to court.

15

16 Ms. Griest asked Mr. Hall if the Ordinance gives the Zoning Administrator the authority to require the  
17 erosion controls after the first incident.

18

19 Mr. Hall stated yes, but he has been in Champaign County long enough to know that he is not going to make  
20 anyone do anything over something that happens one time but two times is the trigger. He said that he will  
21 tell them once but he is not going to try to make anyone do anything if they refuse to until it happens a  
22 second time.

23

24 Mr. Thorsland asked the Board if they were ready to review the Finding of Fact for Case 769-AT-13 and the  
25 Board indicated yes.

26

27 Mr. Thorsland asked Mr. Hall why "morals" is included in Paragraph 2.0 (e) of the Ordinance.

28

29 Mr. Hall stated that back in 1920 when President Hoover was writing the model *Zoning Enabling Act* there  
30 were a lot of moral issues that zoning ordinances were intended to address. He said that obviously we do not  
31 do a lot with morals in the modern zoning regulation and it has to be objectified into some bizarrely named  
32 use that can only occur in certain locations.

33

34 Mr. Thorsland read LRMP Goal 1 as follows: Champaign County will attain a system of land resource  
35 management planning built on broad public involvement that supports effective decision making by the  
36 County. He said that staff has recommended that the proposed text amendment will NOT IMPEDE the  
37 achievement of LRMP Goal 1.

38

39 The Board agreed with staff's recommendation for LRMP Goal 1.



1  
2 Mr. Thorsland read LRMP Goal 2 as follows: Champaign County will collaboratively formulate land  
3 resource and development policy with other units of government in areas of overlapping land use planning  
4 jurisdiction. He said that staff has recommended that the proposed text amendment will NOT IMPEDE the  
5 achievement of LRMP Goal 2.

6  
7 The Board agreed with staff's recommendation for LRMP Goal 2.

8  
9 Mr. Thorsland read LRMP Goal 3 as follows: Champaign County will encourage economic growth and  
10 development to ensure prosperity for its residents and the region. Goal 3 has three objectives and no  
11 policies. The proposed text amendment WILL/WILL NOT IMPEDE the achievement of Goal 3 in a similar  
12 manner as for the Purpose of the Zoning Ordinance.

13  
14 Mr. Hall stated that the Board may want to review item #16.B before making a recommendation that way if  
15 the Board believes there is a problem with item #16.B it should be reflected in item #8. He said that item  
16 #16.B is the purpose statement regarding conservation of the value of land, buildings and structures  
17 throughout the County. He said that the evidence under item #16.B. summarizes the fact that the USEPA  
18 did do a national level cost analysis using whatever information that they had in 1998. He said that he does  
19 not believe that the analysis is terribly relevant to this although one of the first questions asked when we  
20 proposed this ordinance was, will there be a benefit cost analysis. He said that we updated the Bloomington  
21 cost for a typical lot and found out that regardless of what the USEPA found out in 1998 the costs to an  
22 individual lot owner are a lot higher than what they predicted. He said that these things are already in place  
23 in the City of Champaign and it is up to the Board to decide how much of a brake that has put on  
24 development.

25  
26 Ms. Lee asked if he is just talking about the MS4 Jurisdictional Area.

27  
28 Mr. Hall stated that he is talking about everywhere in the City of Champaign, City of Urbana and Savoy.

29  
30 Ms. Lee stated that the only argument that she can see regarding Champaign County not encouraging  
31 development is that adjacent counties do not have these rules and they are not required to have these rules in  
32 their MS4 Jurisdictional Area therefore the developers may move to the adjacent counties for their  
33 development.

34  
35 Mr. Passalacqua stated that the entire State of Illinois is required to have these rules.

36  
37 Ms. Griest asked Mr. Hall if the adjacent counties already have these rules related to the ILR10 in place and  
38 Champaign County is the last county to be implementing this.

39

1 Mr. Hall stated that the ILR10 applies everywhere and the only other county which borders Champaign  
2 County that has an MS4 Jurisdictional Area is McLean County. He said that Douglas and Vermilion  
3 counties do not have zoning and there is a variation in standards. He said that Piatt and Ford counties do  
4 have zoning but they do not have an MS4 Jurisdictional Area requirement although ILR10 does apply.

5  
6 Mr. Passalacqua stated that these requirements are not going to be a reason for a developer to leave  
7 Champaign County.

8  
9 Ms. Griest stated that a developer is not going to drive that far to build in an adjacent county just because of  
10 this regulation because the cost to locate at that distance and commuting back and forth to a work location in  
11 Champaign County would far exceed the additional cost.

12  
13 Mr. Thorsland agreed.

14  
15 Mr. Hall stated that the cost analysis is only relevant to our MS4 Jurisdictional Area because these standards  
16 do not apply outside of the MS4 Jurisdictional Area.

17  
18 Ms. Griest recommended that the proposed text amendment WILL NOT IMPEDE the achievement of Goal 3  
19 in a similar manner as for the Purpose of the Zoning Ordinance and the Board agreed.

20  
21 Mr. Thorsland read LRMP Goal 4 as follows: Champaign County will protect the long term viability of  
22 agriculture in Champaign County and its land resource base. He said that staff recommends that the  
23 proposed text amendment will NOT IMPEDE the achievement of Goal 4.

24  
25 The Board agreed with staff's recommendation for LRMP Goal 4.

26  
27 Mr. Thorsland read LRMP Goal 5 as follows: Champaign County will encourage urban development that is  
28 compact and contiguous to existing cities, villages, and existing unincorporated settlements. He said that  
29 staff recommends that the proposed text amendment will NOT IMPEDE the achievement of Goal 5 in  
30 general.

31  
32 The Board agreed with staff's recommendation for LRMP Goal 5.

33  
34 Mr. Thorsland read LRMP Goal 6 as follows: Champaign County will ensure protection of the public health  
35 and public safety in land resource management decisions. He said that staff recommends that the proposed  
36 text amendment will NOT IMPEDE the achievement of Goal 6.

37  
38 The Board agreed with staff's recommendation for LRMP Goal 6.

1 Mr. Thorsland read LRMP Goal 7 as follows: Champaign County will coordinate land use decisions in the  
2 unincorporated area with the existing and planned transportation infrastructure and services. He said that  
3 staff recommends that the proposed text amendment will NOT IMPEDE the achievement of Goal 7.  
4

5 The Board agreed with staff's recommendation for LRMP Goal 7.  
6

7 Mr. Thorsland read LRMP Goal 8 as follows: Champaign County will strive to conserve and enhance the  
8 County's landscape and natural resources and ensure their sustainable use. He continued to read Objective  
9 8.4 as follows: Champaign County will ensure that new development and ongoing land management  
10 practices maintain and improve surface water quality, contribute to stream channel stability, and minimize  
11 erosion and sedimentation. He said that staff recommends that the proposed text amendment will HELP  
12 ACHIEVE LRMP Goal 8 and Objective 8.4 and Policy 8.4.2. He noted that Mr. Hall previously added new  
13 language to Policy 8.4.2 making it clear that it helps achieve Policy 8.4.2 because it provides a standard that  
14 can be applied when a complaint is received to assist staff in resolving that complaint.  
15

16 Mr. Thorsland read Objective 8.4.5 as follows: Champaign County will ensure that non-point discharges  
17 from new development meet or exceed state and federal water quality standards. He said that staff  
18 recommends that the proposed amendment WITH OR WITHOUT the Optional Minimum Requirements in  
19 Section 6 and WHETHER OR NOT ILR10 compliance will be required by the County outside of the MS4  
20 Jurisdictional Area, WILL ACHIEVE Policy 8.4.5.  
21

22 Mr. Thorsland read Objective 8.5 as follows: Champaign County will encourage the maintenance and  
23 enhancement of aquatic and riparian habitats. He said that staff recommends that the proposed text  
24 amendment will NOT IMPEDE the achievement of Objective 8.5 and Policy 8.5.2.  
25

26 Mr. Thorsland read Objective 8.6 as follows: Champaign County will encourage resource management  
27 which avoids loss or degradation of areas representative of the pre-settlement environment and other areas  
28 that provide habitat for native and game species. He said that staff recommends that the proposed  
29 amendment will NOT IMPEDE the achievement of Objective 8.6, Policy 8.6.1 and Policy 8.6.2.  
30

31 Mr. Hall stated that an alternative view of Policy 8.5.1 would be that since we are not requiring it to apply  
32 by-right throughout our whole jurisdiction, why would it not be impeding the achievement of that objective;  
33 we are avoiding doing it so why isn't it impeding.  
34

35 Ms. Lee asked what we would be avoiding.  
36

37 Mr. Passalacqua stated that we would be avoiding it by not making it a requirement but an optional standard.  
38

39 Mr. Thorsland stated that if we do not adopt the option then we are impeding.

1  
2 Mr. Hall stated no. He said that even in adopting the option we are impeding because we are not making it a  
3 requirement. He said that there is something to be said for this view and he is not arguing for it but he wants  
4 to make sure that we have as good a product to present to the County Board as possible and as long as the  
5 ZBA has considered it and does not believe that it is not relevant then he would be happy.

6  
7 Mr. Passalacqua stated that the wording could be revised to state that the Optional Minimum Standards  
8 provides the Zoning Administrator with the tools to enforce the protection of those things. He said that the  
9 County Board could not indicate that we are not protecting it because we are but we are not making it  
10 another layer of requirements.

11  
12 Mr. Hall stated that the first underlined sentence in item #13.B(2) could be revised as follows: The proposed  
13 text amendment will NOT IMPEDE the achievement of Policy 8.5.1 because the erosion and sedimentation  
14 controls required by this Case 769-AT-13 are not intended to preserve existing habitat, enhance degraded  
15 habitat, or restore habitat but the Optional Minimum Standards will prevent damage to habitat when a valid  
16 complaint is received. He said that this will assist staff if the Champaign County Forest Preserve District  
17 complains about someone causing erosion or sedimentation or a drainage district complains about erosion  
18 sedimentation into their ditch. He said that the primary purpose is not to protect but when we are made  
19 aware of damage being done this will allow something to be done about it.

20  
21 The Board agreed with staff's recommendation.

22  
23 Ms. Griest asked Mr. Hall if the second underlined sentence in item #13.B(2) should be stricken or does it  
24 become repetitive.

25  
26 Mr. Hall stated no, because it reinforces the point.

27  
28 Mr. Thorsland stated that the Board should keep in mind that the recommendation for Policy 8.4.2 indicates  
29 that if the Optional Minimum Standards in Section 6 are approved the proposed text amendment will HELP  
30 ACHIEVE Policy 8.4.2. He said that this text means that should the Board approve it this will HELP  
31 ACHIEVE it.

32  
33 Mr. Hall asked if the Board does not recommend the Optional Minimum Standards, should we change  
34 anything that is written in Policy 8.4.2. He said that hopefully nothing would need to be changed but if the  
35 Optional Minimum Standards are not recommended that would not be available and likewise for item  
36 #13.A.(2)(a)b at the top of page 6. He asked if the Board does not recommend ILR10 compliance outside of  
37 the MS4 Jurisdictional Area should the sentence at the top of page 6 be changed. He said that he would  
38 recommend that the Board work through the Finding of Fact and then make a decision regarding those kinds  
39 of things.

1

2 Mr. Thorsland stated that if the Optional Minimum Requirements are not approved then it no longer HELPS  
3 ACHIEVE. He said that the Board can come back to this.

4

5 Mr. Thorsland read Policy 8.5.2 as follows: The County will require in its discretionary review that new  
6 development cause no more than minimal disturbance to the stream corridor environment. He said that staff  
7 recommends that the proposed text amendment will NOT IMPEDE the achievement of Policy 8.5.2 for the  
8 same reasons as for Policy 8.5.1.

9

10 The Board agreed with staff's recommendation for Policy 8.5.2.

11

12 Mr. Thorsland read Objective 8.6 as follows: Champaign County will encourage resource management  
13 which avoids loss or degradation of areas representative of the pre-settlement environment and other areas  
14 that provide habitat for native and game species. He said that staff recommends that the proposed  
15 amendment will NOT IMPEDE the achievement of Objective 8.6. He said that staff also recommends that  
16 the proposed text amendment will NOT IMPEDE Policy 8.6.1 and 8.6.2.

17

18 Mr. Thorsland asked the Board if, with the revisions and additions, are they happy with all of the  
19 recommendations for the LRMP Goal 8 and the Board stated yes.

20

21 Mr. Thorsland read LRMP Goal 9 as follows: Champaign County will encourage energy conservation,  
22 efficiency, and the use of renewable energy sources. He said that staff recommends that the proposed text  
23 amendment will NOT IMPEDE the achievement of LRMP Goal 9 and the Board agreed.

24

25 Mr. Thorsland read LRMP Goal 10 as follows: Champaign County will promote the development and  
26 preservation of cultural amenities that contribute to a high quality of life for its citizens. He said that staff  
27 recommends that the proposed text amendment will NOT IMPEDE the achievement of Goal 10 and the  
28 Board agreed.

29

30 Mr. Thorsland asked the Board if, with the revisions and additions, they are happy with all of the  
31 recommendations for all of the LRMP Goals, Policies and Objectives and the Board stated yes.

32

33 Mr. Thorsland stated that the Board will now review the evidence regarding the purpose of the Zoning  
34 Ordinance.

35

36 Mr. Thorsland read item #16.B as follows: The proposed amendment WITH OR WITHOUT the Optional  
37 Minimum Requirements in Section 6 and WHETHER OR NOT ILR10 compliance will be required by the  
38 County outside of the MS4 Jurisdictional Area, WILL/WILL NOT conserve the value of real estate  
39 throughout the County.



1

2 Ms. Griest stated that she believes that it WILL conserve the value of real estate throughout the County.  
3 She said that she doesn't think that the factor changes with or without the optional requirements in the  
4 outlying jurisdictions, but within the MS4 Jurisdictional Area where there is infrastructure it is vitally  
5 important to help conserve the value of those real estate parcels.

6

7 The Board agreed with Ms. Griest.

8

9 Ms. Lee asked Mr. Hall if he can do anything about water pollution that travels into the unincorporated area  
10 as a result of something that has occurred inside the City of Champaign, City of Urbana or Savoy.

11

12 Mr. Hall stated that a lot can be done as long as it is done with the proper approvals. He said that our  
13 Ordinance accepts anything that is a similar or a better ordinance would allow therefore if the City of  
14 Champaign decided to reroute a stream and they received the necessary approvals from IDNR and the Corps  
15 of Engineers then there would be nothing that the County could do about it.

16

17 Ms. Lee asked Mr. Hall if he would have any authority if there were no approvals from a governmental  
18 entity and the water pollution from these municipalities affected the rural areas.

19

20 Mr. Hall stated that he doubts it because our rules do not apply inside the incorporated area.

21

22 Mr. Thorsland stated that the recourse would probably be with that entity.

23

24 Ms. Lee stated that something could travel to the rural areas that did not originate from the rural area.

25

26 Mr. Hall stated that a perfect example was after they built Lowe's they were putting so much storm water  
27 into the farm tiles that it showed up in the farm fields causing serious erosion. He said that it is just like all  
28 of the plastic sacks that blow from all of the development along north Prospect onto the surrounding fields.

29

30 Mr. Thorsland read item #16.E. as follows: the proposed amendment WITH Optional Minimum  
31 Requirements in Section 6 and disregarding ILR10 Compliance outside of the MS4 Jurisdictional Area,  
32 WILL promote the public health, safety, comfort, morals, and general welfare throughout the COUNTY.

33

34 Mr. Hall reminded the Board of the added text to Subparagraph (1) and read revised Subparagraph (1) as  
35 follows: The Optional Minimum Standards *do not* require erosion and sedimentation controls to be put in  
36 place until there is a valid complaint of erosion and/or sedimentation on adjacent land. Only a valid  
37 complaint triggers the enforcement of the Optional Minimum Standards.

38

39 The Board agreed.

1  
2 Mr. Thorsland read item #19 as follows: Regarding the alternative versions of the text amendment that the  
3 County Board may adopt: A. As described in the ELUC Memorandum dated 10/29/13, the Draft Ordinance  
4 includes certain “minimum erosion control and water quality requirements”. He noted that “requirements  
5 should be changed to “standards”.

6  
7 Mr. Hall stated that in this instance he would place (standards) in parenthesis after “requirements” because  
8 the previous document did refer to those as requirements.

9  
10 Mr. Thorsland continued to read item #19.A as follows: in Section 6.1, 6.4 and 6.5 that are proposed to be  
11 required in the entire unincorporated area for any land disturbance and/or construction. These minimum  
12 erosion control requirements (standards) are not required for compliance with the NPDES requirements  
13 outside of the MS4 Jurisdictional Area and that is why the County Board has the option of not requiring  
14 these minimums outside of the MS4 Jurisdictional Area. The Zoning Board of Appeals HAS/HAS NOT  
15 included paragraph 6.1F. and Sections 6.4 and 6.5 in their recommendation to the County Board.

16  
17 Mr. Passalacqua recommended that the Zoning Board of Appeals HAS included paragraph 6.1F. and  
18 Sections 6.4 and 6.5 in their recommendation to the County Board.

19  
20 The Board agreed.

21  
22 Ms. Lee requested that Mr. Thorsland pause the review for a moment so that she may review Section 6.1.

23  
24 Mr. Hall noted that Section 6.1 appears on page 18 of the Draft Ordinance dated 3/6/15.

25  
26 Mr. Hall stated that he would recommend striking Subparagraph e. at the top of page 33 of 49 of the Draft  
27 Finding of Fact. He said that he recommends striking the second Subparagraph e. in the middle of page 33  
28 of 49 as well as Subparagraph e. on page 34, Subparagraph f. on page 35, Subparagraph e. at the top of page  
29 36 and Subparagraph f. at the bottom of page 36, Subparagraph e on page 37, Subparagraph e. at the top of  
30 page 38.

31  
32 Mr. Thorsland informed Ms. Lee that she does not have to agree with Mr. Passalacqua’s recommendation.

33  
34 Ms. Lee stated that during a previous meeting the Board discussed being more than 30 feet from the  
35 centerline of a drainage swale. She said that Section 6.4.D.1(b) of the Draft Storm Water Management and  
36 Erosion Control Ordinance dated 3/6/15, states that a stockpile shall be not less than 30 feet from the  
37 centerline of a drainage swale that is indicated as an intermittent stream on a United States Geological  
38 Survey 7.5 Minute Quadrangle Map. She said that Section 6.4.D.1(b) states that the Stockpiles shall not be  
39 less than 50 feet from the top of the bank of a drainage ditch or stream.

1

2 Mr. Thorsland stated that these are things that the Board just hammered through and Mr. Hall indicated that  
3 the MS4 Jurisdictional Area is a little different than the rest of it.

4

5 Mr. Hall stated that everything is standardized in that it is within 50 feet of the top of the bank of a drainage  
6 ditch or stream and 30 feet within the centerline of a drainage swale.

7

8 Mr. Passalacqua asked Mr. Hall why 30 feet within the centerline of a drainage swale.

9

10 Mr. Hall stated that 30 feet is a common dimension that we see for things like easements for just a dry swale.

11

12 Mr. Thorsland read item #19.B as follows: The ELUC Memorandum dated 10/29/13 and the Draft  
13 Ordinance that was attached did not adequately address compliance with the Illinois EPA's ILR10 General  
14 Stormwater Permit but compliance with the ILR10 Permit was included in the legal advertisement for this  
15 text amendment. The County Board has the option of not requiring compliance with the ILR10 outside of  
16 the MS4 Jurisdictional Area except for Floodplain Development Permits and the Zoning Board of Appeals  
17 HAS/HAS NOT recommended requiring compliance with the ILR10 outside of the MS4 Jurisdictional Area.

18

19 Ms. Griest stated that this means that it gives the Zoning Administrator the tools for enforcement because the  
20 language indicating "requiring compliance" triggers a thought in her mind that there is an automatic action  
21 that must take place rather than it being complaint driven.

22

23 Mr. Hall stated that the option is whether to have staff require documentation regarding ILR10 compliance  
24 from someone who comes in for a permit and indicates that they are disturbing more than one acre.

25

26 Ms. Griest stated that if they are subject to ILR10 they should have to submit evidence of their permits.

27

28 Mr. Hall stated that the EPA website is pretty easy to use for staff to determine if someone has an ILR10  
29 permit or not.

30

31 Mr. Passalacqua stated that this is just the State making the County more of a long arm of the law on their  
32 behalf.

33

34 Mr. Hall stated that the question is whether we want to assist in that or not. He said that it is completely  
35 optional that we assist outside of the MS4 Jurisdictional Area.

36

37 Ms. Lee stated that ILR10 is only required when there is more than one acre of disturbance.

38

39 Mr. Thorsland stated that this is asking if the County wants to assist in making sure that people are held to

1 that requirement.  
2

3 Mr. Hall stated that the way that the Draft Ordinance is written, staff will always tell someone when ILR10  
4 applies but this is taking the next step in requiring a copy of the documentation proving that they have  
5 applied. He said that he is not expecting this part of the Ordinance to be recommended or adopted by the  
6 County Board but he thinks that some people would think that if it is a requirement then why is it a big deal.  
7

8 Mr. Passalacqua stated that this is just going to slow up staff and place another layer on them for review of  
9 something that someone has or hasn't done and he disagrees with it.  
10

11 Mr. Hall stated that this will not make them comply but means that staff could not grant a permit until we  
12 know that they comply.  
13

14 Mr. Passalacqua stated that this will just slow things down in the office to a screeching halt.  
15

16 Mr. Randol stated that if they are supposed to do it then they should have done it.  
17

18 Ms. Griest asked Mr. Hall to indicate what the downside to staff is if this is not recommended for approval  
19 by the ZBA or approved by the County Board.  
20

21 Mr. Hall stated that he does not believe that there is any downside but on the other hand it is not a  
22 tremendous benefit either. He said that if it applies staff will ask for a piece of paper and nothing will be  
23 processed until staff receives it and if it doesn't apply staff still has to inform them about ILR10 because we  
24 want them to know. He said that we don't want someone to not know that they are violating ILR10.  
25

26 Mr. Thorsland stated that the aspect remains whether we ask Mr. Hall to verify it or not.  
27

28 The consensus of the Board was the following: The County Board has the option of not requiring  
29 compliance with the ILR10 outside of the MS4 Jurisdictional Area except for Floodplain Development  
30 Permits and the Zoning Board of Appeals HAS NOT recommended requiring compliance with ILR10  
31 outside of the MS4 Jurisdictional Area.  
32

33 Mr. Hall recommended that item #19.2(c)(9) be stricken and the Board agreed.  
34

35 Mr. Thorsland read item #19.C. as follows: The ELUC Memorandum dated 10/29/13 and the Draft  
36 Ordinance that was attached included an optional \$50 fee for the proposed Minor Land Disturbance Erosion  
37 Control (LDEC) Permit. The Zoning Board of Appeals HAS/HAS NOT recommended requiring a fee for  
38 the Minor LDEC Permit. He recommended that item #19.C(1)(e) be stricken and the Board agreed.  
39

1 Mr. Hall stated that the Board could recommend a higher fee because the legal advertisement only discussed  
2 a fee.

3  
4 Ms. Lee asked Mr. Hall if we are discussing one acre or more again.

5  
6 Mr. Hall stated that we are discussing that in the MS4 Jurisdictional Area it is one acre or more or less than  
7 that if it is part of a larger plan of development. He said that going back to one of the very first things that  
8 we found out, if we get an application for a rural house in the MS4 Jurisdictional Area that is one acre and is  
9 being converted from farmland, we would require them to comply with ILR10. He said that a small  
10 subdivision, which is very unlikely that it would be with the County if it were in the MS4 Jurisdictional  
11 Area, that is less than one acre on a lot and is part of a larger part of a planned development a LDEC Permit  
12 will be required and staff will have to help that person draft their own erosion and sedimentation control  
13 plan. He said that one of our zoning technicians already has a seat for a training class this year so that they  
14 can indeed help someone with their erosion and sedimentation control plan and the \$50 will help offset some  
15 of those costs.

16  
17 Ms. Lee asked Mr. Hall to explain the difference between this and getting the ILR10.

18  
19 Mr. Hall stated that the option for the ILR10 is only for outside of the MS4 Jurisdictional Area but this is a  
20 fee for a Land Disturbance Permit which will only happen inside the MS4 Jurisdictional Area.

21  
22 Mr. Thorsland asked Mr. Hall how often staff will have something like this.

23  
24 Mr. Hall stated that he does not know if staff will ever do a Minor LDEC Permit because minor means that  
25 you are part of a larger development and that generally means that you are doing it pursuant to a municipal  
26 approval and not part of our jurisdiction. He said that if the Board does not recommend this fee it isn't like  
27 the County is going to lose a huge amount of money for those permits because it is hard to say how often  
28 they will even apply but on the other hand if we ever see one, staff will be putting much more time in to it.  
29 He said that for a minor permit staff will have to review for a silt fence, a stabilized construction entrance  
30 and make sure that stockpiles are in the right location.

31  
32 Mr. Thorsland asked if staff has already developed a checklist or guide for this process.

33  
34 Mr. Hall stated no. He said that portions of staff are already slated for training this year.

35  
36 Mr. Thorsland asked Mr. Hall if the training costs money.

37  
38 Mr. Hall stated yes.

39



1 Mr. Thorsland stated that \$50 will not make people run away from the MS4 Jurisdictional Area.

2  
3 Mr. Hall stated that at times staff discovers that people have either over or under paid their permit fee  
4 therefore if \$50 is the only difference it will be fairly minor compared to what the real costs will be.

5  
6 Mr. Randol stated that more than likely the cities will annex it anyway. He said that he is in favor of the \$50  
7 fee and recommends that the Zoning Board of Appeals HAS recommended requiring a fee for the Minor  
8 LDEC Permit and the Board agreed.

9  
10 Mr. Thorsland read item #20.A(1)(e) as follows: The Zoning Board of Appeals has reviewed the Draft  
11 handout and found it to be ACCURATE/INACCURATE in summarizing the proposed amendment and  
12 anticipate that the proposed DRAFT handout will be HELPFUL/UNHELPFUL in communicating the  
13 erosion and sediment control requirements.

14  
15 Mr. Thorsland recommended that the Draft handout is ACCURATE and is HELPFUL and the Board agreed.

16  
17 Mr. Thorsland read item #20.A(2)(c) as follows: The Zoning Board of Appeals has reviewed the revised  
18 application form and determined that the revised application form should be ADEQUATE/INADEQUATE  
19 for use upon adoption of the proposed amendment.

20  
21 Mr. Thorsland recommended that the application form should be ADEQUATE and the Board agreed.

22  
23 **Summary Finding of Fact for Case 769-AT-13:**

24  
25 From the documents of record and the testimony and exhibits received at the public hearing conducted on  
26 February 13, 2014; March 13, 2014; May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014;  
27 December 11, 2014; January 15, 2015; the Zoning Board of Appeals of Champaign County finds that:

28  
29 1. Regarding the effect of the proposed text amendment on the Land Resource Management Plan  
30 (LRMP):

31 A. **Regarding Goal 8 Natural Resources:**

- 32 • It will **HELP ACHIEVE** Objective 8.4 that states “**Champaign County will work**  
33 **to ensure that new development and ongoing land management practices**  
34 **maintain and improve surface water quality, contribute to stream channel**  
35 **stability, and minimize erosion and sedimentation.**” because it will **HELP**  
36 **ACHIEVE** the following:

- 37 • Policy 8.4.5 states “**The County will ensure that non-point discharges**  
38 **from new development meet or exceed state and federal water quality**  
39 **standards.**” **WITH OR WITHOUT** the Optional Minimum Standards in

- 1                                    **Section 6 and WHETHER OR NOT ILR10 Compliance will be required**  
 2                                    **by the County outside of the MS4 Jurisdictional Area; and**  
 3                                    •    **Policy 8.4.2 that states “The County will require stormwater management**  
 4                                    **designs and practices that provide effective site drainage, protect**  
 5                                    **downstream drainage patterns, minimize impacts on adjacent properties**  
 6                                    **and provide for stream flows that support healthy aquatic ecosystems.”**  
 7                                    **but ONLY IF the Optional Minimum Standard in Section 6 are**  
 8                                    **approved.**  
 9
- 10                                    •    Based on achievement of the above Objectives and Policies and because it will either  
 11                                    not impede or is not relevant to the other Objectives and Policies under this goal, the  
 12                                    proposed map amendment will **HELP ACHIEVE Goal 8 Natural Resources.**  
 13
- 14                                    **B. The proposed text amendment will NOT IMPEDE the following LRMP goal(s):**
- 15                                    •    **Goal 1 Planning and Public Involvement**  
 16                                    •    **Goal 2 Governmental Coordination**  
 17                                    •    **Goal 3 Prosperity**  
 18                                    •    **Goal 4 Agriculture**  
 19                                    •    **Goal 5 Urban Land Use**  
 20                                    •    **Goal 6 Public Health and Safety**  
 21                                    •    **Goal 7 Transportation**  
 22                                    •    **Goal 9 Energy Conservation**  
 23                                    •    **Goal 10 Cultural Amenities**  
 24
- 25                                    **C. Overall, the proposed text amendment will HELP ACHIEVE the Land Resource**  
 26                                    **Management Plan.**  
 27
- 28                                    2. The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** the purpose of the Zoning  
 29                                    Ordinance because:
- 30                                    •    The proposed amendment **WITH or WITHOUT the Optional Minimum Standards in**  
 31                                    **Section 6 and WHETHER OR NOT ILR10 compliance will be required by the County**  
 32                                    **outside of the MS4 Jurisdictional Area, WILL** conserve the value of real estate throughout  
 33                                    the COUNTY (Purpose 2.0 (b); see Item 16.B).  
 34
- 35                                    •    The proposed amendment **WITH the Optional Minimum Standards in Section 6 and**

1 disregarding **ILR10 compliance outside of the MS4 Jurisdictional Area**, **WILL** promote  
2 the public health, safety, comfort, morals, and general welfare throughout the (Purpose 2.0  
3 (e); see Item 16.E).  
4

5 3. Regarding the alternative version of the text amendment:

6 A. The Zoning Board of Appeals **HAS** recommended the optional “minimum erosion control  
7 and water quality requirements” and included paragraph 6.1F. and Section 6.4 and 6.5 in  
8 their recommendation to the County Board.

9 B. The Zoning Board of Appeals **HAS NOT** recommended requiring compliance with the  
10 ILR10 outside of the MS4 Jurisdictional Area and subparagraph 4.1A.4.c. in the 12.5.14  
11 Draft **IS NOT** included in the recommendation to the County Board.

12 C. The Zoning Board of Appeals **HAS** recommended requiring a fee for the Minor Land  
13 Disturbance Erosion Control Permit and paragraph 12.4B. **IS** included in the  
14 recommendation to the County Board.  
15

16 4. Regarding public outreach to implement the amendment:

17 A. The Zoning Board of Appeals has reviewed a Draft handout for the proposed amendment and  
18 found it to be **ACCURATE** in summarizing the proposed amendment and anticipate that the  
19 proposed Draft handout will be **HELPFUL** in communicating the erosion and sediment  
20 control requirements.

21 B. The Zoning Board of Appeals has reviewed the revised Land Disturbance and Zoning Use  
22 Permit application form and determined that the revised application form should be  
23 **ADEQUATE** for use upon adoption of the proposed amendment.  
24

25 Mr. Thorsland asked the audience if anyone desired to present testimony regarding Case 769-AT-13.  
26

27 Mr. Thorsland called Herb Schildt to testify.  
28

29 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that in the 3/6/15 Draft Storm Water  
30 Management and Erosion Control Ordinance one of the issues during previous discussion was whether the  
31 enforcement was based on complaints. He said that Section 6.4.A., located on page 19, includes the  
32 following: However, the lack of EROSION and SEDIMENT controls shall not itself be a violation of this  
33 Ordinance unless such controls are required pursuant to either the requirements of Section 6.4.D, or a LAND  
34 DISTURBANCE EROSION CONTROL PERMIT, or a STORM WATER DRAINAGE PLAN, or as such  
35 controls may be required by the ZONING ADMINISTRATOR pursuant to an enforcement action. Mr.  
36 Schildt stated that in order to be consistent the following text should be added at the end of the sentence:  
37 “based on a valid complaint”.  
38

39 Mr. Hall stated that Mr. Schildt’s recommendation sounds reasonable.

1

2 Mr. Schildt stated that Section 6.5, General Enforcement, located on page 21, should also include the same  
3 text at the end of the sentence.

4

5 Mr. Hall stated that Section 6.5 could read as follows: In the event that any CONSTRUCTION or LAND  
6 DISTURBANCE that is not subject to the requirement for a LAND DISTURBANCE EROSION  
7 CONTROL PERMIT causes EROSION or SEDIMENTATION on any adjacent property or any adjacent  
8 street or adjacent drainage ditch, roadside ditch, or stream, the ZONING ADMINISTRATOR shall take such  
9 enforcement actions, pursuant to a valid complaint, as are necessary and authorized by Section 9.1.1 and  
10 Section 10 of the Zoning Ordinance and consistent with Land Disturbance Erosion Controls (Section 11) in  
11 this Ordinance to prevent continued EROSION or SEDIMENTATION.

12

13 The Board agreed with the revision to Section 6.5.

14

15 Mr. Hall thanked Mr. Schildt for his comments.

16

17 Mr. Thorsland asked the audience if anyone else desired to present testimony regarding Case 769-AT-13 and  
18 there was no one.

19

20 Mr. Thorsland closed the witness register.

21

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

23

24 Mr. Hall stated that there are a lot of new Documents of Record which need to be added. He said that new  
25 item #15: Supplemental Memorandum for Case 769-AT-13 dated January 15, 2015, with attachments: FFF  
26 thru JJJ; and new item #16: Supplemental Memorandum for Case 769-AT-13 dated March 6, 2015, with  
27 attachments: BBB thru MMM; and new item #17: Supplemental Memorandum for Case 773-AT-14 dated  
28 March 6, 2015, with attachments: A and B; and new item #18: Supplemental Memorandum for Case 773-  
29 AT-14 dated March 12, 2015, with attachment A; and new item #19: Supplemental Memorandum for Case  
30 773-AT-14 dated March 20, 2015, with attachments: A-H; and new item #20: Revised Draft *Storm Water*  
31 *Management and Erosion Control Ordinance* dated 3/6/15 (with annotations).

32

33 Mr. Hall stated that regarding item #2 of the amendment, located on page 49 of the Draft Preliminary  
34 Finding of Fact dated January 15, 2015, the italicized statement under all of the optional parts, included in  
35 the 3/6/15 Draft *Storm Water Management and Erosion Control Ordinance* which were recommended by  
36 the Zoning Board of Appeals will indicate that the ZBA has recommended adoption of the optional  
37 paragraph but will be removed if the County Board chooses not to adopt. He said that for ILR10, Paragraph  
38 4.1.A.4.c. which is on page 14 of the 3/6/15 Draft *Storm Water Management and Erosion Control*  
39 *Ordinance*, will show up as stricken and the note underneath will indicate that Paragraph 4.1.A.4.c is

1 optional and was not recommended for approval by the ZBA. He said that the County Board will be able to  
2 see what was stricken and if they want to add it back in it will be easy for them to do so.

3  
4 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings  
5 of Fact as amended.

6  
7 **Ms. Griest moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of Record  
8 and Findings of Fact as amended. The motion carried by voice vote.**

9  
10 Mr. Thorsland entertained a motion to move to the Final Determination for Case 769-AT-13.

11  
12 **Mr. Passalacqua moved, seconded Ms. Griest to move to the Final Determination for Case 769-AT-13.  
13 The motion carried by voice vote.**

14  
15 **Final Determination for Case 769-AT-13:**

16  
17 **Ms. Griest moved, seconded by Ms. Capel that pursuant to the authority granted in Section 9.2 of the  
18 Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County  
19 determines that:**

20  
21 **The Zoning Ordinance Text Amendment in Case 769-AT-13 should BE ENACTED  
22 by the County Board in the form attached hereto.**

23  
24 Mr. Thorsland requested a roll call vote.

25  
26 The roll was called as follows:

27  
28 **Lee-yes                      Passalacqua-yes                      Randol-yes**  
29 **Capel-yes                      Griest-yes                      Thorsland-yes**

30  
31 Mr. Hall stated that the following dates should be added at the beginning of the Findings of Fact and the  
32 Summary of Evidence: February 26, 2015; March 12, 2015; and March 26, 2015.

33  
34 Mr. Thorsland called for a five minute recess.

35  
36 **The Board recessed at 8:52 p.m.**

37 **The Board resumed at 9:00 p.m.**

38  
39 Mr. Thorsland stated that the Board will now review Case 773-AT-13.



1

2 Mr. John Hall, Zoning Administrator, stated that the Board has not discussed the changes that were made to  
3 this amendment and perhaps the Board has no concerns but he wanted to touch base before the Board got too  
4 deep in the finding.

5

6 Mr. Thorsland asked Mr. Hall if he is referring to the Board's concerns regarding water wells.

7

8 Mr. Hall stated yes. He said that as it happens a requirement has recently been established for abandoned  
9 septic tanks. He said that when he checked last fall there were no requirements for abandoned septic tanks  
10 but now there are requirements. He said that an abandoned septic tank has to be pumped out and made  
11 dysfunctional which is already a requirement that is being enforced by the health department but the draft  
12 amendment states that if a principal building is being demolished and is not being replaced then the water  
13 well and septic tank must be addressed. He said that if the principal building is not a single family dwelling  
14 or a multi-family building with four or fewer units then the asbestos abatement requirements will also apply.  
15 He said that if someone is not disturbing one acre then no permit is required but these optional minimum  
16 standards still apply. He said that most of the demolition that staff will see will either be demolition of an  
17 old home after a new home is constructed or an old garage or shed that is being demolished. He said that for  
18 the most part, he does not expect staff to see very many demolition permits or even grading permits. He said  
19 that the way that this amendment is structured is that the optional minimum standards apply even if you are  
20 not disturbing an acre. He said that he has done his best to not make the other parts of this amendment any  
21 more burdensome than they already are.

22

23 Mr. Passalacqua stated that this is much like a 10' x 10' garden shed in that even though a permit is not  
24 required it must be built within the requirements of the Zoning Ordinance.

25

26 Mr. Hall stated yes.

27

28 Ms. Lee asked Mr. Hall to explain any exceptions with this amendment.

29

30 Mr. Hall stated that agriculture would be exempt. He said that if a farmer is tearing down an old farmstead  
31 and is going to reclaim the land for farming it would be called agriculture and would be exempt.

32

33 Mr. Randol asked if a farmer has to seal the existing water well.

34

35 Mr. Hall stated that sealing the existing water well still applies but staff is not issuing a permit therefore staff  
36 does not have to ask about it. He said that the way that this Ordinance is written, all of the exemptions that  
37 apply in Case 769-AT-13 also apply here.

38

39 Ms. Lee asked if utility companies have to comply with this ordinance.

1

2 Mr. Hall stated that utility companies do not have to do anything with us.

3

4 Mr. Thorsland stated that at the last public hearing for this case the Board requested that staff obtain  
5 information regarding wells and septic systems. He asked the Board if there were any questions regarding  
6 the information that staff distributed to the Board for review.

7

8 Mr. Passalacqua stated that the only commentary about reuse is in the first paragraph of the Administrative  
9 Code Section 920.120.

10

11 Mr. Hall stated yes. He said that the *Administrative Code* mentions reuse and he did not believe that Case  
12 773-AT-14 needed to be burdened by it.

13

14 Mr. Thorsland stated that Mr. Burdin gave testimony at the last public hearing regarding the care that he took  
15 to protect his well. Mr. Thorsland stated that he believes that people will take care of their existing wells  
16 because they are a big investment.

17

18 Mr. Hall stated that staff did find an example of one county health department that has made explicit  
19 provisions for reuse but our own health department does not have any explicit rules, although they are open  
20 to that idea. He said that this is all up to the Health Department.

21

22 Mr. Thorsland asked the Board if there were any further questions and there were none.

23

24 Mr. Thorsland stated that the Board could now review the Summary Finding of Fact on page 13 of the  
25 Preliminary Draft Finding of Fact dated January 15, 2015.

26

27 **Summary Finding of Fact for Case 773-AT-14:**

28

29 From the documents of record and the testimony and exhibits received at the public hearing conducted on  
30 May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014; December 11, 2014; January 15, 2015,  
31 the Zoning Board of Appeals of Champaign County finds that:

32 1. Regarding the effect of the proposed text amendment on the Land Resource Management Plan  
33 (LRMP):

34 A. **Regarding Goal 8 Natural Resources:**

- 35 • **If the Optional Minimum Standards in Related Case 769-AT-13 are approved, It**  
36 **WILL HELP ACHIEVE** Objective 8.4 that states “**Champaign County will work**  
37 **to ensure that new development and ongoing land management practices**  
38 **maintain and improve surface water quality, contribute to stream channel**  
39 **stability, and minimize erosion and sedimentation.” because it WILL HELP**

- 1                   **ACHIEVE** the following:
- 2                   • Policy 8.4.2 that states “**The County will require stormwater management**
- 3                   **designs and practices that provide effective site drainage, protect**
- 4                   **downstream drainage patterns, minimize impacts on adjacent properties**
- 5                   **and provide for stream flows that support healthy aquatic ecosystems.”**
- 6                   • Based on achievement of the above Objectives and Policies and because it will either not
- 7                   impede or is not relevant to the other Objectives and Policies under this goal, the proposed
- 8                   map amendment will **HELP ACHIEVE Goal 8 Natural Resources.**
- 9
- 10            B.    The proposed text amendment will **NOT IMPEDE** the following LRMP goal(s):
- 11                   •       **Goal 1 Planning and Public Involvement**
- 12                   •       **Goal 2 Governmental Coordination**
- 13                   •       **Goal 3 Prosperity**
- 14                   •       **Goal 4 Agriculture**
- 15                   •       **Goal 5 Urban Land Use**
- 16                   •       **Goal 6 Public Health and Safety**
- 17                   •       **Goal 7 Transportation**
- 18                   •       **Goal 9 Energy Conservation**
- 19                   •       **Goal 10 Cultural Amenities**
- 20
- 21            C.    Overall, **IF the Optional Minimum Standards in Related Case 769-AT-13 are approved,**
- 22                   the proposed text amendment will **HELP ACHIEVE** the Land Resource Management Plan.
- 23
- 24    2.    The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** the purpose of the Zoning
- 25            Ordinance but only **IF the Optional Minimum Standards in Related Case 769-AT-13 are**
- 26            **approved, because:**
- 27                   •       The proposed text amendment will HELP conserve the value of land, BUILDINGS, and
- 28                   STRUCURES throughout the COUNTY (Purpose 2.0(b); see Item 16.B.).
- 29                   •       The proposed text amendment will HELP promote the public health, safety, comfort, morals,
- 30                   and general welfare (Purpose 2.0 (e); see Item 16.E.).
- 31

32    The Board agreed with the Summary Finding of Fact as written.

33

34    Ms. Griest noted that item #8 on page 3 of the Finding of Fact for Case 773-AT-14 should indicate WILL

35    NOT IMPEDE.

1

2 Mr. Hall stated that item #16.B. on page 7 should indicate that the Zoning Board of Appeals HAS included  
3 Sections 6.1, 6.4 and 6.5 in their recommendation to the County Board in related Case 769-AT-13.

4

5 Mr. Hall stated that the following dates should be added to the Summary Finding of Fact: February 26, 2015;  
6 March 12, 2015; and March 26, 2015.

7

8 Mr. Thorsland asked Mr. Hall to indicate the new Documents of Record for Case 773-AT-14.

9

10 Mr. Hall stated that it would be sufficient to indicate during this public hearing that the same new  
11 Documents of Record for Case 769-AT-13 are relevant to Case 773-AT-14.

12

13 Ms. Griest stated that the Documents of Record should be revised to indicate Case 769-AT-13 and not Case  
14 769-AT-14.

15

16 Mr. Hall stated that the Documents of Record for Case 773-AT-14 will be made similar to the Documents of  
17 Record for Case 769-AT-13.

18

19 Mr. Thorsland asked the Board if there were any additional questions related to Case 773-AT-14.

20

21 Mr. Thorsland stated that there are no names on the witness register for Case 773-AT-14 and asked the  
22 audience if anyone desired to sign the witness register to present testimony at this time and there was no one.

23

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

26

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

29

30 Mr. Thorsland entertained a motion to move to the Final Determination for Case 773-AT-14.

31

32 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 773-AT-14.  
33 The motion carried by voice vote.**

34

35 **Final Determination for Case 773-AT-14:**

36

37 **Ms. Capel moved, seconded by Mr. Randol that pursuant to the authority granted by Section 9.2 of  
38 the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County  
39 determines that:**

1           **The Zoning Ordinance Text Amendment to amend the Storm Water Management and**  
 2           **Erosion Control Ordinance requested in Case 773-AT-14 should BE ENACTED by**  
 3           **the County Board in the form attached hereto.**  
 4

5 Mr. Thorsland entertained a roll call vote.

6  
 7 The roll was called as follows:

8			
9	<b>Griest-yes</b>	<b>Lee-yes</b>	<b>Passalacqua-yes</b>
10	<b>Randol-yes</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>
11			

12 Mr. Hall thanked the Board and indicated that both cases will be at the Environment and Land Use  
 13 Committee Meeting on April 9, 2015, in the John Dimit Meeting Room.

14  
 15 Ms. Lee stated that page 1 of the March 20, 2015, Supplemental Memorandum for Case 773-AT-14  
 16 indicates an item D.

17  
 18 Mr. Hall stated that item D was included in the legal advertisement but was not included in the Ordinance  
 19 because after it was included in the legal advertisement for Case 773-AT-14 the issue was dealt with in a  
 20 different manner in Case 769-AT-13 therefore item D. was not part of the recommendation for Case 773-  
 21 AT-14.

22  
 23 Ms. Lee stated that the legal advertisement is still out there.

24  
 25 Mr. Thorsland stated that sometimes the initial legal advertisement does not accurately reflect what is done  
 26 by the Board six months or more after it is published.

27  
 28 Mr. Hall stated that he will let the ZBA know if the County Board decides to add it.

29  
 30 Ms. Lee asked Mr. Hall if he believes that is a possibility.

31  
 32 Mr. Hall stated no.

33  
 34 **6. New Public Hearings**

35  
 36 None

37  
 38 **7. Staff Report**  
 39



1 None

2

3 **8. Other Business**

4 A. Review of Docket

5

6 Mr. Thorsland stated that he will be absent from the April 16, 2015, meeting. He noted that since there will  
7 only be five members scheduled for the April 16<sup>th</sup> meeting it is very important for the Board to notify staff of  
8 any absences. He said that he will be present for the April 30<sup>th</sup> meeting although Mr. Passalacqua and Ms.  
9 Capel will be absent therefore only four members are scheduled to be present for that meeting. He requested  
10 that the Board call staff immediately if they are unable to attend the April 30<sup>th</sup> meeting so that the meeting  
11 can be cancelled.

12

13 Mr. Hall stated that there may reason to cancel the April 30<sup>th</sup> meeting anyway because staff has not received  
14 a complete application for Case 795-S-14. He said that he is hoping that the petitioners can work with the  
15 Village of Savoy but he will continue to indicate the case on the docket until he finds out something  
16 otherwise. He said that the only case that could be ready for the Board's review on April 30<sup>th</sup> would be Case  
17 685-AT-11. He said that Cases 799-AM-15, 800-S-15 and 801-V-15 will open on April 16<sup>th</sup> but will not be  
18 completed at that hearing. He said that the Board could decide at the April 16<sup>th</sup> meeting if Cases 799-AM-  
19 15, 800-S-15 and 801-V-15 should be continued to the April 30<sup>th</sup> meeting and if not there may not be a need  
20 for the April 30<sup>th</sup> meeting.

21

22 Ms. Lee asked Mr. Hall if staff has received any new information regarding Case 792-V-14.

23

24 Mr. Hall stated that Ms. Chavarria has received a few things regarding Case 792-V-14 and the petitioner is  
25 working on the requested information for the Board.

26

27 Mr. Thorsland stated that the Board should consider cancelling the April 30<sup>th</sup> meeting tonight.

28

29 Mr. Hall stated that at the County Board meeting last week the text amendment for Case 791-AT-14 received  
30 a protest from the City of Urbana although he personally believes that it was a misguided protest. He said  
31 that the County Board approved Case 791-AT-14 and Case 797-AM-15 at their March 19, 2015. He noted  
32 that only one County Board member did not vote for approval of Case 791-AT-14.

33

34 Mr. Thorsland stated that considering the possibility of at least two Board members being absent for the  
35 April 30<sup>th</sup> meeting the Board may want to cancel the meeting tonight.

36

37 Ms. Lee asked staff if they knew the status of the vacant Board seat.

38

39 Mr. Hall stated that whether or not the April 30<sup>th</sup> meeting should be cancelled should not be based on the

1 presence of a new Board member. He said that what is critical is that it is possible that only a bare quorum  
2 of experienced Board members could be present at the April 30<sup>th</sup> meeting.

3  
4 Ms. Griest stated that even if Cases 799-AM-15, 800-S-15 and 801-V-15 were continued to the April 30<sup>th</sup>  
5 meeting she cannot believe that with a bare quorum present that the petitioner would want to move to a final  
6 determination because it certainly limits their opportunities for a successful outcome.

7  
8 Mr. Thorsland stated that even if a new Board member was present for the April 30<sup>th</sup> meeting that new  
9 member was not present for the opening of Cases 799-AM-15, 800-S-15 and 801-V-15 therefore it would be  
10 difficult for them to be involved in a final determination.

11  
12 Mr. Thorsland entertained a motion to cancel the April 30, 2015, Zoning Board of Appeals meeting.

13  
14 **Ms. Griest moved, seconded by Ms. Capel to cancel the April 30, 2015, Zoning Board of Appeals**  
15 **meeting. The motion carried by voice vote.**

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

18  
19 None

20  
21 **10. Adjournment**

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

24  
25 **Ms. Griest moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**

26  
27 The meeting adjourned at 9:24 p.m.

28  
29

30  
31 Respectfully submitted

32  
33

34  
35  
36 Secretary of Zoning Board of Appeals

37  
38

39

## **CASE NO. 792-V-14**

**SUPPLEMENTAL MEMORANDUM**

**May 6, 2015**

**Petitioner: Robert Frazier**

**Request: Authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District on the subject property described below:**

**Part A. Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.**

**Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.**

**Subject Property: Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.**

**Site Area: 51,625 square feet (1.19 acres)**

**Time Schedule for Development: Already in use**

**Prepared by: Susan Chavarria  
Senior Planner**

**John Hall  
Zoning Administrator**

---

### **STATUS**

The February 12, 2015 ZBA hearing provided new testimony that will be reflected in a revised Summary of Evidence. The minutes from that meeting and the revised Summary of Evidence are Attachments D and H, respectively.

Mr. Frazier provided additional square footage information on March 03, 2015. The required parking according to the Zoning Ordinance is now 67 spaces, rather than 58 spaces, when considering second floor warehouse and office areas. A new legal advertisement will need to be posted for this case due to the substantial increase in the proposed variance. There are concerns with the Revised Site Plan received March 30, 2015, including parking and permitting for previous construction, discussed below.

During the February 12, 2015 public hearing, the Zoning Administrator noted that some businesses in Mr. Frazier's buildings may not be permissible in the I-1 Light Industry Zoning District. A special condition has been proposed to ensure that only those uses allowed in the I-1 District can be located on the subject property.

---

### **REVISED SUMMARY OF EVIDENCE**

The following revisions were made to the Summary of Evidence:

- **Section 5.D. - added details from the Revised Site Plan received March 30, 2015**
- **Section 6.I. - calculated the required number of parking spaces based on Revised Site Plan received March 30, 2015**

- **Section 7.B. – added testimony about parking issues**
- **Section 11.B. – added comments received from Keith Padgett, Champaign Township Highway Commissioner**
- **Section 11.D. - added comments received from Rob Kowalski, Assistant Director, City of Champaign Planning and Development**
- **Section 11.F. – added testimony from adjacent business operators from the February 12, 2015 ZBA hearing.**
- **Section 13 – added 4 proposed special conditions**
- **Added Items 3 through 9 to Documents of Record**

## **PARKING CONCERNS**

On March 1, 2015, Mr. Frazier leased parking space from Isaacs Properties on adjacent property 306 Tiffany Court. The gravel area holds 32 vehicles. The contract ends on February 28, 2016, but can be extended at Mr. Frazier's option until February 28, 2018. An email received by the Zoning Department on March 18, 2015, includes the signed lease and a map of the leased parking area (see Attachment A). City of Champaign Planning Department was consulted to see if a long-term parking lease on a property within the City of Champaign would require subdivision approval by the city in addition to any applicable County regulations. Rob Kowalski, Assistant Director of Planning and Development for the City of Champaign, responded in an email received May 1, 2015 that city subdivision approval would not be necessary if Mr. Frazier decides to lease spaces from his neighbor; however, the neighbor would still have to meet city regulations for parking (see Attachment F).

Section 7.4.1 of the Zoning Ordinance states that "All off-street parking spaces shall be located on the same lot or tract of land as the use served". With the leased parking, Mr. Frazier has 80 parking spaces and 3 accessible spaces available, which exceeds Zoning Ordinance requirements for number of spaces but does not provide the required spaces on-site. From an enforcement perspective, a short-term lease is an unacceptable solution to providing sufficient parking for the subject property.

In the revised Site Plan received March 30, 2015 (Attachment B), Mr. Frazier proposes 9 head-in parking spaces on the west side of the property, adjacent to Tiffany Court. As per Section 7.4.1.A. 3.a of the Zoning Ordinance, a variance for parking within 10 feet of the property line will be necessary in addition to the setback and front yard variance already advertised.

Comments were received from Keith Padgett, Champaign Township Highway Commissioner, regarding these parking spaces in relation to the cul-de-sac, utilities, and pedestrian sidewalk on the west side of Mr. Frazier's property. It is the Zoning Administrator's recommendation that only parallel parking along the west side of the building be allowed and that the curb should be replaced where it is not needed for driveway ingress/egress.

Mr. Frazier also proposes that there can be 10 inside parking spaces in the "New Garage" area that is 2,805 square feet in area. This is not enough room to have 10 parking spaces according to Section 7.4.1.A.2 of the Zoning Ordinance, which requires 300 square feet per space including both parking and maneuvering area.

## **PREVIOUS PERMITTING**

The revised site plan received March 30, 2015 indicated a second story storage area that was not previously indicated in any site plan of the property's zoning record. This 1,500 square feet area will require a Zoning Use Permit application for a change of use and payment of corresponding fees.

The revised site plan received March 30, 2015 does not indicate the accessible restrooms that were part of the approved site plan from Zoning Use Permit #351-02-03. In the new floor plan, there are two small spaces marked with what appear to be "BH1" and BH2". These may be restrooms but it is not clear and there is no indication that these are accessible. As part of a revised site plan, Mr. Frazier will need to provide more information regarding where the accessible restrooms are located including dimensions of the restrooms, door width, hardware details, and whether there is a 5 feet diameter clear turning radius in each accessible restroom.

### PROPOSED SPECIAL CONDITIONS

- A. The Petitioner shall maintain the required 67 parking spaces either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department. Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

**To ensure that adequate parking is provided for the subject property.**

- B. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

**To ensure that safety is a priority in designing parking for the subject property.**

- C. Within one year of Final Determination in Case 792-V-14, the property owner must reconstruct the curb that was removed and must submit all necessary engineering documentation that would be required for meeting the original design and specifications in the Stahly Subdivision.**

The special condition stated above is to ensure the following:

**To ensure that the curb is restored so that the street right of way functions according to its original design.**

- D. A Change of Use Permit must be approved for each change of use on the subject property.**

The special condition stated above is to ensure the following:

**To ensure that only those uses authorized in the I-1 Light Industry District can be located on the subject property.**

### ATTACHMENTS

- A Email from Robert Frazier received March 18, 2015, with attachments
- B Revised Site Plan received March 30, 2015
- C Email from Keith Padgett, Champaign Township Highway Commissioner received April 30, 2015
- D Approved minutes from February 12, 2015 ZBA hearing
- E Photos submitted during February 12, 2015 ZBA hearing from Lloyd Allen and Steve Koester
- F Email from Rob Kowalski, City of Champaign, received May 1, 2015
- G Paving Plan and Profile for Stahly Subdivision, received August 12, 1986
- H Revised Draft Summary of Evidence dated May 6, 2015



**Susan Chavarria**

---

**From:** Robert Frazier <lexillini@gmail.com>  
**Sent:** Wednesday, March 18, 2015 11:56 AM  
**To:** Susan Chavarria  
**Subject:** 310 Tiffany - Additional parking  
**Attachments:** Lease parking spaces 3.pdf; Lease parking spaces 2.pdf; Lease parking spaces 1.pdf; Parking image.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Miss Chavarria,

Here is the information for the additional parking spaces for 310 Tiffany Ct.  
If you have any questions, please do not hesitate to contact me at 217-202-1359.

Thank you

Robert Frazier

RECEIVED

MAR 18 2015

CHAMPAIGN CO. P & Z DEPARTMENT

**LEASE AGREEMENT**

This agreement made this 1<sup>st</sup> (first) day of MARCH, 2015 between ISAACS PROPERTIES, of CHAMPAIGN, ILLINOIS, hereinafter called Lessor, and ROBERT FRAZIER, LEX ILLINI, CHAMPAIGN, IL 61822 called Lessee.

WITNESSETH THAT:

1. **Leased premises:** Lessor hereby leases to Lessee the gravel area to be used as PARKING SPACE, also known as 306 Tiffany Court, Champaign, Illinois, 61822.
2. **Rental Amount:** Lessee agrees to pay as rent for said premises the sum of \$1,500.00 per year beginning on the 1<sup>st</sup> day of March, 2015 to the 28<sup>th</sup> day of February, 2016. Tenant's option to extend lease for the period from the 1<sup>st</sup> day of March, 2016 to the 28<sup>th</sup> day of February, 2018. Rent to remain in the amount of \$1,500.00 per year.
3. **Sublet or Assignment:** Lessee shall not assign or sublet this lease without the written consent of the Lessor, which consent shall not be unreasonably withheld.
4. **Lessor's Access:** Lessee agrees that Lessor shall have the right of access to the leased premises during business hours or upon reasonable notice to Lessee for the purposes of inspection and repairing the same. Lessors shall have the right to place thereon a notice for sale or for rent in case the same shall become necessary.
5. **Default:** If the rent or any part thereof shall at any time be in arrears and unpaid, and shall so remain for ten (10) days following receipt of written notice thereof by Lessee, or if said Lessee or its assigns, shall fail to keep and perform any of the covenants, agreements or conditions of this lease on its part to be performed, which shall remain uncorrected after thirty (30) days written notice thereof, (unless Lessee shall have commenced correction thereof and same is not curable within thirty (30) days, or if Lessee shall be adjudged as bankrupt, or shall make an assignment for the benefit of creditors, or if a receiver for the

RECEIVED

MAR 18 2015

CHAMPAIGN CO. P & Z DEPARTMENT

Lessee hereunder be appointed in any action or proceedings by or against the Lessee (and not be discharged within one hundred twenty (120) days, or if the interest of the Lessee in said premises shall be sold under execution or other legal process, the Lessor may enter in and upon said premises and again have and repossess and enjoy the same as if this lease had not been made, and thereupon this lease, and everything herein contained on the part of said Lessor to be kept and performed shall cease, determine and be utterly void, without prejudice to the right of the Lessor to recover from said Lessee or assigns all rent due up to the time of such entry. The adverse determination against Lessee of a proceeding or suit in forcible entry and detainer or in ejectment or otherwise, after any default by the Lessor shall relet said premises for the remainder of said term for the highest rent obtainable, and may recover from said Lessee any deficiency between the amount so obtained and the amount due and owing throughout the term hereof. All the remedies hereinbefore given to Lessor and all rights and remedies given to it by law not inconsistent herewith shall be cumulative and concurrent.

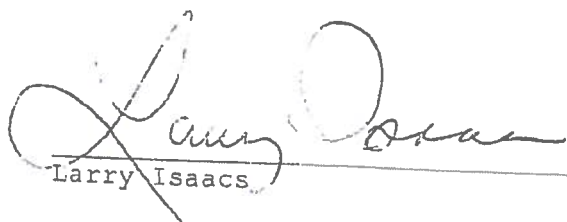
6. **Lease Binding:** This agreement shall be binding upon the respective heirs, devisees, administrators, executors and assigns of the parties hereto.
7. **Notices:** Notices required to be sent under this lease shall be sent to the Lessee at ROBERT FRAZIER, LEX ILLINI, CHAMPAIGN, IL 61822.
8. **Interpretation:** This agreement shall be interpreted according to the laws of the State of Illinois.


RECEIVED

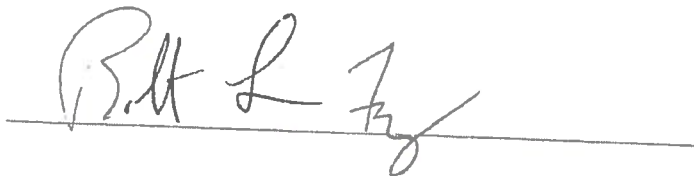
MAR 18 2015

CHAMPAIGN CO. P & Z DEPARTMENT

IN WITNESS WHEREOF, the parties hereto have hereunto  
executed this lease the day and year first above written.

  
Larry Isaacs (SEAL)

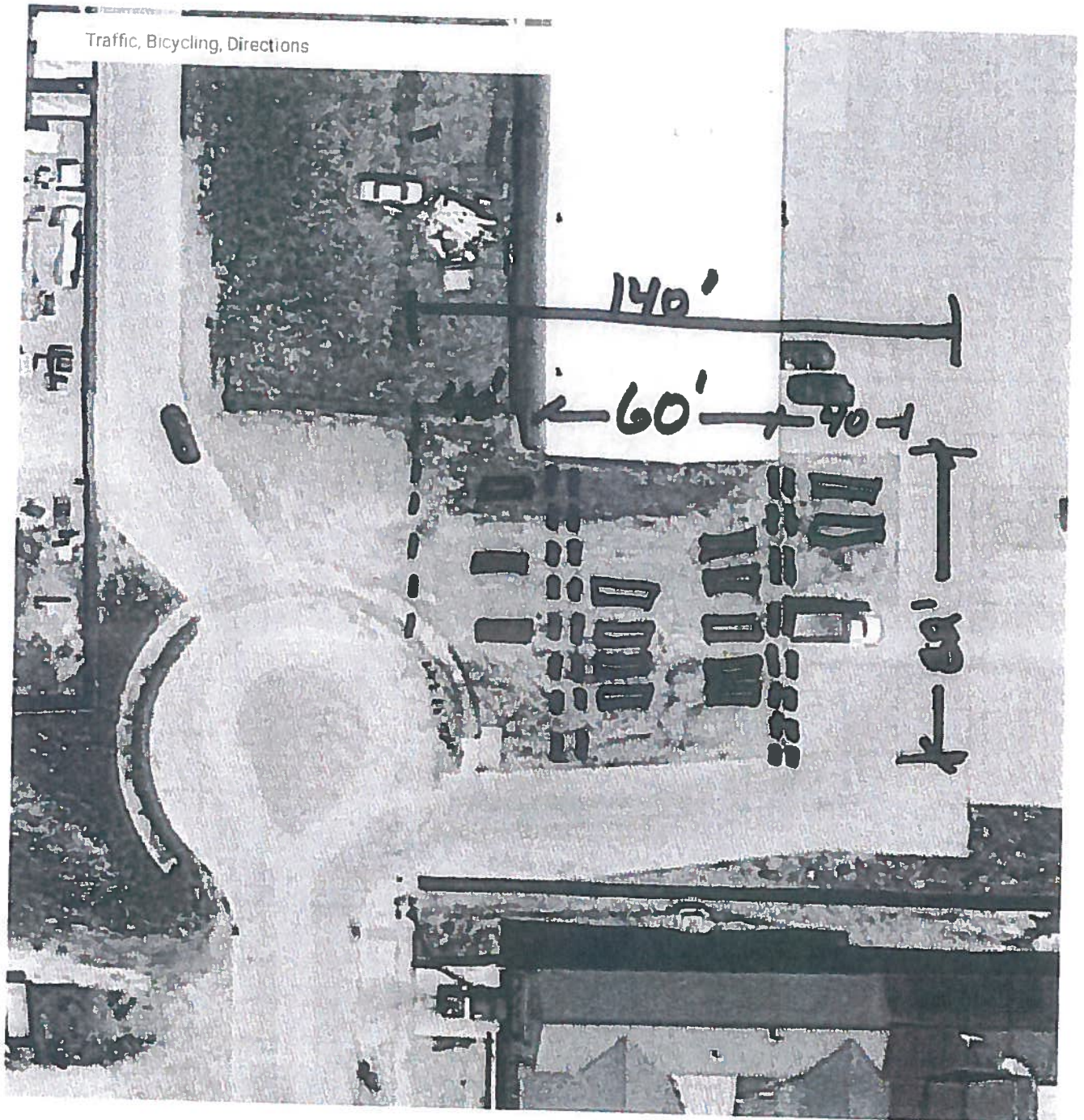
  
Daniel Isaacs (SEAL)



Please add phone number

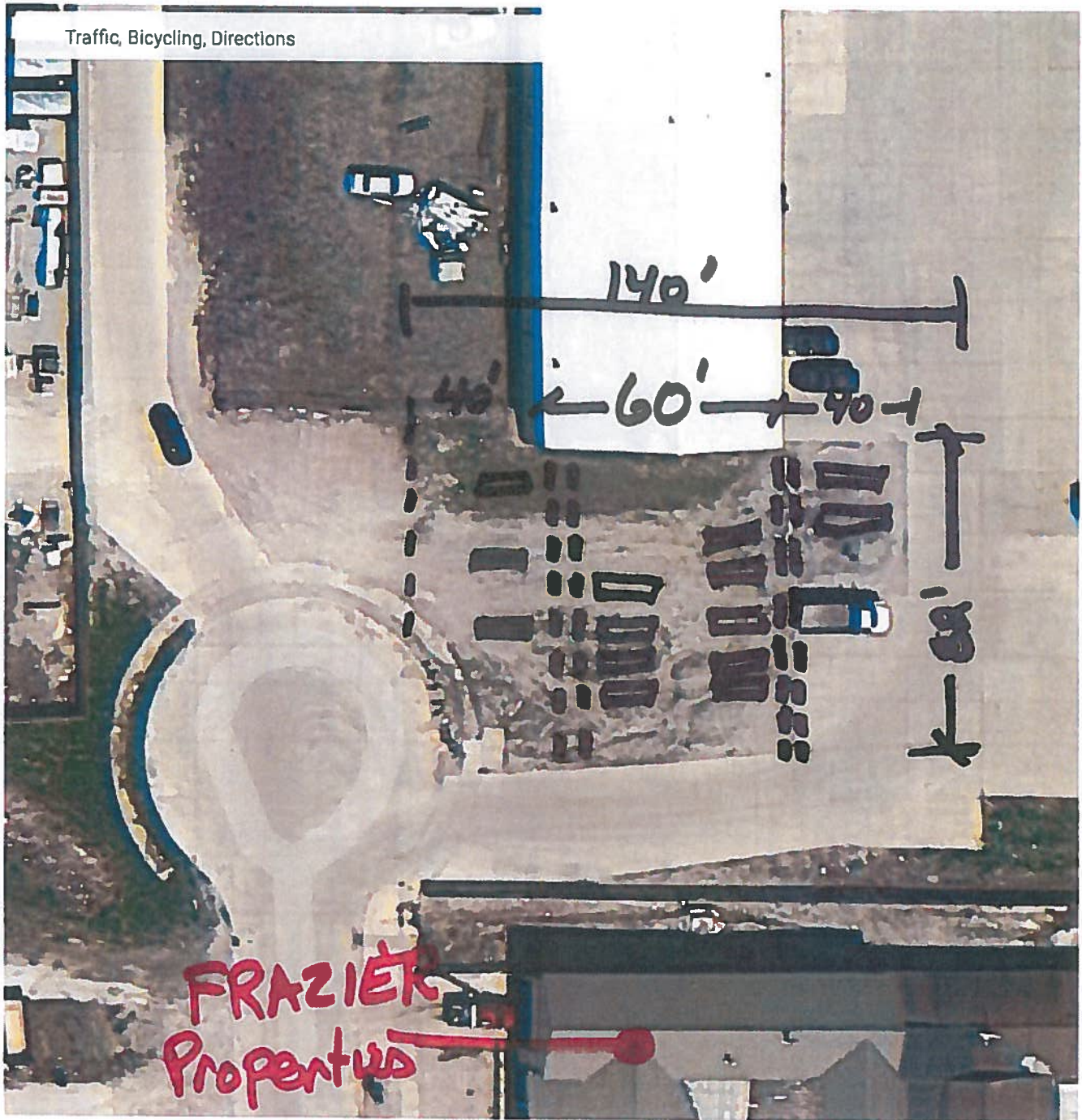
RECEIVED  
MAR 18 2015  
CHAMPAIGN CO, P & Z DEPARTMENT





ADDITIONAL TOTAL PARKING SPACES RECEIVED  
 FOR 310 TIFFANY CHAMPAIGN CO. P & Z DEPARTMENT  
 32 SPACES - 4 Rows of 8





ADDITIONAL TOTAL PARKING SPACES

RECEIVED

MAR 30 2015

CHAMPAIGN CO. P & Z DEPARTMENT

FOR

310 TIFFANY

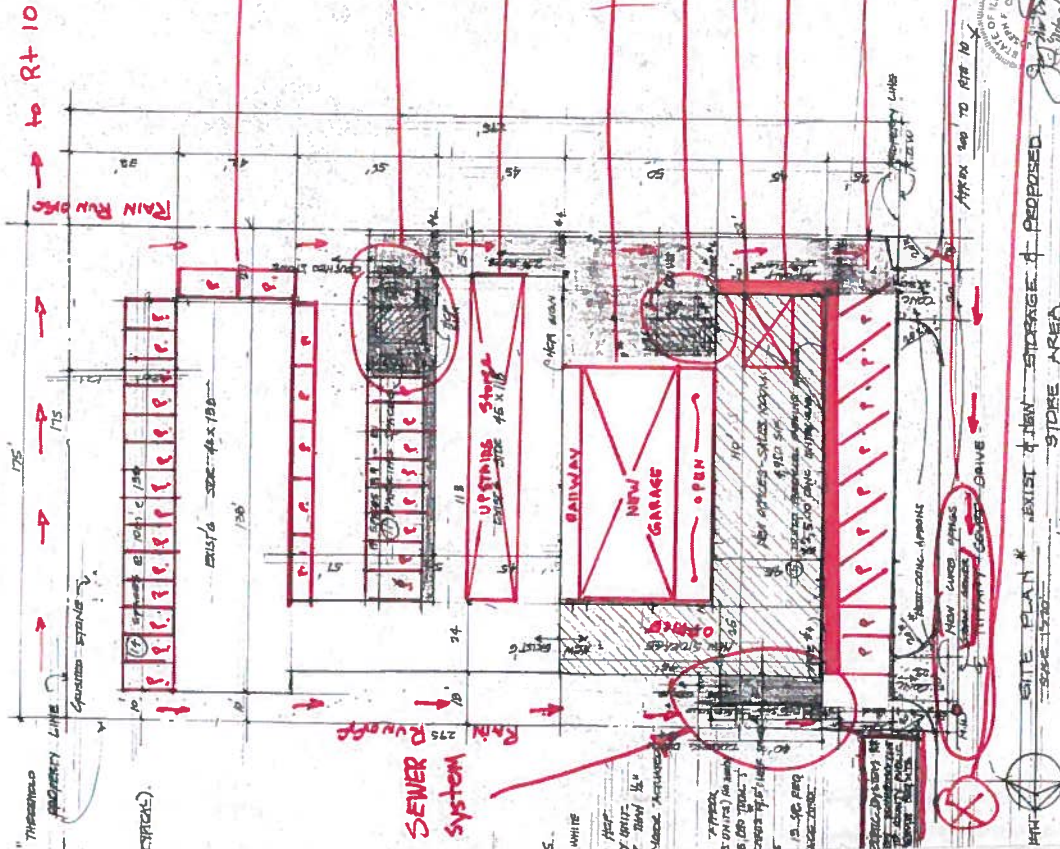
32 Spaces - 4 Rows of 8

Imagery ©2015 Google 20 ft



RECEIVED  
05/14/15  
CONSTRUCTION

### Rain Runoff



29 Parking Spaces

Handicap Parking 2-Spaces

EXISTING upstairs storage 1500 sq ft since 1980

10 INSIDE parking spaces in Garage 85 x 33 - 2805 sq ft

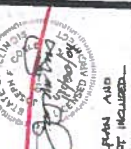
Handicap Parking 1-Space

UPSTAIRS EXECUTIVE OFFICE LOUNGE FOR PRODUCE - FORMER PROPERTIES - 300 sq ft  
NEW 5 ft wide concrete HANDICAP Access to Front offices

9 parking spaces

storm sewer

32 - ADDITIONAL parking spaces on TIFFANY court North side  
see Diagram

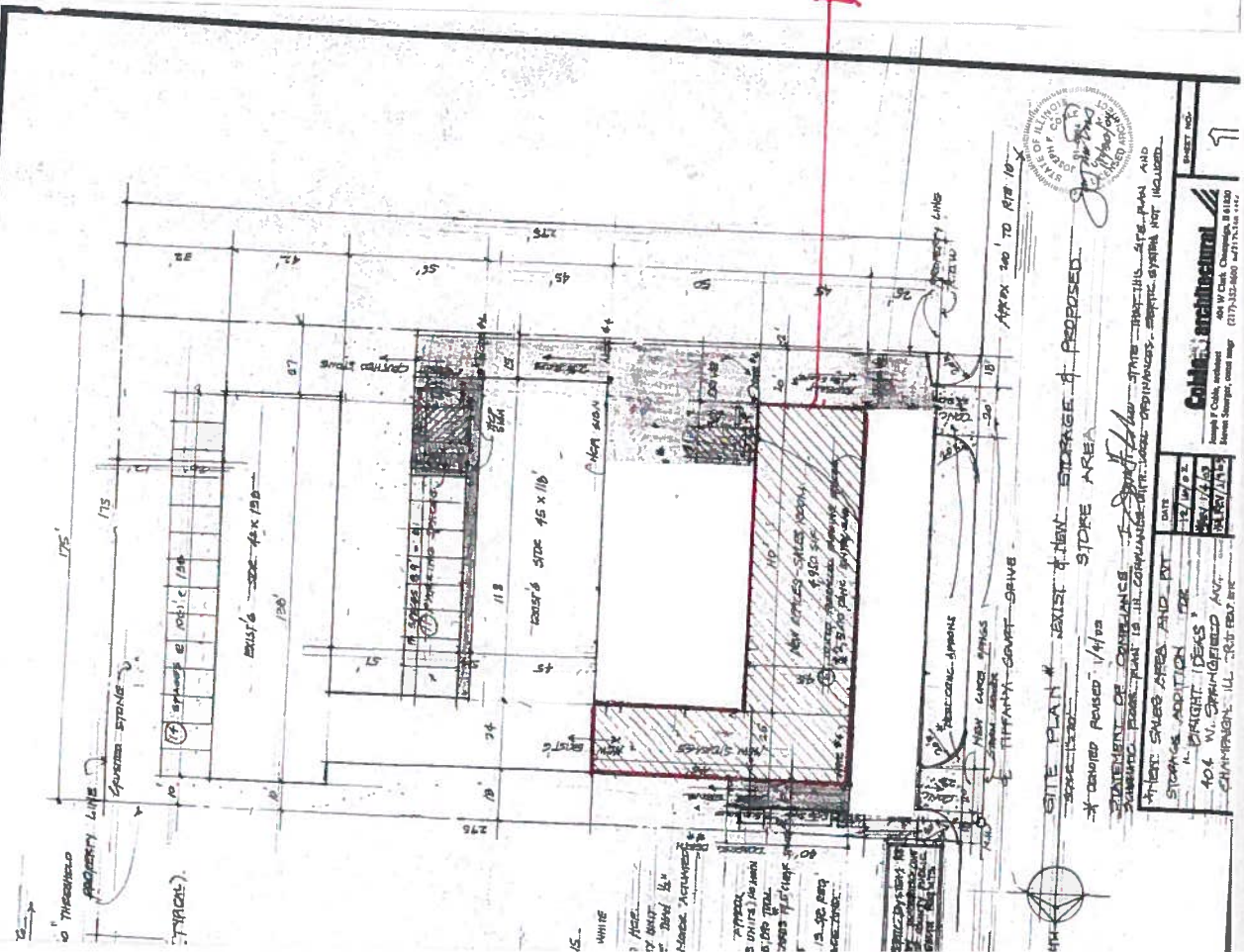


SITE PLAN \* EXIST & NEW STORAGE & PROPOSED STORE AREA  
 \* DENIED REVIEW 1/4/15  
 STATEMENT OF COMPLIANCE: I, *[Signature]*, State of Illinois, hereby certify that the above information is true and correct to the best of my knowledge and belief. I am a duly licensed professional engineer in the State of Illinois.  
 404 W. Springfield Ave.  
 CHICAGO, ILL. 60654

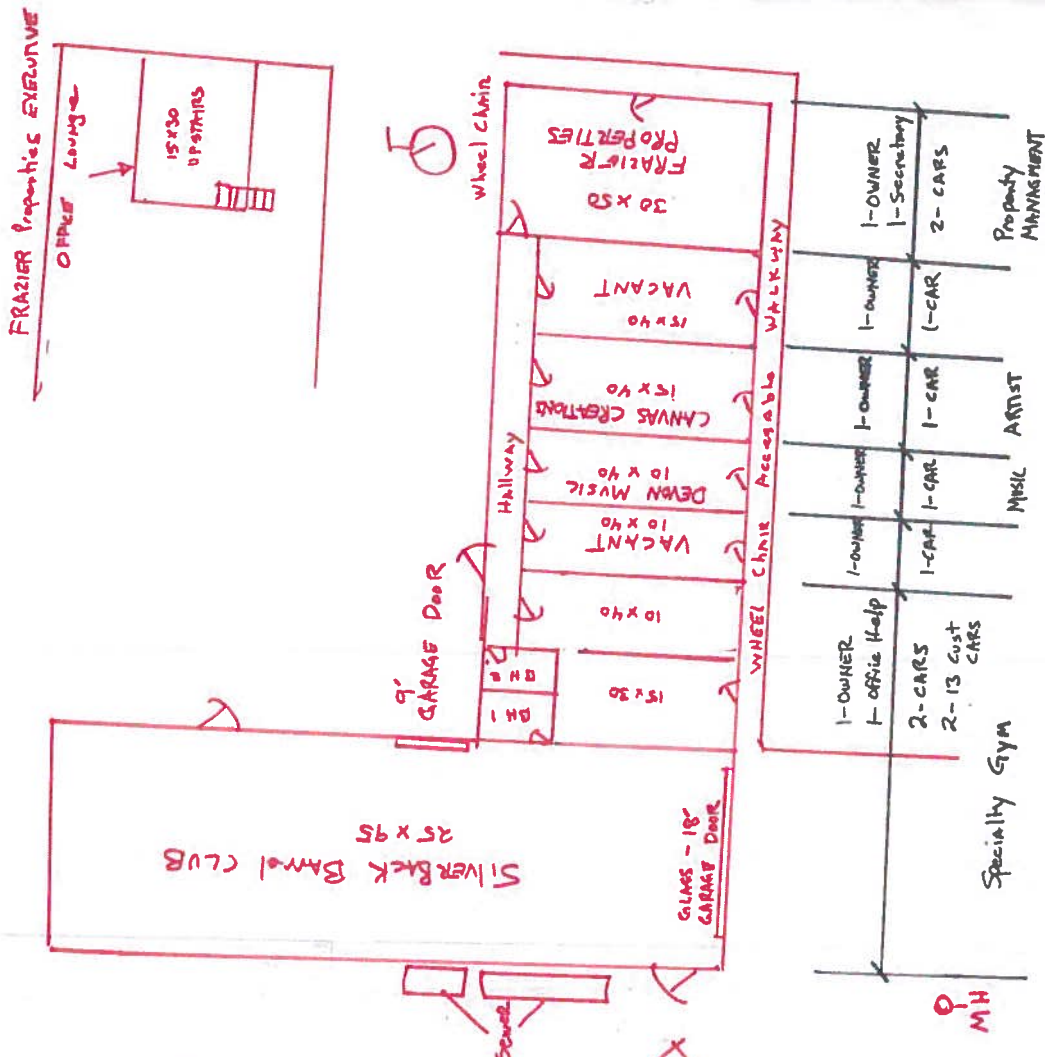
DATE	05/14/15
SCALE	AS SHOWN
PROJECT NO.	
CLIENT	
PROJECT	
DESIGNER	
CHECKER	
DATE	05/14/15
SCALE	AS SHOWN
PROJECT NO.	
CLIENT	
PROJECT	
DESIGNER	
CHECKER	

**Cable's Architectural**  
 Joseph P. Cable, Architect  
 404 W. Springfield Ave.  
 Chicago, Illinois 60654  
 (773) 353-8800

RECEIVED  
 11/18/15  
 CHICAGO, IL 60601



**SITE PLAN - EXIST & NEW STORAGE & PROPOSED STORE AREA**  
 DATE: 11/18/15  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT NO.: 14/08  
 STATEMENT OF COMPLIANCE: [Signature]  
 PROJECT NO.: 14/08  
 PROJECT NAME: 404 W. SPRINGFIELD AVE. CHICAGO, ILL. 60607  
 PROJECT ADDRESS: 404 W. SPRINGFIELD AVE. CHICAGO, ILL. 60607  
 PROJECT CONTACT: [Signature]  
 PROJECT PHONE: (312) 352-8600  
 PROJECT FAX: (312) 352-8600  
 PROJECT EMAIL: [Signature]  
 PROJECT WEBSITE: [Signature]







**Susan Chavarria**

---

**From:** highwaycommissioner@champaigntownship.com  
**Sent:** Thursday, April 30, 2015 10:49 AM  
**To:** Susan Chavarria  
**Cc:** Highwaycommissioner; Supervisor; Assessor  
**Subject:** Re: 310 Tiffany Court - Frazier zoning case 792-V-14

Hello Susan,

Concerning the parking spaces = As long as ( even with them angled ) the vehicles do not extend over the pedestrian sidewalk, hindering pedestrian foot travel - Champaign Township Road District has no problem with the parking spaces in question.

The missing curb and the driving over unprotected utilities in the area between the sidewalk and the street is still a issue. 6 inches of concrete poured in this area will make Champaign Township Road District as agreeable as can be in this situation.

I suppose reimbursement for the cost of replacement of curb at some point in time, should be included with documents to the sale of property to new owner. The Road District did not remove it, nor did we approve it to be removed. And at possible request of new owner in the future, the Champaign Township Road District will not be bearing the cost of replacement.

Thank You

Keith Padgett  
Highway Commissioner  
Champaign Township  
Road District  
3900 Kearns Drive  
Champaign, IL 61822  
217-352-0321

On 2015-04-30 08:29, Susan Chavarria wrote:  
Hi Keith,

I would appreciate any comments you may have regarding Mr. Frazier's revised Site Plan submitted March 30, 2015; it is attached. Specifically, do you have any comments about 9 head-in parking spaces (7 of them diagonal) accessed directly from Tiffany Court?

Thanks,  
Susan

SUSAN CHAVARRIA, AICP, PCED  
Senior Planner  
Champaign County Planning and Zoning  
1776 East Washington Street  
Urbana, IL 61802  
217-819-4086  
[www.co.champaign.il.us](http://www.co.champaign.il.us)

RECEIVED

APR 30 2015

CHAMPAIGN CO. P & Z DEPARTMENT



1  
2  
3  
4 *AS APPROVED MARCH 12, 2015*

5 **MINUTES OF REGULAR MEETING**

6 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

7 1776 E. Washington Street

8 Urbana, IL 61802

9  
10 **DATE:** February 12, 2015

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

11  
12 **TIME:** 6:30 p.m.

13  
14 **MEMBERS PRESENT:** Catherine Capel, Marilyn Lee, Brad Passalacqua, Jim Randol, Eric Thorsland

15  
16 **MEMBERS ABSENT:** Debra Griest

17  
18 **STAFF PRESENT:** Connie Berry, Susan Chavarria, John Hall  
19 John Hall,

20 **OTHERS PRESENT :** Lloyd Allen, Keith Padgett, Jeff Breen, David Kieffer II, Karl Newman, Seth  
21 Rients, William Simms, Steve Koester, Robert Frazier, Julia Duweese, Jeff  
22 Turner, Andrew Tunstall, L. Reggie Johnson, Laura Schwenker, William  
23 Goldshlag, Fuad Handal

24  
25  
26 **1. Call to Order**

27  
28 The meeting was called to order at 6:30 p.m.

29  
30 **2. Roll Call and Declaration of Quorum**

31  
32 The roll was called and a quorum declared present with one member absent and one vacant seat.

33  
34 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
35 the witness register for that public hearing. He reminded the audience that when they sign the witness  
36 register they are signing an oath.

37  
38 **3. Correspondence**

39  
40 None

41  
42 **4. Approval of Minutes (January 15, 2015)**

43  
44 Mr. Thorsland entertained a motion to approve the January 15, 2015, minutes.

45  
46 **Mr. Passalacqua moved, seconded by Mr. Randol to approve the January 15, 2015, minutes.**  
47

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 Mr. Thorsland asked the Board if there were any corrections or additions to the minutes and there were  
2 none.

3  
4 **The motion carried by voice vote.**

5  
6 **5. Continued Public Hearing**

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

27  
28 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of the request.

29  
30 Mr. John Hall, Zoning Administrator, requested that Case 685-AT-11 be continued to the April 30, 2015,  
31 meeting.

32  
33 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the April 30, 2015, meeting.

34  
35 **Ms. Lee moved, seconded by Mr. Randol to continue Case 685-AT-11 to the April 30, 2015, meeting.**  
36 **The motion carried by voice vote.**

37  
38 **6. New Public Hearings**

39  
40 **Case 792-V-14 Petitioner: Robert Frazier Request to authorize the following Variance from the**  
41 **Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District. Part A. Variance for**

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 **48 parking spaces as required by Section 7.4 of the Zoning Ordinance. Part B. Variance for a setback**  
2 **of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the**  
3 **minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by**  
4 **Section 5.3 of the Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast**  
5 **Quarter of Section 8 of Champaign Township and commonly known as the former LEX building**  
6 **located at 310 Tiffany Court, Champaign.**  
7

8 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
9 the witness register for that public hearing. He reminded the audience that when they sign the witness  
10 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
11 time.  
12

13 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.  
14

15 Mr. Hall informed the Board that the petitioner had not arrived to the meeting yet therefore the Board may  
16 want to rearrange the agenda and hear Case 793-S-14 as the first case of the meeting.  
17

18 **Ms. Lee moved, seconded by Mr. Passalacqua to rearrange the agenda and hear Case 793-S-14 as the**  
19 **first case of the meeting. The motion carried by voice vote.**  
20

21 Mr. Thorsland informed the Board that Mr. Frazier had just arrived therefore he would entertain a motion to  
22 return to the original order of the agenda and hear Case 792-V-14 at this time.  
23

24 **Ms. Lee moved, seconded by Mr. Passalacqua to return to the original order of the agenda and hear**  
25 **Case 792-V-14 at this time. The motion carried by voice vote.**  
26

27 Mr. Robert Frazier, owner of 310 Tiffany Court, Champaign, stated that he purchased the property over 15  
28 years ago and at that time he constructed a building which only had a standard two foot overhang. He said  
29 that the entrances had no protection from snow, rain or wind therefore he built a roof over the sidewalk in  
30 front of the building for protection from the weather but evidently the roof is in violation with the setbacks  
31 and requires a variance. He said that it has come to his attention that parking is also an issue on the  
32 property.  
33

34 Mr. Frazier stated that for over twelve years he operated a business called LEX at the property and he had  
35 many more employees, traffic and buses than what he has now. He said that he is requesting a variance for  
36 parking because the County's ordinance is requiring 50 some spaces and he only has 40 some spaces. He  
37 said that he has been at this location for 20+ years and he has never seen more than 20 cars at one time at the  
38 property and currently he only sees 10 cars per day.  
39

40 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
41 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 of hands for those who would like to cross examine and each person will be called upon. He requested that  
2 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
3 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
4 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
5 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
6 from cross examination.

7  
8 Mr. Thorsland asked the Board if there were any questions for Mr. Frazier.

9  
10 Ms. Lee asked Mr. Frazier why he constructed the bus garage without obtaining a Zoning Use Permit.

11  
12 Mr. Frazier stated that during that period of time his mind was elsewhere.

13  
14 Ms. Lee asked Mr. Frazier why, after being notified by staff, he did not obtain a Zoning Use Permit for the  
15 construction that took place in 2014.

16  
17 Mr. Frazier stated that Mr. Hall did contact him about the construction.

18  
19 Mr. John Hall, Zoning Administrator, stated that Mr. Frazier's employee did submit a Zoning Use Permit  
20 Application for the conversion of the use and it entailed extensive coordination with the Illinois EPA and  
21 other agencies and it was never completed before the business, LEX, ended. He said that the Zoning Use  
22 Permit was submitted late.

23  
24 Ms. Lee asked Mr. Hall if the Zoning Use Permit Application was for the prior year's construction or the  
25 construction completed in 2014.

26  
27 Mr. Hall stated that he is discussing the construction of the bus garage that was completed in prior years. He  
28 said that the application was submitted after the fact and after staff had contacted them and it was an  
29 extensive application. He said that staff never got the extensive application reviewed completely before the  
30 business went out of business.

31  
32 Ms. Lee asked Mr. Hall if he had any information regarding a 2014 permit application.

33  
34 Mr. Hall stated yes. He said that after staff contacted Mr. Frazier, staff received a Zoning Use Permit  
35 Application with a site plan in a timely fashion and at that time staff informed Mr. Frazier that a variance  
36 was required for the roof addition. He said that in both instances the Zoning Use Permit Application did  
37 come after the fact but did come in very short order and review of those applications is the reason why we  
38 are here tonight.

39  
40 Mr. Passalacqua asked Mr. Hall to indicate the stage of construction when Mr. Frazier was notified that any  
41 further construction should proceed at his own risk because a variance was required.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

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

Mr. Hall stated that the roof/covered porch was almost completed.

Mr. Passalacqua stated that the roof/covered porch is complete at this time.

Mr. Hall stated yes. He said that the case is arriving at the Board late because staff was operating with a part-time planner for the last year and due to the background information regarding the LEX property he did not give this case to staff's new senior planner until after she was actually designated as the senior planner. He said that it is staff's fault why this case is before the Board so late and not due to anything on Mr. Frazier's part.

Mr. Passalacqua stated that the construction was started before receiving approval.

Mr. Hall stated yes, construction was started and essentially 90% completed prior to obtaining approval from the County.

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

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

Mr. Thorsland called Lloyd Allen to testify.

Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, stated that he owns the property at 4400 W. Springfield Ave, Champaign, which is located beside Mr. Frazier's property. He said that for various reasons he is totally opposed to allowing the variances to be approved. He said that the County's system has worked for numerous years and even by allowing the variances Mr. Frazier still does not have enough space in the front for the vehicles to park. He said that currently the tenants park on the sidewalk that is present for people to walk upon therefore with the porch addition the sidewalk is hindered. He said that the sidewalk was put there for the public to use and existed when the subdivision was developed. He said that the bus garage/warehouse was built and still exists without a permit from the County. He said that Mr. Frazier has repeatedly done things to the property without obtaining permits such as, cutting the sidewalk and curbs out, removing "No Parking" signs, and has testified that he has done all of this for the betterment and to improve property values. Mr. Allen stated that if Mr. Frazier was ever worried about property values he would have never parked junk buses on the property for several years.

Mr. Allen stated that Mr. Frazier had previously made a statement that he never had problems with parking before because he had leased the space up front where he had the junk parking and where all of his employees parked. Mr. Allen said that there is a problem with parking in that because Mr. Frazier has one tenant whose clients totally park in the street, a cul-de-sac that is designated for no parking. Mr. Allen said that when Mr. Frazier had his buses there was still a parking problem because Mr. Frazier would park the



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 buses in the street and other businesses could not get large trucks through due to the buses being parked on  
2 both sides.

3  
4 Mr. Allen stated that the Zoning Ordinance has been in existence for numerous years and he sees no reason  
5 to change the Ordinance and set precedence for future violations to occur.

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

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

10  
11 Mr. Hall asked Mr. Allen if he observed any problems with people using the subject property having to park  
12 on the street prior to the start of the LEX business.

13  
14 Mr. Allen stated that prior to the start of the LEX business Mr. Frazier leased property from him which had  
15 a very large parking area and at that time it was Bright Ideas. Mr. Allen said that Mr. Frazier went across  
16 and built a building, which he received a permit for, and has completed additional construction without a  
17 permit. Mr. Allen stated that the construction that Mr. Frazier has completed has created issues regarding  
18 accessibility and a gas meter is located in the front which is a trip hazard to the public.

19  
20 Mr. Hall stated that when LEX started and there was access from both lots, side by side, there was plenty of  
21 parking area.

22  
23 Mr. Allen stated no, because the buses were being parked on both sides of the street.

24  
25 Mr. Hall asked Mr. Allen, if prior to that, there had been any parking problems that were noticed prior to the  
26 LEX business.

27  
28 Mr. Allen stated that he was not there prior to Mr. Frazier constructing the other building. Mr. Allen said  
29 that when he purchased 4400 W. Springfield, Mr. Frazier was leasing space off of him and when his lease  
30 was up is when Mr. Frazier built the other building at 310 Tiffany Court and is when the parking issues  
31 started.

32  
33 Ms. Lee asked Mr. Allen if the parking issues started when Mr. Frazier built the building that he did not  
34 obtain a permit for.

35  
36 Mr. Allen stated that in 2001 Mr. Frazier constructed the first building with a permit. He said that the  
37 warehouse building which was constructed for the LEX business has been altered without permits. He said  
38 that Mr. Frazier is installing concrete driveways with no consideration of where the water is going and is  
39 forcing it onto adjacent properties requiring those owners to install storm drains to direct the water.

40  
41 Mr. Passalacqua asked Mr. Allen where the curb cut is located.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1  
2 Mr. Allen stated that the curb which existed since the creation of the subdivision was in front of the building  
3 and now it has been taken out.  
4  
5 Mr. Thorsland stated that removal of the curb is what allows the cars to pull right off the street and up to the  
6 building across the sidewalk.  
7  
8 Mr. Allen stated that Mr. Thorsland is correct. He said that currently there is a section of gravel that is in  
9 between the street, gravel, sidewalk and concrete driveway. He said that they are driving through the gravel  
10 which brings it onto the street which creates issues.  
11  
12 Mr. Passalacqua asked if the Champaign Township Road Commissioner has commented on the curb  
13 removal.  
14  
15 Mr. Hall stated that he is sure that those comments will be received tonight.  
16  
17 Mr. Thorsland asked the Board if there were any additional questions for Mr. Allen and there were none.  
18  
19 Mr. Thorsland asked if staff had any additional questions for Mr. Allen and there were none.  
20  
21 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Allen.  
22  
23 Mr. Robert Frazier requested the opportunity to cross examine Mr. Allen.  
24  
25 Mr. Thorsland informed Mr. Frazier that the cross examination must be limited to only things that Mr. Allen  
26 has testified about and no new evidence.  
27  
28 Mr. Frazier asked Mr. Allen if he is complaining about the curb being removed on Tiffany Court.  
29  
30 Mr. Allen stated yes.  
31  
32 Mr. Frazier asked Mr. Allen if gravel is being taken from his property onto the street.  
33  
34 Mr. Allen stated yes.  
35  
36 Mr. Frazier asked Mr. Allen if he had gravel in his parking lot and does it go onto the street at times.  
37  
38 Mr. Allen stated that he does have gravel on his parking lot and it does go onto the street at times but he is  
39 not the one who cut the curb out.  
40  
41 Mr. Frazier stated that we are not here due to the curb being removed.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1  
2 Mr. Thorsland reminded Mr. Frazier that he can only ask Mr. Allen questions regarding his testimony and  
3 nothing more. He informed Mr. Frazier that the entirety of his case has to do with the property therefore if  
4 the curb is part of the property the subject of removing that curb will come up.  
5  
6 Mr. Frazier stated that Mr. Allen indicated that he is pouring concrete and pushing water off onto adjacent  
7 properties.  
8  
9 Mr. Allen stated that he did indicate that concrete driveways are being constructed and the water is flowing  
10 onto adjacent neighbors.  
11  
12 Mr. Frazier asked Mr. Allen how the water flowed before from his property.  
13  
14 Mr. Allen stated that Mr. Frazier should know since he is pouring the concrete.  
15  
16 Mr. Thorsland informed Mr. Frazier that he is very strict in regards to cross examination because it will  
17 never generate into an argument. He said that the Board will request that Mr. Frazier come back to the  
18 testimony microphone to discuss the installation of concrete driveways and how it may have changed the  
19 water flow and about the removal of the curb. He said that Mr. Allen testified that water appears to be  
20 moving towards the neighbor's properties therefore the Board will question Mr. Frazier about this concern.  
21 He informed Mr. Frazier that the public hearing is recorded by two different systems and copies of the  
22 minutes will be available for review. He said that cross examination is a very limited process and it is not an  
23 argument but an opportunity to ask a question to the witness regarding what they testified about and that is  
24 it.  
25  
26 Mr. Frazier asked Mr. Allen how often he sees cars being parked on the street.  
27  
28 Mr. Allen stated that there are a couple of evenings where the entire street and the cul-de-sac have cars  
29 parked on them, including Mr. Frazier's. He said that Mr. Frazier parks on the street and the sidewalk and  
30 he cannot park on his own property because there are not enough spaces available. Mr. Allen submitted  
31 photographs of his parking concerns for the Board's review.  
32  
33 Mr. Frazier asked Mr. Allen to indicate what time of day and what days he is discussing.  
34  
35 Mr. Passalacqua stated that the photographs that were submitted as evidence indicate the date and time and  
36 Mr. Frazier will have an opportunity to review those photographs shortly.  
37  
38 Mr. Thorsland stated that Mr. Allen testified that there were cars in the street and he has submitted  
39 photographs to substantiate his testimony. He said that unless Mr. Frazier has a relevant question regarding  
40 Mr. Allen's testimony the cross examination period is over. He said that he is very particular about cross  
41 examination and he will not allow arguments to occur. He guaranteed Mr. Frazier that the Board will not

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 finalize this case tonight and that everyone will have another opportunity to present testimony.  
2

3 Mr. Allen stated that Mr. Frazier has indicated that he has 48 parking spaces. He said that some of the  
4 spaces that were listed have no access.  
5

6 Mr. Thorsland stated that these will be questions that he is sure the Board will ask Mr. Frazier about this  
7 concern.  
8

9 Mr. Thorsland called Steve Koester to testify.  
10

11 Mr. Steve Koester, owner of 305 Tiffany Court, Champaign, stated that his property is located on the north  
12 side of Mr. Frazier's property and he also owns half of the property, along with Mr. Caleb Burton, that is  
13 along the south side of Mr. Frazier's property. He said that the problem that occurred in the past, especially  
14 when the buses were running, was that many, many times Mr. Koester's employees would have to call the  
15 Champaign County Sheriff to have them come and relocate buses out of the middle of the road. He said that  
16 he thought that the issue with the buses in the road would go away when LEX went away and he turned his  
17 head when curbs were being cut and "No Parking" signs were removed so that the buses could park in the  
18 street. He said that he has current photographs of buses on the property and it appears that Mr. Frazier is  
19 going back into the bus business. He said that if this continues he will have a Sheriff's office representative  
20 attend a meeting to discuss the multiple situations that Mr. Koester has had due to the street being blocked.  
21 He said that an emergency vehicle would not be able to get to Mr. Koester's property, delivery trucks are  
22 delayed, and employees are unable to access his property to report to work because his property is on the  
23 north side of the subdivision. He said that the street, curbs, and sidewalks and all of the other infrastructure  
24 was in place when he moved there over 20 years ago and to his knowledge no one ever gave permission for  
25 anyone to remove any of the improvements that were inherent in the original subdivision. He said that he  
26 has been very cautious on his property to make sure that all of the drainage has stayed intact and he was  
27 shocked to see some of the things that have gone on. He said that with the buses going away he thought that  
28 things would go back to normal and he want to get along with all of his neighbors but this has not been very  
29 possible. He said that with the situation that Mr. Frazier has going on with this building, a full-size vehicle  
30 cannot park in one of the parking spaces on the west side of his building, which is the entrance, without the  
31 back end being on the sidewalk. He said that Mr. Frazier is very negligent to assure that his car is not clear  
32 of the sidewalk, therefore how would we expect any of his patrons or tenants to be also. Mr. Koester  
33 submitted photographs regarding his concerns.  
34

35 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Koester.  
36

37 Mr. Hall asked Mr. Koester if he could review what concerns he has today in regards to Mr. Frazier's  
38 customers parking or not parking in the street. He said it appears that when customers park on the west side  
39 of the building they are parking over the sidewalk. He asked Mr. Koester if there are parking situations still  
40 in the street.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 Mr. Koester stated yes. He said that one of the pictures shows a customer's vehicle parked in the cul-de-sac.  
2 He said that he personally saw the customer walk into one of the businesses that Mr. Frazier is currently  
3 leasing to. He said that he has seen as many as five or six vehicles parked in the cul-de-sac portion of the  
4 street which makes it virtually impossible for a semi-truck or Fed-Ex delivery to occur to his property. Mr.  
5 Koester stated that he has no objection to Mr. Frazier running his businesses and he believes that Mr. Frazier  
6 should be free to do so but Mr. Frazier does not have enough land to support what he has going on there.  
7 Mr. Koester stated that he believes that there are at least ten businesses operating on that little lot and Mr.  
8 Frazier has built all of the buildings for mini-warehouses but he doesn't have enough room to support them.  
9 Mr. Koester stated that he operates one business on his eleven acre property and it is amazing how many  
10 parking spaces that his employees fill up and how many spaces his equipment fills up.

11  
12 Mr. Hall asked Mr. Koester when he sees people parking on the street has he checked to see if there is  
13 parking available on the Frazier property or are they parking in the street as a matter of personal  
14 convenience.

15  
16 Mr. Koester stated that he has not interviewed any of the people parking in the street but there used to be  
17 "No Parking" signs on both sides of the street all the way back to the cul-de-sac and to Springfield Avenue.  
18 He said that many of the "No Parking" signs have been removed.

19  
20 Mr. Hall asked Mr. Koester if he has noticed a lot of vehicles on the Frazier property.

21  
22 Mr. Koester stated yes. He said that the photographs indicate a bus, backhoe, and other pieces of equipment  
23 which occupy the spaces that Mr. Frazier has indicated for parking although Mr. Koester stated that he does  
24 not believe they are parking spaces but storage spaces. Mr. Koester stated that he has had many cases of  
25 people parking on his south lot, south of Mr. Frazier's property, to go to the mini-warehouses and Mr.  
26 Frazier's garbage service parks on Mr. Koester's property to dump Mr. Frazier's dumpster.

27  
28 Mr. Hall asked Mr. Koester if the space on the west side, 20 feet of clearance, is adequate area to have a row  
29 of parallel parking and a traffic aisle.

30  
31 Mr. Koester stated that if reconfigured it is potentially adequate but one of the photographs indicates at least  
32 six vehicles that were parked in front of Mr. Frazier's building and three of those vehicles were parked on  
33 the sidewalk and one entirely blocked the sidewalk and that vehicle belonged to Mr. Frazier.

34  
35 Mr. Passalacqua asked Mr. Hall to indicate how many Zoning Use Permits for businesses have been  
36 approved for Mr. Frazier's property. He said that Mr. Koester testified that there may be ten businesses  
37 operated on the property.

38  
39 Mr. Hall stated that there could be but the key thing is that there is only one building and it is divided into  
40 different uses and he doesn't expect that his office knows everything that is going on there. He said that the  
41 only uses that staff is aware of are the self-storage warehouses and the offices on the west side. He said that



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 when someone adds a new use, whether it is construction or not, they are supposed to check with the office  
2 to make sure that they meet all of the County's requirements. He said that he has no belief or expectation  
3 that businesses will check with us that often but sooner or later it eventually catches up with the property  
4 owner.

5  
6 Mr. Passalacqua asked Mr. Hall if the parking space requirements are based on square footage of the  
7 building and not each use that is going on inside of the building.

8  
9 Mr. Hall stated that the parking requirements are sometimes based on the amount of building area for that  
10 use but as the memorandum reviewed when it comes to parking areas for warehouses it reverts to the  
11 industrial standard which is based on the number of employees. He said that one aspect of this case is if this  
12 Board believes that Zoning Administrators have been using an improper standard for self-storage parking it  
13 would be relevant to this case.

14  
15 Mr. Passalacqua stated that his question is more along the lines of whether we have a tally sheet as to how  
16 many parking spaces are required for each use going on inside of the building. He said that such a tally  
17 sheet could exceed the number of parking spaces indicated by staff which was one spot for every three units.

18  
19 Mr. Hall stated that one space for every three units was for the self-storage. He said that the office area is  
20 one space per every 200 square feet and it is his understanding that there is no office space for Mr. Frazier  
21 and the ten businesses that he may or may not be running. He said that if in fact there is some amount of  
22 office area for Mr. Frazier then that is information that staff does not have and that information could add  
23 additional parking requirements. He said that sometimes it is a challenge for staff to obtain all of the  
24 information that they are supposed to receive.

25  
26 Mr. Passalacqua stated that there is a number of spaces that staff would like to see and obviously there are  
27 not enough for that therefore is there a shortfall for the number of required spaces and perhaps more are  
28 required than what was previously suggested.

29  
30 Mr. Hall stated that since this is a variance case the Zoning Board of Appeals has the power than what staff  
31 has on a daily zoning administration basis. He said that our parking requirements are simply parking  
32 requirements and there is also an overall average of 300 square feet per space and he believes that the 48  
33 spaces are adequate. He said that this is not to say that the parking is accessible parking, convenient parking  
34 or that it follows best practice in the way it is laid out but when there is a variance the Board can set a  
35 standard. He said that when the Board reviews the parking that Mr. Frazier has indicated on his submitted  
36 plan, if the Board agrees with Mr. Koester and Mr. Allen that some of those parking spaces should not be  
37 counted, then the Board should indicate such at the public hearing.

38  
39 Mr. Passalacqua stated that the reflection on the drawing indicates the parking spaces as parallel and the  
40 photographs that were submitted do not indicate vehicles parked in a parallel fashion.

41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 Mr. Hall stated that he believes that the orientation of the parked vehicles is due to the removal of the curb.  
2 He said that if there were a barrier curb present there would be no parking like that shown in the  
3 photographs.  
4

5 Ms. Lee stated that Mr. Koester indicated that there were ten businesses being operated on Mr. Frazier's  
6 property. She asked Mr. Koester if he could indicate what types of businesses are included in those ten.  
7

8 Mr. Koester stated that he does not know all of the businesses but along the front of the building there is a  
9 gym and three or four other small businesses which occupy space in the building. He said that Mr. Frazier  
10 operates a bio-fuel plant, a rental business where Mr. Frazier rents properties and a lot of tenants come and  
11 go from that location, and the bus service. Mr. Koester stated that he lost count of how many business he  
12 just indicated but he knows that Mr. Frazier has a multitude of uses going on at the property. Mr. Koester  
13 stated that he just acquired the property to the south of Mr. Frazier's building and the property was really  
14 cheap. Mr. Koester stated that the reason why he was able to purchase the property at such a low price was  
15 due to the history of Mr. Frazier's property but the property was also available for Mr. Frazier's purchase so  
16 that he could expand. Mr. Koester stated that the closing price for the property was \$125,000 and Mr.  
17 Frazier's best move would have been to have purchased the property to the south so that he could run the  
18 kind of operation that Mr. Frazier proposes because it would have given him adequate area to meet the  
19 County's parking requirements and would not need the requested variances. Mr. Koester stated that  
20 sometimes a business owner has to invest in a business to operate the business properly and Mr. Frazier has  
21 too small of a lot to operate everything that he is operating currently.  
22

23 Mr. Thorsland asked Mr. Koester if Mr. Frazier approached him and indicated interest in leasing part of all  
24 of the newly acquired property would Mr. Koester be willing to honor his request.  
25

26 Mr. Koester stated that he will not lease the property to Mr. Frazier.  
27

28 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Koester and there  
29 were none.  
30

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

33 Mr. Thorsland called Robert Frazier to the cross examination microphone and reminded him that he can  
34 only ask Mr. Koester questions regarding his testimony and no new testimony can be presented.  
35

36 Mr. Robert Frazier stated that the submitted photographs do not indicate any vehicles parked on the street  
37 but only on the sidewalk. He asked Mr. Koester to explain what the semi-trucks and forklifts are doing on  
38 the cul-de-sac every morning.  
39

40 Mr. Thorsland reminded Mr. Frazier that he cannot present new testimony at this time.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Frazier stated that Mr. Koester indicated in his testimony that Mr. Frazier does all of the parking on the  
2 street and he is just asking Mr. Koester to indicate whose semi-trucks and forklifts are parked on the street  
3 every morning.  
4
- 5 Mr. Thorsland informed Mr. Frazier that when he comes back up to the witness microphone he can discuss  
6 other instances of street parking by other businesses but he cannot discuss this issue now.  
7
- 8 Mr. Frazier asked Mr. Koester to show him the photograph indicating vehicles on the street.  
9
- 10 Mr. Thorsland informed Mr. Frazier that he has the pictures that the Board reviewed and the photographs do  
11 indicate one vehicle on the sidewalk.  
12
- 13 Mr. Frazier stated that the vehicle is on the sidewalk but is not in the street. He said that no buses are  
14 indicated in the street but on his own personal property.  
15
- 16 Mr. Thorsland stated that the photographs were not submitted to show cars and buses parked on the street  
17 but were submitted to indicate the parking in general on Mr. Frazier's property.  
18
- 19 Mr. Frazier informed Mr. Koester that LEX is no longer in business and the only buses that he still owns are  
20 the three buses parked on his personal property and those buses are also for sale.  
21
- 22 Mr. Thorsland informed Mr. Frazier that he can discuss the LEX operation when he is called back to the  
23 witness microphone.  
24
- 25 Mr. Thorsland called Caleb Burton to testify.  
26
- 27 Mr. Caleb Burton, whose business is located at 314 Tiffany Court, Champaign, stated that the biggest issue  
28 he has with Mr. Frazier's property is that there is a 20 foot front yard that Mr. Frazier is requesting from the  
29 south side of Mr. Frazier's building to Mr. Burton's property line and the building has a ten foot porch  
30 leaving only a ten foot drive. Mr. Burton stated that typically, and he and Mr. Frazier have discussed this  
31 issue, there is a vehicle, bus, parked within the front yard which makes the back portion of Mr. Frazier's  
32 facility inaccessible. He said that since Mr. Frazier's property is inaccessible Mr. Frazier and his clients use  
33 Mr. Burton's service entrance daily. Mr. Burton stated that he and Mr. Frazier had a conversation recently  
34 regarding Mr. Frazier's attempt to remove a bunch of dirt in between the mini-warehouses and he  
35 encroached and made a mess of Mr. Burton's property. Mr. Burton stated that he requested that Mr. Frazier  
36 re-grade the property to rectify the mess that was made. Mr. Burton stated that the concrete that Mr. Frazier  
37 poured drains south and nothing was done to taper the drainage or direct it to the street therefore it drains  
38 onto Mr. Burton's property.  
39
- 40 Mr. Thorsland asked Mr. Burton if the concrete is centered on the south lot line.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Burton stated that Mr. Frazier's concrete goes north and south.  
2
- 3 Mr. Passalacqua asked Mr. Burton to indicate the nature of his business.  
4
- 5 Mr. Burton stated that he operates S&K Home Improvements and Exteriors and the business is operated  
6 where the LEX bus storage used to be located.  
7
- 8 Mr. Thorsland asked Mr. Burton if when he reviews the aerial and sees a building on the south lot it is the  
9 building where S&K Home Improvements and Exteriors is located.  
10
- 11 Mr. Burton stated yes.  
12
- 13 Mr. Thorsland asked Mr. Burton if the aerial photograph that indicates two vehicles on the south side of the  
14 property line are two buses which appear to be located on Mr. Burton's property.  
15
- 16 Mr. Burton stated yes, the two buses are located on S&K's property. He said that the photograph doesn't  
17 indicate the newly constructed roof areas which will indicate how much more inaccessible the lot is.  
18
- 19 Mr. Thorsland asked Mr. Burton if the location of the buses is where his property access is located.  
20
- 21 Mr. Burton stated yes. He said that where the buses are on the aerial is where the access for their trucks and  
22 trailers is located.  
23
- 24 Mr. Thorsland asked if staff had any questions for Mr. Burton.  
25
- 26 Mr. Hall asked Mr. Burton if during the past week traffic cannot drive along the south portion of the Frazier  
27 property to access the parking that is on the east side.  
28
- 29 Mr. Burton stated that typically they cannot because there is a car, construction truck or bus parked there.  
30 He said that where he built the roof structure over the south end a bus cannot make the corner when turning  
31 towards the bus garage. Mr. Burton stated that Mr. Frazier has a ten foot lane to turn a 50 foot bus therefore  
32 every time Mr. Frazier is on S&K's property.  
33
- 34 Mr. Hall stated that sometimes people are blocking the access and sometimes it is the buses themselves that  
35 are the problem.  
36
- 37 Mr. Burton stated yes.  
38
- 39 Mr. Hall asked Mr. Burton if when the trash is picked up on the Frazier property if the trucks have to get off  
40 of the property to get to the dumpsters.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Burton stated that typically the trash trucks have to pull onto S&K's service drive and back onto Mr.  
2 Frazier's property.  
3
- 4 Mr. Thorsland asked Mr. Burton if the dumpster for Mr. Frazier is on the back of his property.  
5
- 6 Mr. Burton stated yes. He said that S&K has a dumpster on the back of their lot that is at least 10 feet off of  
7 the property line and Mr. Frazier has a dumpster that is adjacent to their dumpster. He said that typically  
8 there is a vehicle there and Mr. Frazier's dumpster is inaccessible to not only to the trash truck but also to  
9 people leasing the mini-warehouses therefore those people park on S&K's lot and walk to their unit or they  
10 park on the street.  
11
- 12 Mr. Hall asked Mr. Burton if people parking in the street or on S&K's lot to access their warehouse unit has  
13 occurred recently.  
14
- 15 Mr. Burton stated yes.  
16
- 17 Mr. Hall asked Mr. Burton if this has occurred in 2015.  
18
- 19 Mr. Burton stated yes. He said that the lady who has the photography business has complained that there is  
20 no parking available on Mr. Frazier's lot therefore she and her clients have to either park in the street or on  
21 S&K's property and walk to her business.  
22
- 23 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burton.  
24
- 25 Mr. Robert Frazier asked Mr. Burton if his property is higher than S&K's property.  
26
- 27 Mr. Thorsland informed Mr. Frazier that Mr. Burton did not testify about elevations therefore such a  
28 question is not allowed.  
29
- 30 Mr. Frazier stated that Mr. Burton testified that water drains onto his property from Mr. Frazier's property.  
31
- 32 Mr. Thorsland informed Mr. Frazier that he can ask Mr. Burton if water runs onto his property from Mr.  
33 Frazier's property.  
34
- 35 Mr. Frazier asked Mr. Burton if water runs onto his property because Mr. Frazier's property is higher than  
36 Mr. Burton's property.  
37
- 38 Mr. Burton stated yes.  
39
- 40 Mr. Frazier asked Mr. Burton to indicate the last time that he saw a bus moved on Mr. Frazier's property.  
41



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Burton stated that the last time a bus was moved was within the last four or five weeks.  
2
- 3 Mr. Frazier asked Mr. Burton if he would believe him if he told him that the last time a bus was started and  
4 moved was December 31, 2014.  
5
- 6 Mr. Burton stated yes.  
7
- 8 Mr. Frazier stated that he will say that Mr. Burton was telling the truth in that sometimes buses are moved  
9 around and were parked on the street. He said that the buses are going to be gone because they are to be  
10 sold and they are parked on his property therefore the buses will no longer be an issue.  
11
- 12 Mr. Frazier asked Mr. Burton if he was driving up to his property and Mr. Burton's property a person would  
13 notice that Mr. Burton's property is gravel and Mr. Frazier's property has concrete. He asked Mr. Burton if  
14 he was a layman could he distinguish whose property is what and where he should park. He asked Mr.  
15 Burton if he has "No Parking" signs on his property.  
16
- 17 Mr. Burton stated that he would be able to tell because he has purchased a 2' x 3' sign that indicates the  
18 business' name and states that the entrance is for trucks and trailers only and underneath that sign is a "No  
19 Parking" sign which was supplied by Reynolds Towing. He said that the sign sits on the corner of their  
20 property line to clearly indicate their location. He said that there is another sign on the property which  
21 indicates that the dumpster is only for S&K and a "No Parking" sign is located in that area as well.  
22
- 23 Mr. Frazier stated that if there was an unauthorized car on the S&K property it could be towed.  
24
- 25 Mr. Burton stated yes, but typically the people leasing the mini-warehouses are there for a very short time so  
26 he has never had anyone towed yet.  
27
- 28 Mr. Frazier stated that he understands that Mr. Burton has the right to have people's vehicles towed if they  
29 are parking in a "No Parking" area but typically he does not do it.  
30
- 31 Mr. Burton stated yes.  
32
- 33 Mr. Thorsland asked Mr. Keith Padgett, Champaign Township Highway Commissioner, if he would like to  
34 sign the witness register to present testimony regarding this case.  
35
- 36 Mr. Padgett stated that he signed the attendance sheet and did not realize that he needed to sign the witness  
37 register as well. He said that he would like to sign the witness register so that he could address the Board  
38 with his concerns.  
39
- 40 Mr. Thorsland called Keith Padgett to testify.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that from sidewalk to sidewalk is  
2 the jurisdiction of Champaign Township. He said that the subdivision was developed 20 years ago and at  
3 that time he was not the Champaign Township Highway Commissioner therefore he does not know the  
4 depth of the sidewalk but he does know the code currently and the aprons and sidewalks are requested to be  
5 six inches thick. He said that he has had issues in other subdivisions where people park moving vans on  
6 sidewalks and it breaks due to the weight load and residents request that the sidewalk be repaired for the  
7 safety of pedestrians. He said that the thickness of the sidewalk on Mr. Frazier's property is unknown but  
8 now vehicles cross the sidewalk because of the removal of the barrier curb. He said that there has been 100  
9 feet of the barrier curb removed without permission, notice of removal, or granting of permit therefore  
10 Champaign Township has lost 100 feet of barrier curb. He said that unless Mr. Frazier lives forever and  
11 owns the property forever, when the new owner owns the property the new owner is going to request  
12 Champaign Township to replace a curb that Champaign Township did not remove.  
13

14 Mr. Padgett stated that the street is of regulation size and it had no parking on the street because it is an  
15 industrial area and the street must be snow plowed. He said that the snow plows are 11 feet on a truck that  
16 is 30 feet long and weighs 80,000 pounds and the township does not need parking along the road so that they  
17 can get in and out in a timely manner to do the rest of the township. He said that he would like to know  
18 what is going to happen with the vehicles parking on the sidewalk and breaking the sidewalk and if the case  
19 is not approved the curb needs to be replaced.  
20

21 Mr. Thorsland asked Mr. Padgett if the street had "No Parking" signs and if so were they removed.  
22

23 Mr. Padgett stated that he does not have a visual recollection of the "No Parking" signs but he suspects that  
24 there are still signs on the other side of the street that have not been removed. He said that he could check  
25 with the County because they have an inventory of signs and posts that are placed in the County. He said  
26 that if the other owners of properties in the subdivision remember signs then he would suspect that the signs  
27 had existed.  
28

29 Mr. Thorsland asked Mr. Padgett if the "No Parking" signs are the responsibility of the township.  
30

31 Mr. Padgett stated that the signs are the responsibility of the township because the township has jurisdiction  
32 from sidewalk to sidewalk.  
33

34 Mr. Thorsland stated that Mr. Padgett indicated that he could check with the County.  
35

36 Mr. Padgett stated that the County does the engineering for the township.  
37

38 Mr. Passalacqua asked Mr. Padgett if could estimate the replacement cost of 100 feet of curb.  
39

40 Mr. Padgett stated that he does not have a replacement cost for the curb but he would imagine that it is not  
41 cheap because you would have to dig out into the street because the curb could be connected to tie bars

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 below the street.

2

3 Mr. Passalacqua asked Mr. Padgett if the portion that was removed included the curb and drain or was it just  
4 the curb.

5

6 Mr. Padgett stated that there was a gutter along the side and it is typically called a barrier curb which has a  
7 90 degree angle top and the flag which is what carries the water to the catch basins.

8

9 Mr. Passalacqua asked if the curb was the only portion removed.

10

11 Mr. Padgett stated that it was the curb that was taken and he would suspect that a professional outfit  
12 removed it. He said that the curbs are poured and when the houses are constructed and they decide where  
13 the garage will be located they cut the curb.

14

15 Mr. Passalacqua asked Mr. Padgett if the wall of the curb has been milled.

16

17 Mr. Padgett stated yes. He said that regarding the water that goes down the curb, when you build on a  
18 property the roof, sidewalk and driveway is impervious area and that water runs off into the street and the  
19 rest of the yard is supposed to be able to pull in the water for a certain percentage of your property so that it  
20 feeds the aquifer, etc. but it has a place to soak in. He said that when someone builds curb to curb and then  
21 places more parking on top, the water is sent to the street because the space for the water to soak back in the  
22 earth has been limited.

23

24 Mr. Thorsland asked Mr. Padgett if there was grass between the curb and the sidewalk before the curb was  
25 removed.

26

27 Mr. Padgett stated that more than likely there was but with this being an industrial area it could have been  
28 some sort of gravel or sand. He said that when he tries to plow this area he has to be able to get up and  
29 down the street and when there are vehicles in the road there is not much room for an 11 foot plow to  
30 maneuver.

31

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

33

34 Mr. Lee asked Mr. Padgett if he could give the Board a range of the cost for replacement of the curb.

35

36 Mr. Padgett stated that it would probably be between \$5,000 and \$10,000 but he honestly does not know  
37 because it depends on which contractor you use to install it.

38

39 Mr. Thorsland asked staff to contact Jeff Blue, Champaign County Highway Engineer, to obtain an idea of  
40 the cost of replacement.

41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Padgett stated that the back of the curb was probably 12 inches thick therefore it was built to last a very  
2 long time and now that it is gone it won't break off easily.  
3
- 4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Padgett.  
5
- 6 Mr. Robert Frasier asked Mr. Padgett if he recalls 30 feet of curb being taken out at the S&K property.  
7
- 8 Mr. Thorsland informed Mr. Frazier that Mr. Padgett did not testify about any curbs being removed from the  
9 S&K property.  
10
- 11 Mr. Padgett stated that he became the Champaign Township Highway Commissioner in 2008 therefore he  
12 has no prior knowledge of what happened prior to 2008.  
13
- 14 Mr. Frazier asked Mr. Padgett if he recalls the curb being cut five years ago.  
15
- 16 Mr. Padgett stated that he does believe that the curb was cut five years ago and believes it has been more  
17 recent. He asked Mr. Frazier if he cut the curb and if he did when did he do it.  
18
- 19 Mr. Thorsland stated that asking Mr. Frazier if he cut the curb and if so, when did he cut it is a question that  
20 the Board will ask Mr. Frazier.  
21
- 22 Mr. Frazier stated that curbs are built and curbs are cut which is why curbs are installed in a development  
23 and then as develop comes the curbs are cut to allow access back into the street.  
24
- 25 Mr. Padgett stated that Mr. Frazier may be correct but wouldn't permission need to be granted to cut the  
26 curb.  
27
- 28 Mr. Thorsland stated that Mr. Padgett's question to Mr. Frazier is a valid point and the Board will add that  
29 question to their list.  
30
- 31 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Padgett and there  
32 were none.  
33
- 34 Mr. Thorsland called Mr. Frazier to the witness microphone.  
35
- 36 Mr. Thorsland asked Mr. Frazier if he cut the curb in front of the building to create the head-in parking and  
37 if so when did he cut it.  
38
- 39 Mr. Frazier stated that he did cut the curb on Tiffany Court several times. He said that he cut the curb 15  
40 years ago when he built the building and 10 years ago when he added a south entrance to the building and 5  
41 years ago on the south property that is now owned by Steve Koester and Caleb Burton.



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1  
2 Mr. Thorsland asked Mr. Frazier if he contacted the Champaign Township Highway Commissioner  
3 requesting permission to cut the curb.  
4  
5 Mr. Frazier stated that he does not remember ever contacting Champaign Township about cutting the curb.  
6  
7 Mr. Thorsland asked Mr. Frazier if he just cut the curb and paid for it.  
8  
9 Mr. Frazier stated yes.  
10  
11 Mr. Thorsland asked Mr. Frazier if he had receipts to confirm the dates that the cut the curb.  
12  
13 Mr. Frazier stated yes.  
14  
15 Mr. Thorsland asked Mr. Frazier if there were “No Parking” signs along parts of the curb that were  
16 removed.  
17  
18 Mr. Frazier stated that there are “No Parking” signs and testimony has indicated that he removed the signs  
19 but he does not recall taking the signs down and had no reason to take them down because he does not want  
20 people parking the street either blocking access to his property. He said that the testimony was a one sided  
21 point of view.  
22  
23 Mr. Thorsland asked Mr. Frazier if he installed the gravel that is between the cut curb and the building.  
24  
25 Mr. Frazier stated that since day one there has always been gravel between the curb and the sidewalk.  
26  
27 Mr. Thorsland asked Mr. Frazier if he is installing or has installed concrete.  
28  
29 Mr. Frazier stated that gravel turns to mud and to remedy that he is replacing the gravel with concrete and he  
30 is not changing the direction of the flow of water or how the gravel was placed.  
31  
32 Mr. Thorsland stated that he would agree, unless Mr. Frazier is doing something drastic, that a non-  
33 permeable surface is being installed where a permeable surface existed. He said that the County has a  
34 percentage of non-permeable area versus permeable on a lot.  
35  
36 Mr. Hall stated that the County has no regulations regarding the incremental site improvements made in a  
37 subdivision that does have storm water detention.  
38  
39 Mr. Frazier stated that the answer is simply that if there is a problem with the water flowing the way it  
40 always flowed he can install a curb but the water flows to the street naturally.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Thorsland asked Mr. Frazier if he were to install a curb along the south property line it would stop Mr.  
2 Frazier from parking anything there because people could not get to the back if a vehicle was there.  
3
- 4 Mr. Frazier stated that an eight foot high fence could be installed and he would not be opposed to blocking  
5 the access from one piece of property and another. He said that someone else's property is not his property  
6 and no one, include Mr. Frazier, should be allowed to trespass. He said that he is not here to defend crossing  
7 over onto another property.  
8
- 9 Mr. Thorsland asked Mr. Frazier if he has an office in the building that is his business.  
10
- 11 Mr. Frazier stated yes.  
12
- 13 Mr. Thorsland asked Mr. Frazier how many businesses he has operating on the property currently.  
14
- 15 Mr. Frazier stated that he has four other businesses and mini-warehouses therefore five in total.  
16
- 17 Mr. Thorsland stated that the gymnastics business is probably the one that produces the most traffic.  
18
- 19 Mr. Frazier stated that he has not seen that many vehicles for the gymnastics business but if Mr. Thorsland is  
20 indicating that the total number of cars is more than any of the other businesses then yes, that would be true.  
21 He said that there are additional parking spaces for those additional cars if they show up.  
22
- 23 Mr. Thorsland stated that the Board will need to ask that particular business to indicate their hours of  
24 operation and when they hold their sessions.  
25
- 26 Mr. Thorsland asked the Board if there were any additional questions for Mr. Frazier.  
27
- 28 Mr. Passalacqua asked Mr. Frazier when he decides that he is going to apply for a Zoning Use Permit and  
29 when he is not because Mr. Frazier knows about permits and has applied and received them in the past. He  
30 asked Mr. Frazier what drove him to not obtain a permit for the improvement to the front of the building.  
31
- 32 Mr. Frazier stated that he looked at the setback of a building to be a solid wall and not a canopy or overhang.  
33 He said that he did not build a wall but extended the existing overhang therefore the only question in his  
34 mind is what is considered the overhang. He asked if an overhang width is two feet or five feet and the  
35 answer that he obtained from staff was that the posts were considered where the line for setback would be  
36 considered. He said that he could cut down the supporting posts and make the canopy self-supporting from  
37 the building itself. He said that he did not believe that extending the overhang was a problem and that the  
38 posts in the ground to support were a problem therefore he did not apply for a permit.  
39
- 40 Mr. Passalacqua stated that Mr. Frazier didn't check for the need for a permit but just went ahead and did it.  
41 He said that even after staff contacted Mr. Frazier informing him that the extension of the overhang was in

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 violation he continued to complete the project.

2

3 Mr. Frazier stated that when he was informed that the overhang extension could not be approved the project  
4 was pretty much complete at that point. He said that the inside of the canopy was not finished and it is still  
5 not finished but the outside is done and it looks nice.

6

7 Mr. Passalacqua stated that he is not attacking the aesthetics of the canopy because it does look good but it  
8 does not meet the requirements of the Ordinance and there are a lot of other issues on the property which do  
9 not meet the Ordinance. He asked Mr. Frazier if the pictures indicate trucks parked over the sidewalk or on  
10 the sidewalk and is it not his truck that is parked on the sidewalk. He asked Mr. Frazier if the garbage truck  
11 has to park onto the neighboring property to access the dumpster on Mr. Frazier's property because his lane  
12 is full.

13

14 Mr. Frazier stated that the picture indicating the truck is his truck which is located on his property. He said  
15 that the truck is parked on the driveway that was approved years ago as a driveway.

16

17 Mr. Passalacqua stated that the picture indicates that the truck is on the driveway but is across the sidewalk.

18

19 Mr. Frazier stated that he was unloading material when the photograph was taken.

20

21 Mr. Passalacqua stated that the Board has received testimony that the vehicles park on the sidewalk very  
22 often and not just when material is being unloaded. He said that one photograph indicates a white car  
23 parked on the sidewalk.

24

25 Mr. Frazier stated that the photograph does indicate that there is a white car parked on the sidewalk but he  
26 has parked in the same spot for over 20 years. He said that he has leased that parking spot out to someone  
27 else and they are parked on the sidewalk but he hasn't said anything about them parking there because he  
28 parked in that same space when he had the LEX business. He said that he has never seen the garbage truck  
29 parked on S&K's property to access his dumpster but if Mr. Koester and Mr. Burton are indicating that the  
30 truck does, then he will call the company and request that the driver uses the nice concrete road. He said  
31 that he would like to see some sort of barrier and additional signage so that people understand that there are  
32 different businesses in the subdivision now. He said that for over 20 years he rented the property where  
33 S&K Home Improvement is located and it has only been within the last few months that the ownership  
34 changed and the business use changed. He said that he is all for indicating the separation of the businesses  
35 and since the new owner operates a fencing company it would be a simple task for the owner to install a  
36 fence any time that he desires or a new curb could be installed to solve the problem. He said that it was his  
37 understanding that the issue for this hearing was the parking and the overhang and not the property lines.

38

39 Mr. Passalacqua stated that he is just trying to give Mr. Frazier the opportunity to answer the questions that  
40 he was trying to answer at the cross examination microphone.

41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 Mr. Frazier stated that Mr. Koester parks semi-trucks in the cul-de-sac every morning at 7:00 a.m. He said  
2 that if the Board is present at that time they will observe semi-trucks and forklifts taking up the entire cul-  
3 de-sac and it has occurred for many years and he has never complained because Mr. Koester has the right to  
4 run his business off of Tiffany Court for a short period of time. He said that Mr. Koester's operations on his  
5 property or on Tiffany Court do not bother him but obviously Mr. Frazier's operations bother Mr. Koester.  
6

7 Mr. Frazier stated that he does not tell Mr. Tunstall, owner of the gym business, to park his vehicle or his  
8 clients' vehicles on Tiffany Court because he provides parking for anyone who visits his property. He said  
9 that he only has four other small businesses which consist of one person each. He said that none of the  
10 businesses have a large clientele. He said that Mr. Tunstall's business is not a gym because Mr. Tunstall is a  
11 chiropractor and he deals with people that have bad backs, etc. He said that Mr. Tunstall has a special  
12 clientele that requires special weight lifting, therefore he does not appeal to the masses that would attend a  
13 gym. He said that at any one time he may only have six vehicles present for the gym and before Mr.  
14 Tunstall leased the space he was informed that there is ample parking on the property and no parking is  
15 allowed on Tiffany Court. He said that if additional parking is required there is additional parking area  
16 behind the warehouses. Mr. Frazier stated that to his knowledge no one is parking on the street for the gym.  
17 He said that he believes that he is being wrongly accused about the parking issue and he is not accusing  
18 anyone else either. He said that for the record, if gravel is carried out into the street he cleans it up with his  
19 broom and shovel.  
20

21 Ms. Lee asked Mr. Frazier to indicate the other businesses that are not his.  
22

23 Mr. Frazier stated the one business consists of a painter who uses the space as an office for paperwork. He  
24 said that one photographer leases space to print photographs and the other photographer photographs babies.  
25 He said that the photographers will have their vehicles and perhaps one other for a client with a baby. He  
26 said that he has a car for his business and he has one employee that works at the office.  
27

28 Ms. Lee stated that one witness indicated that Mr. Frazier has a rental business at the property and that  
29 clients come to the property to submit their rent.  
30

31 Mr. Frazier stated that Frazier Properties is a rental business and occasionally people do come to the office  
32 to submit their rent payments.  
33

34 Ms. Lee asked Mr. Frazier if he was operating a bio-fuel business at the property.  
35

36 Mr. Frazier stated that he is not operating a bio-fuel business on the property. He said that he does store  
37 collected oil from restaurants and a truck will come to the property to take out the oil.  
38

39 Ms. Lee asked Mr. Frazier if the three buses are the only buses that he owns currently and if those three  
40 buses are for sale.  
41



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Frazier stated yes. He said that at one time he had 50 buses on the property but he downsized the bus  
2 company to a five bus business called Illini Tours. He said that as of December 31, 2014, he decided that he  
3 was going to concentrate on real estate and end the bus company therefore selling the buses but to date it is  
4 true that he has three left.  
5
- 6 Ms. Lee asked Mr. Frazier if he operates any other type of business on his property other than the rental and  
7 oil collection.  
8
- 9 Mr. Frazier stated no. He said that the buses will be sold and he could move them if need be but since they  
10 are stationed and on his own property he did not believe that there was a problem. He said that the buses are  
11 stored inside the building.  
12
- 13 Mr. Passalacqua stated that the print dated December 16, 2002, indicates that the parking spots are parallel  
14 at the location of the covered porch although the photographs indicate that the vehicles are parked  
15 perpendicular.  
16
- 17 Mr. Frazier stated that ever since the building was built the parking was as indicated in the photographs and  
18 not as it is indicated on the site plan. He asked Mr. Frazier if he enforces parallel parking and not  
19 perpendicular on the property.  
20
- 21 Mr. Frazier stated that he is not enforcing parallel parking on the property but he could if he needs to. He  
22 said that the parking spaces are granted for that area in a parallel position to the building and not  
23 perpendicular position to the building.  
24
- 25 Mr. Randol stated that he is interested in the grease recycling operation. He asked Mr. Hall if this use is  
26 acceptable or approved by the County.  
27
- 28 Mr. Frazier stated that he was granted permits by the State of Illinois and the Illinois EPA. He said that no  
29 permits were required by Champaign County.  
30
- 31 Mr. Randol asked Mr. Frazier how the recycled oil is stored on the property.  
32
- 33 Mr. Frazier stated that the oil is stored in 1,000 gallon plastic tanks.  
34
- 35 Mr. Hall asked Mr. Frazier to indicate the square footage of the office area utilized for Frazier Properties  
36 and where it is located in the building.  
37
- 38 Mr. Frazier stated that the office area, consisting of 3,500 square feet, for Frazier Properties is located on the  
39 south side of the first building.  
40
- 41 Mr. Hall asked Mr. Frazier if the first building was constructed in 2003 and Mr. Joe Coble was the architect.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

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

Mr. Frazier stated yes.

Mr. Hall stated that during staff's analysis of parking, not knowing that Mr. Frazier had office space in the first building, staff used the entire area of the building assuming that it was totally office space therefore staff did not overlook anything. He asked Mr. Frazier to indicate the storage area for the restaurant grease.

Mr. Frazier stated that the grease which is for recycling is stored on the northeast side of the building.

Mr. Hall asked Mr. Frazier to indicate the square footage of the grease storage area.

Mr. Frazier stated that the grease storage area is approximately 500 square feet.

Mr. Hall asked Mr. Frazier how soon he could move the buses from the property.

Mr. Frazier stated tomorrow.

Mr. Hall stated that Mr. Frazier indicated that two of the buses are stored indoors therefore he assumes that the third bus is stored outdoors.

Mr. Frazier stated that there are three buses on the property and two of the buses are in the building and the third is half-way in the building and half-way out of the building.

Mr. Thorsland asked Mr. Frazier if the farthest east building with the white roof is the mini-storage area.

Mr. Frazier stated yes.

Mr. Thorsland asked Mr. Frazier if there was a fence or curb, could he make the turn when pulling out the buses.

Mr. Frazier yes. He said that he can turn the corner but he does not want the buses to turn the corner because he does not want the buses.

Mr. Thorsland stated that he understands that the buses are a temporary situation and he is sure that it will resolve itself as soon as Mr. Frazier finds a buyer for the buses. He said that Mr. Hall's question regarding the recycling business for the restaurant grease will have an effect on how many parking spaces are required. He said that he is sure that Mr. Frazier believes that the Board is asking a lot of questions that are not relevant to the porch addition and the required parking. He informed Mr. Frazier that everything is relevant to the required parking because there are conflicting guidelines as to how many spots are needed. He said that all of the testimony tonight has be in regards to cars, trucks, buses and parking which is why the Board is asking so many questions about cars, trucks, buses and parking. He said that what would help the Board

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 is a simple sketch of all of the structures on the property and an indication of what type of business is  
2 occurring in each structure. He said that with this sketch the Board would have a better idea of where all of  
3 the uses are taking place.

4  
5 Mr. Hall asked Mr. Frazier if there is a second level in the building.

6  
7 Mr. Frazier stated that there has always been a second level in the building.

8  
9 Mr. Hall stated no. He said that none of the plans that were submitted to the Department of Planning and  
10 Zoning indicated a second floor. He said that the Board understands that the second floor requires even  
11 more parking spaces therefore instead of a sketch, the Board should request that Mr. Frazier have an  
12 architect prepare a set of plans for this building that indicates all of the floor space utilized by Frazier  
13 Properties, and all of the customers. He said that the set of plans would also demonstrate whether or not the  
14 property is compliant with the ADA or not, because staff has lost track of its compliance due to all of the  
15 improvements with the concrete installation. He said that it is impossible for staff to give the Board an  
16 accurate report on what parking is required if we don't even know that there is a second floor and its size  
17 and use. He requested that the plan indicates individual self-storage spaces so that the Board knows where  
18 they are located.

19  
20 Mr. Passalacqua stated that on the northwest corner of the previously mentioned drawing indicates that the  
21 septic system will be installed by the plumbing contractor. He said that the new plan must indicate the  
22 location of the septic system.

23  
24 Mr. Hall stated that the septic system is indicated on the most recent plan.

25  
26 Mr. Passalacqua asked Mr. Hall if the septic system is located in a highly traveled area.

27  
28 Mr. Hall stated that the septic system is not supposed to be located in a highly traveled area but who knows.

29  
30 Mr. Passalacqua stated that the Board needs to be assured of the location of the septic system.

31  
32 Mr. Thorsland informed Mr. Frazier that he needs to work with staff to make sure that he meets the  
33 requirement by the Board to submit a very accurate site plan indicating all levels of the building and all uses  
34 on the property. He said that he would advise that no new changes be made to the property until the case is  
35 finalized. He said that once the accurate site plan is submitted, staff can determine the number of required  
36 parking spaces for the property.

37  
38 Mr. Thorsland called Andrew Tunstall to testify.

39  
40 Mr. Andrew Tunstall, who resides at 412 East Tomaras, Savoy, stated that he operates a chiropractic,  
41 exercise and rehabilitation facility which is strength and conditioning. He said that his business is a little bit

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1 like an open gym component but not to the scale or scope of Gold's Gym or The Refinery.

2  
3 Mr. Thorsland apologized for his assumption that it was a gymnasium. He said that close to the subject  
4 property there is a gymnastics facility.

5  
6 Mr. Tunstall stated that the gymnastics facility is directly across the street from the subject property but his  
7 operation has no relation to that facility.

8  
9 Mr. Thorsland asked Mr. Tunstall if the clients of the gymnastics facility are overflowing onto the subject  
10 property or in the cul-de-sac.

11  
12 Mr. Tunstall stated that the gymnastics facility appears to have ample parking.

13  
14 Mr. Thorsland asked Mr. Tunstall how many clients he typically sees on any given day.

15  
16 Mr. Tunstall stated that typically on a slow night between 3:00 and 6:30 p.m. he will see 4 to 6 people but on  
17 a busy night he may see up to 16 people but only on one night has he seen 16 people.

18  
19 Mr. Thorsland asked Mr. Tunstall if his clients have ever complained about the parking.

20  
21 Mr. Tunstall stated yes. He said that Mr. Frazier did make it very clear that parking was not allowed in the  
22 cul-de-sac but he has seen his clients park there.

23  
24 Mr. Thorsland stated that he is glad to hear that Mr. Frazier made the parking requirements very clear. He  
25 asked Mr. Tunstall if his clients have ever used the overflow parking in the back near the mini-storage units.

26  
27 Mr. Tunstall stated that his clients cannot get to that area and that area was part of where Mr. Frazier was  
28 going to expand. Mr. Tunstall stated that all of his current parking is across the front side of the building  
29 and the idea was that eventually there would be additional parking although it has not come true yet but Mr.  
30 Frazier has done a lot of work on this portion of the property.

31  
32 Mr. Thorsland asked Mr. Tunstall why he cannot access the rear portion of the property.

33  
34 Mr. Tunstall stated that there are either the workers or a bus parked there and it is hard to get around them.  
35 He said that Mr. Frazier referred to the area between the warehouse banks to be overflow parking.

36  
37 Ms. Lee asked Mr. Tunstall to indicate the square footage of the space that he occupies.

38  
39 Mr. Tunstall stated that he occupies approximately 3,400 square feet.

40  
41 Ms. Lee asked Mr. Tunstall to indicate his hours of operation.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

1

2 Mr. Tunstall stated that his operation is open Monday thru Thursday 9:00 a.m. to 8:00 p.m. and Friday 9:00  
3 a.m. to 5:30 p.m. and Saturday 3:00 p.m. to 6:00 p.m.

4

5 Mr. Hall stated that for Board members who are keeping track, staff previously believed that the gym only  
6 occupied 2,375 square feet which would require 24 parking spaces but testimony indicated 3,400 square feet  
7 therefore 7 additional spaces are required.

8

9 Mr. Tunstall stated that the area that is his actual gym site, where the strength conditioning and  
10 rehabilitation takes place is 2,375 square feet, but he has two additional therapy rooms and a reception area  
11 which takes up the additional 1,025 square feet.

12

13 Mr. Hall stated that nothing can take the place of an accurate site plan and hopefully one will be on the  
14 horizon soon. He asked Mr. Tunstall where the future additional parking was to be located.

15

16 Mr. Tunstall stated that the additional parking was to be between the warehouse storage areas on the other  
17 side of the property.

18

19 Mr. Hall stated that this area is already designated for parking therefore he does not know how additional  
20 parking could be created.

21

22 Mr. Thorsland asked Mr. Tunstall if he means that the additional parking would be across Tiffany Court.

23

24 Mr. Tunstall stated no.

25

26 Mr. Thorsland asked Mr. Tunstall if he means behind the mini-warehouses to the east.

27

28 Mr. Tunstall stated that between the two sections of the building is where the additional parking was to be  
29 located.

30

31 Mr. Hall asked Mr. Tunstall if the presence of 16 clients of the gym was just a special event or did it just  
32 happen that everyone was there that day.

33

34 Mr. Tunstall stated that it was not during any particular event and was just a peak time. He said that the way  
35 that he has the operation set up it can accommodate up to 22 to 24 people at one time. He said that he  
36 limited memberships because he did not want to get too busy for the amount of space that he had available.

37

38 Mr. Hall stated that at this point staff was using the standard of 1 space per 200 square feet for the gym but  
39 gyms are one of those things that have a more complicated approach to parking. He said that if Mr. Tunstall  
40 has an agreement where he hopes to have as many as 24 clients, then that is a greater parking requirement  
41 than what staff calculated. He said that through the course of this public hearing Mr. Tunstall will need to



ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 talk to Mr. Frazier and establish the maximum amount of clientele he desires because that number will have  
2 a great bearing on the amount of parking that Mr. Frazier needs. Mr. Hall stated that he is not sure that  
3 everyone's needs can be accommodated but it must be known what those needs are.  
4
- 5 Mr. Tunstall stated that he got a lot busier faster than he initially expected.  
6
- 7 Mr. Hall stated that normally that is a good thing but parking is still an issue.  
8
- 9 Mr. Thorsland asked if staff had any additional questions for Mr. Tunstall and there were none.  
10
- 11 Mr. Thorsland asked the Board if there were any additional questions for Mr. Tunstall and there were none.  
12
- 13 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Tunstall and there was no one.  
14
- 15 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
16 regarding Case 792-V-14 and there was no one.  
17
- 18 Ms. Lee requested that Mr. Thorsland asked the audience if anyone else is present who operates a business  
19 at the subject property and there was no one.  
20
- 21 Mr. Thorsland informed Mr. Frazier that the Board would like to have an accurate idea of all of the separate  
22 businesses on the subject property. He said that the plan should include the mini-storage warehouse units,  
23 the interior spaces that are leased or vacant, parking for the buses, the gym, the photography/graphics  
24 operations, the second story, and the recycling operation. He said that Mr. Frazier should work with staff  
25 regarding any questions. Mr. Thorsland stated that he intends to request a continuance to April 16<sup>th</sup> which is  
26 not very far away but it is not next week therefore Mr. Frazier should have adequate time to obtain the  
27 required information.  
28
- 29 Mr. Hall recommended that the case be continued to the May 14<sup>th</sup> meeting.  
30
- 31 Mr. Passalacqua asked Mr. Hall if there is an Ordinance concern regarding the vegetable oil storage.  
32
- 33 Mr. Hall stated that the only concern is to know how to determine the parking requirements but other than  
34 that he has no concern. He said that he does not know how much additional information the Board may  
35 want to evaluate regarding how accessible parking areas on the subject property really are, but if Mr. Frazier  
36 is going to go to the trouble of hiring a design professional or architect to draw an accurate plan, that plan  
37 should give the Board all of the information that is required. He said that the plan should indicate the  
38 number of parking spaces and if the parking spaces are readily accessible as they should be.  
39
- 40 Mr. Passalacqua asked Mr. Hall if the oil recycling business requires a separate loading berth.  
41

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

- 1 Mr. Hall stated that under the terms of the Ordinance if Mr. Frazier has the access that he needs as well as  
2 meeting all of the other parking requirements then that is what is critical.  
3
- 4 Mr. Passalacqua state that he is just trying to give Mr. Frazier more information for drawing the plan and he  
5 would not feel comfortable in having a parking spot being the spot in front of the door where the vegetable  
6 oil is stored.  
7
- 8 Mr. Hall stated that unless there is some special arrangement that assures that this will not be a problem and  
9 the Board is willing to accept that special arrangement then it won't be a problem.  
10
- 11 Mr. Thorsland stated that staff has requested that the case be continued to the May 14<sup>th</sup> meeting which is the  
12 100-day limit. He informed the audience that the full packet will be sent to anyone who signed the witness  
13 register and the mailing is also available on the County website the Friday before the meeting.  
14
- 15 Mr. Thorsland informed Mr. Frazier that he needs to present as much information as possible which includes  
16 talking to his tenants to find out if they have one or five employees because the numbers are all part of the  
17 parking equation. He said that the overhang is a big issue, because it affects parking and this case will boil  
18 down to how many uses are being utilized on this property and whether or not enough parking is available.  
19
- 20 Ms. Lee stated that the handicap parking spaces will take up more area than regular parking spaces would  
21 take up.  
22
- 23 Mr. Thorsland stated that there is some question whether or not this development would need to be sent to  
24 the Capital Development Board for a recommendation whether handicap parking is required. He asked Mr.  
25 Frazier if he has handicap parking at this time.  
26
- 27 Mr. Frazier stated that handicap parking is included on the original plans.  
28
- 29 Mr. Thorsland stated that it is indicated on the original plans but is it present on the property.  
30
- 31 Mr. Frazier stated yes.  
32
- 33 Mr. Passalacqua stated that the new plan needs to indicate the exact location of the septic system.  
34
- 35 Mr. Frazier stated that the original plan indicates the location of the septic system.  
36
- 37 Mr. Passalacqua stated that the area that he sees on the plan indicates that the septic system is outside of the  
38 property line. He asked Mr. Frazier to clarify the location of the septic system.  
39
- 40 Mr. Frazier stated that the septic system is located on the north side of the building and is completely on his  
41 property.

ZBA

*AS APPROVED MARCH 12, 2015*

2/12/15

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

Mr. Passalacqua asked Mr. Frazier if the septic system is driven on.

Mr. Frazier stated no. He said that the Board is reviewing an architecturally designed plan for when the building was constructed but he can break it down to how each individual space is being used. He said that the only thing that is different is that instead of the building being Bright Ideas, which was originally a retail store, the building has been broken up into four different businesses. He said that instead of one business it became LEX, Bright Ideas and Frazier Properties and now it is one business owned by Mr. Frazier and four individual businesses. He said that the mini-warehouses have always been there and nothing has changed.

Mr. Thorsland stated that the site plan needs to include each individual business and the second level of the building and its use.

Mr. Frazier stated that there has always been a second level on the middle mini-warehouse building.

Mr. Thorsland stated again that the new professionally designed plan needs to include everything about each building and indicate the uses in those buildings and on the property. He said that if Mr. Frazier has any questions regarding any of the required information for the next meeting he should contact staff. He asked Mr. Frazier if he would be available on May 14, 2015.

Mr. Frazier stated that he would be available on May 14, 2015.

Mr. Thorsland entertained a motion to continue Case 792-V-14 to the May 14, 2015, public hearing.

**Mr. Passalacqua moved, seconded by Mr. Randol to continue Case 792-V-14 to the May 14, 2015, public hearing. The motion carried by voice vote.**

Mr. Thorsland stated that the Board will take a ten minute recess at this time.

**The Board recessed at 8:20 p.m.**

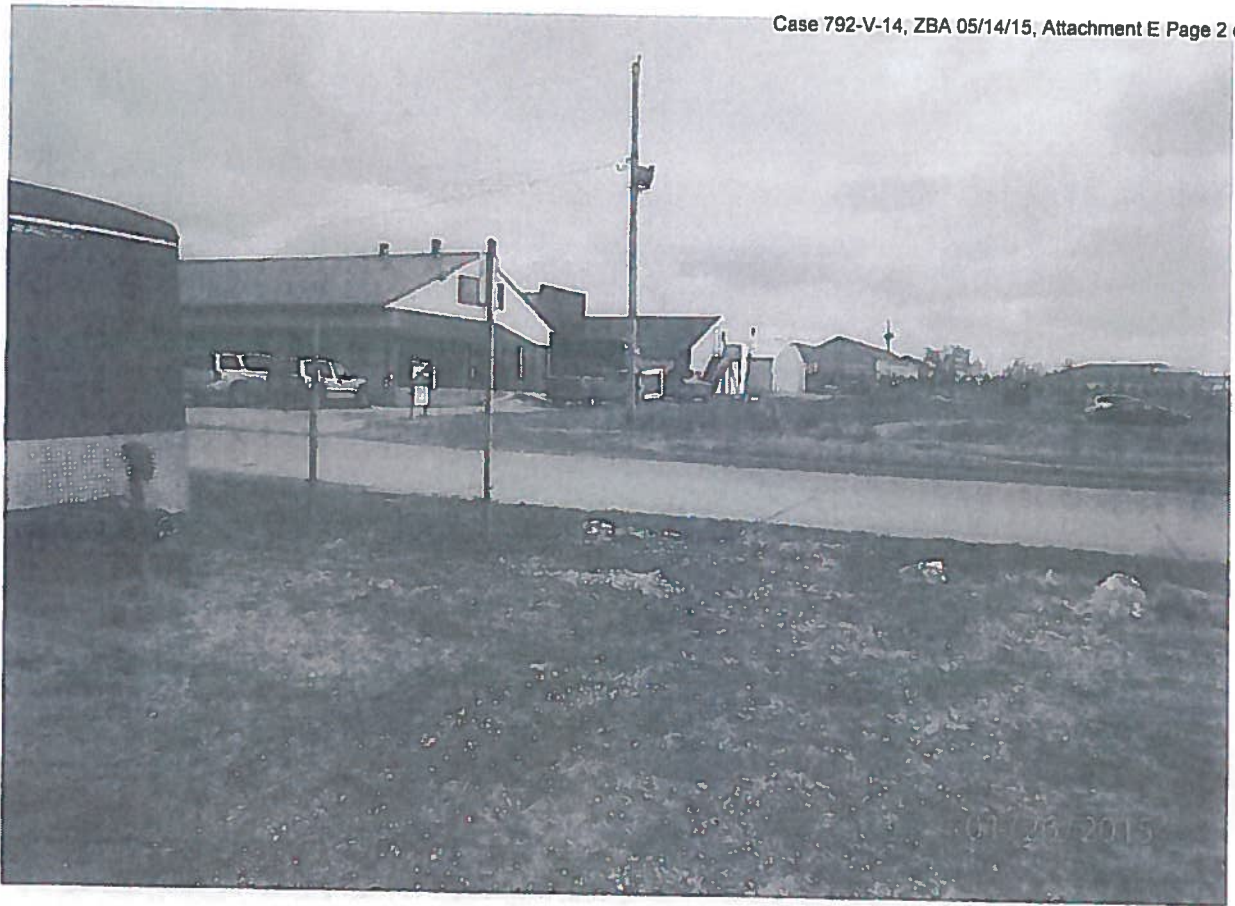
**The Board resumed at 8:30 p.m.**

**Case 793-S-14 Petitioner: Lawrence Johnson and Fuad Handal Request: 1) Authorize a kennel as a Special Use on 1.8 acres located in the AG-1, Agriculture Zoning District; and 2) Authorize the following waivers to the standard conditions of the Kennel Special Use as per Section 6.1.3 of the Zoning Ordinance: a. Any outdoor animal exercise and/or training area shall be 200 feet from any adjacent residential structure and/or use and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use. Measurements shall be made from the lot line of an adjacent residential structure and/or use; and b. Maintain a side yard setback and a rear yard setback of 200 feet. Location: A 1.8 acre tract in the Southeast Quarter of the Southeast Quarter of Section 5,**



2-12-15 ZBA M9.  
Submitted by Lloyd Allen  
Ca - 702 V 14, ZBA 05-14-15, Attachment E Page 11

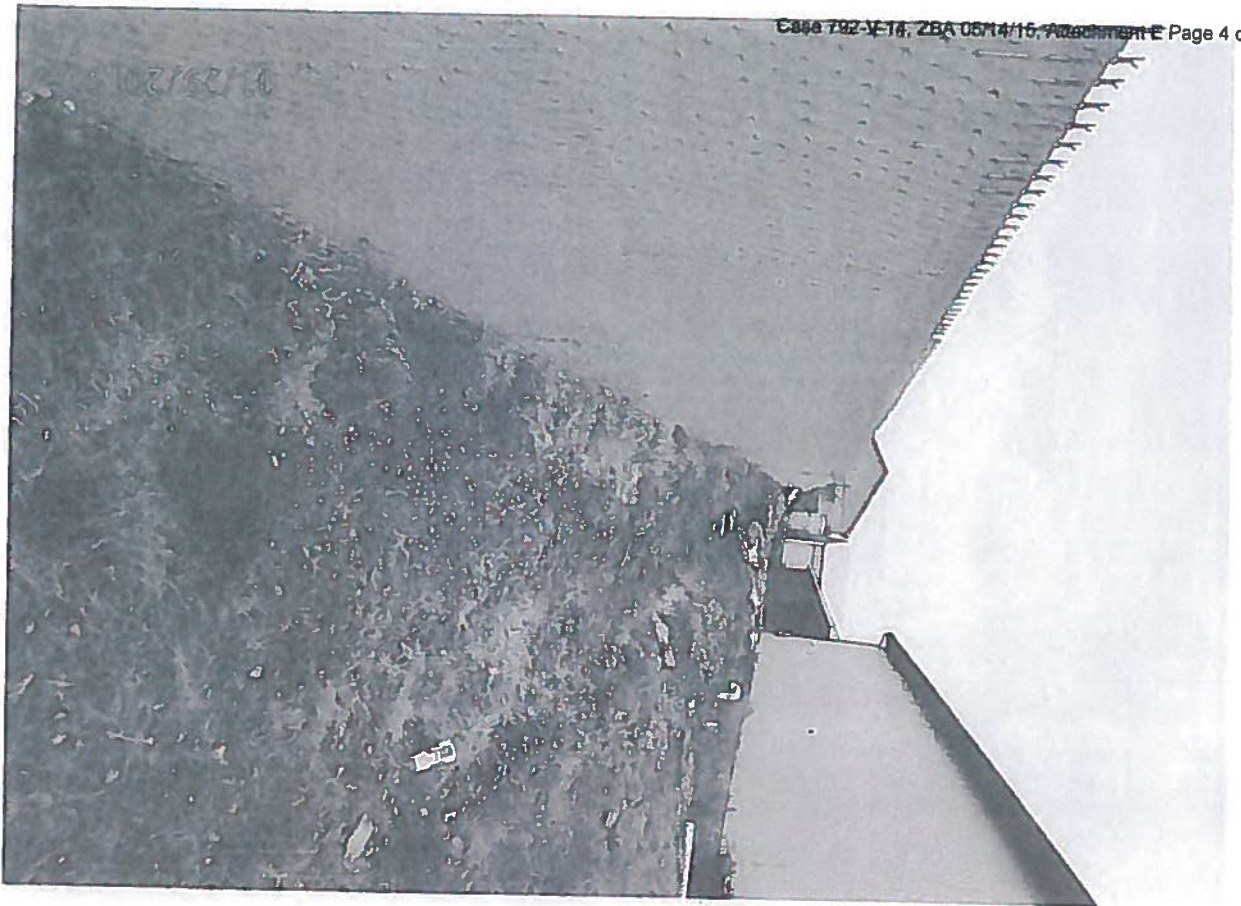




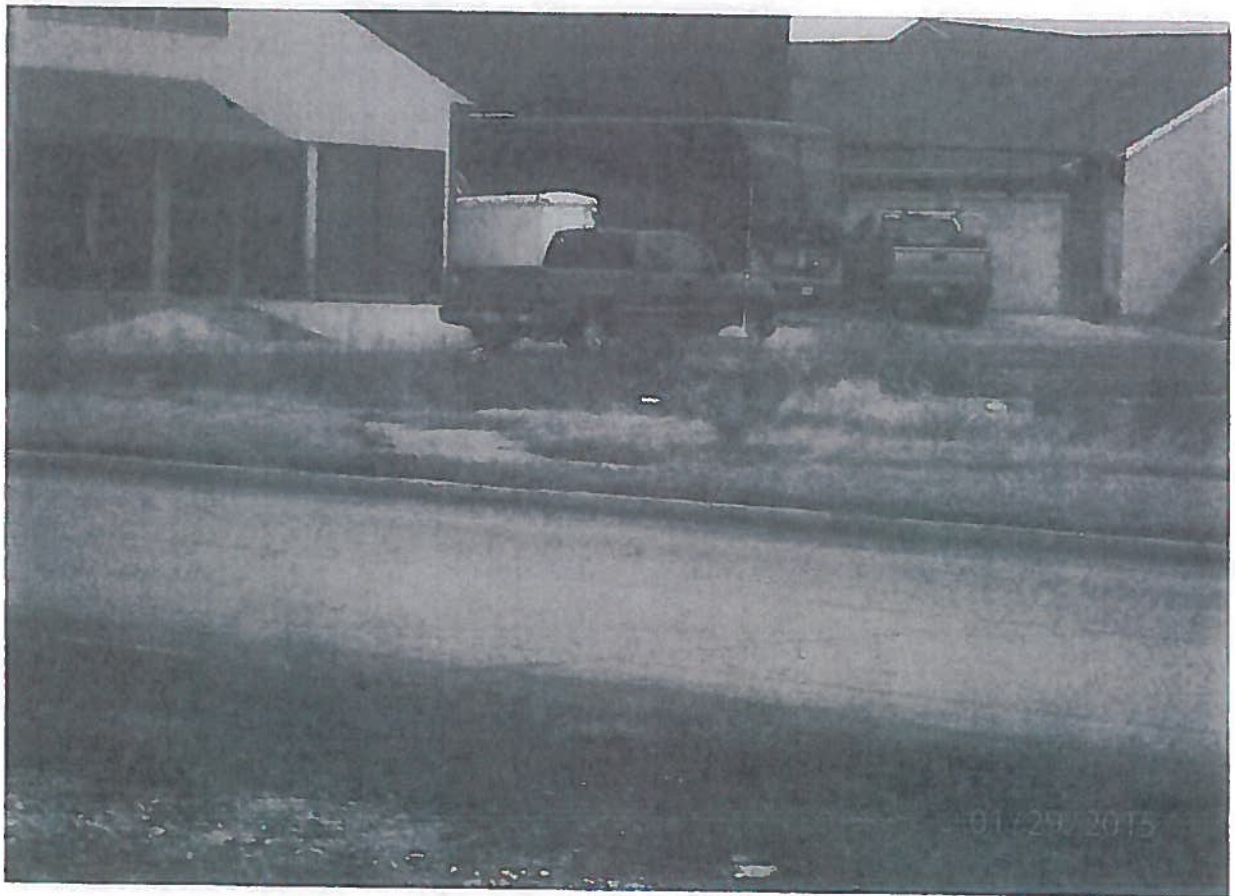


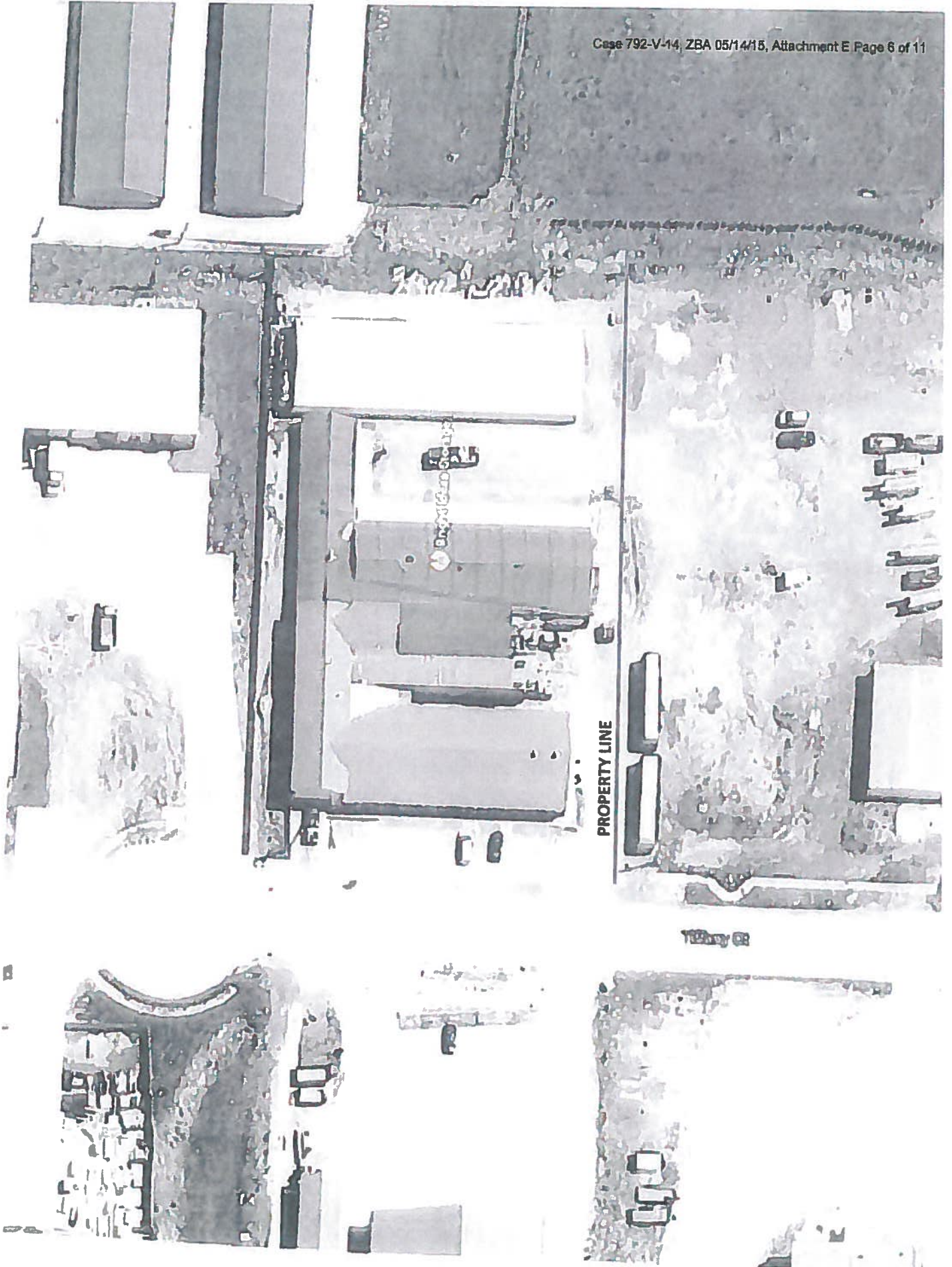












PROPERTY LINE

Tuesday CR

















**Susan Chavarria**

---

**From:** Kowalski, Rob <rob.kowalski@ci.champaign.il.us>  
**Sent:** Friday, May 01, 2015 10:18 AM  
**To:** Susan Chavarria  
**Subject:** Re: 310 Tiffany Court (formerly LEX) property

Hi Susan,

If Mr. Frazier decides to lease spaces from his neighbor, we would not require any kind of subdivision approval. We would want to make sure the owner (SK Fence, I believe) still meets their parking requirement but I don't think that will be a problem considering the size of his lot and the fact that our parking requirement for industrial is one space per 1,000 square feet of building.

Rob

On Thu, Apr 30, 2015 at 3:40 PM, Susan Chavarria <[schavarr@co.champaign.il.us](mailto:schavarr@co.champaign.il.us)> wrote:

Hi Rob,

We are working on Bob Frazier's variance case for the former LEX property. The new uses he has there require 66 parking spaces according to the county Zoning Ordinance. Mr. Frazier is unable to provide that amount of parking on his property, and has signed a short-term (3 year) lease for parking at the property to the north. Off-site parking and short term leases are not compatible with our requirements, so he will have a couple of options in coming months. He can decommission part of his buildings to reduce the number of required spaces, or work with the City so that he can establish a long-term parking lease which may require subdivision approval. In the case of the latter, do you have information about when a Plat of Subdivision might be required pursuant to a lease?

Thanks,

Susan

**Susan Chavarria**, AICP, PCED  
Senior Planner  
Champaign County Planning and Zoning  
1776 East Washington Street  
Urbana, IL 61802  
[217-819-4086](tel:217-819-4086)  
[www.co.champaign.il.us](http://www.co.champaign.il.us)

--

**Rob Kowalski**, AICP  
Assistant Director  
Planning and Development Department  
City of Champaign

RECEIVED

MAY 01 2015

CHAMPAIGN CO. P & Z DEPARTMENT





*05/06/15 REVISED DRAFT*

792-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: *{ May 14, 2015 }*

Petitioner: Robert Frazier

Request: Authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District on the subject property described below:

Part A. Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.

Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.

---

**Table of Contents**

**General Application Information..... 2**

**Requested Variance..... 5**

**Specific Ordinance Requirements.....5-9**

**Variance Evidence .....9-16**

**Documents of Record..... 17**

**Case 792-V-14 Findings of Fact.....18-19**

**Case 792-V-14 Final Determination .....20-21**

## SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 12, 2015** and **May 14, 2015** the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Robert Frazier, owns the subject property.
2. The subject property is a 1.19 acre tract of land on Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign, a municipality with zoning.
  - B. The subject property is located within Champaign 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 1.19 acre tract and is currently zoned I-1 Light Industry. Land use is a combination of storage facilities and multi-tenant offices.
  - B. Land to the south and west of the subject property is zoned I-1 Light Industry and is industrial in use.
  - C. Land to the north is zoned I-1 Light Industry and is industrial in use.
  - D. Land to the east is zoned AG-2 Agriculture and B-4 General Business and is commercial in use.

## *GENERALLY REGARDING THE PROPOSED SITE PLAN*

5. Regarding the site plan of the subject site:
  - A. Previous Zoning Use Permits on the subject property are as follows:
    - (1) Zoning Use Permit # 219-86-02 issued on 8/7/86 authorized construction of mini warehouse facilities.
    - (2) Zoning Use Permit # 166-96-01 issued on 6/17/96 authorized construction of an addition to an existing mini-warehouse building.
    - (3) Zoning Use Permit # 280-99-01 issued on 10/8/99 authorized placement of a wall sign on an existing building.

*05/06/15 REVISED DRAFT*

**Case 792-V-14**  
**Page 3 of 21**

- (4) Zoning Use Permit # 351-02-03 issued on 1/10/03 authorized construction of an office/sales area for Bright Ideas and warehouse addition to an existing mini-warehouse building.
  - (5) A Zoning Use Permit Application to authorize the construction of a bus garage, installation of new signs, and installation of new fuel tanks and fuel dispensing equipment for the LEX Lincolnland Express operations on the subject property and the adjacent lot to the south (a total area of approximately 73,300 square feet) was received on March 23, 2011. The Zoning Administrator replied with a letter dated 4/14/11 in which continued operation of LEX was allowed but additional information was required prior to issuance of a conditional Zoning Compliance Certificate. No additional information was received and LEX Lincolnland Express eventually went out of business by March 2013. A subsequent company, Illini Express, also closed in the summer of 2013.
- B. The Petitioner, without required Zoning Use Permits, has made the following changes to the property, as indicated in a letter from John Hall, Zoning Director, to the Petitioner dated June 26, 2014:
- (1) Modifying the existing office area that was formerly the offices of LEX by subdividing the interior space into at least four different spaces with their own exterior entrances; renting the new office spaces to various uses including a photographer, a musician, a painter, and a gymnasium (including converting storage area into the gymnasium);
  - (2) Adding a wrap-around covered porch to provide covering for the exterior entrances;
  - (3) Removing a portion of a bus maintenance garage.
  - (4) These changes are in addition to the change in lot area due to the fact that the adjacent lot (PIN 03-20-08-476-005) is no longer part of the property.
  - (5) It has also been reported that the Petitioner removed the curb along Tiffany Court without prior authorization from the Champaign Township Highway Commissioner.
- C. The Petitioner's Site Plan, received July 17, 2014, is a partial modification of the site (and building) plan from Zoning Use Permit #351-02-03 and therefore it does not accurately reflect the new uses on the subject property. An Annotated Site Plan has been prepared by staff to highlight relevant evidence and discrepancies on the Site Plan received July 17, 2014. The Annotated Site Plan indicates the following:
- (1) Regarding the building on the subject property:



*05/06/15 REVISED DRAFT*

- (a) The building addition authorized in Zoning Use Permit #351-02-03 on 1/10/03 is indicated with hatching (diagonal lines) and labeled "NEW OFFICES- SALES ROOM" (totaling 4,950 square feet in area) that is still used as offices and "NEW STORAGE" (totaling 2,375 square feet in area) that has been converted to a gymnasium.
  - (b) Note that a covered porch that is five feet deep has been added to the west and south sides of the building addition authorized in Zoning Use Permit #351-02-03. The addition of this covered porch was not authorized by Zoning Use Permit.
  - (c) A portion of the building indicated as "warehouse" is attached to the east and south sides of the building addition authorized in Zoning Use Permit #351-02-03. The "warehouse" is a bus garage that was added for the former LEX use and it has never been authorized by Zoning Use Permit. The "warehouse" is 2,664 square feet in area. The "warehouse" occupies land area that was previously used for a loading berth and six parking spaces.
  - (d) The middle portion of the building is indicated as "EXIST'G STOR" and was authorized in Zoning Use Permit # 166-96-01 on 6/17/96 and is 45 feet by 118 feet and totals 7,734 square feet in area. The original Zoning Use Permit application indicated 31 self-storage units in this portion of the building.
  - (e) The eastern-most portion of the building was authorized in Zoning Use Permit # 219-86-02 on 8/7/86. This portion is 42 feet by 138 feet and totals 5,796 square feet and reportedly contains 22 self-storage units.
- (2) Regarding parking areas on the subject property:
- (a) The site (and building) plan from Zoning Use Permit #351-02-03 included a total of 40 parking spaces but there are areas where an additional 15 parking spaces could have been located for a total of 55 possible parking spaces.
  - (b) The Site Plan received July 17, 2014, indicates a proposed 15 new parking spaces and 5 relocated parking spaces in addition to 28 existing parking spaces for a total of 48 parking spaces and no additional parking spaces could be located on the subject property.

D. A Revised Site Plan, received March 30, 2015, indicates the following uses and proposed parking spaces:

- (1) 29 parking spaces around the eastern "Existing Storage" area, including 2 handicap accessible spaces;

**05/06/15 REVISED DRAFT**

**Case 792-V-14  
Page 5 of 21**

- (2) Existing upstairs storage, 1,500 square feet, in middle existing storage building;
- (3) 10 inside parking spaces in "New Garage", 2,805 square feet;
- (4) 1 handicap accessible parking space south of the "New Garage";
- (5) Upstairs executive office for President of Frazier Properties – 300 square feet;
- (6) New 5 feet wide concrete handicap access to front offices;
- (7) 9 parking spaces on west side of west offices building;
- (8) Storm Sewer near Tiffany Court entrance;
- (9) 32 additional parking spaces on the property north of subject property, as per lease with property owner;
- (10) More detailed floor plan of west office building, including measurements, uses, and number of employees for each establishment;
- (11) Cross-section of accessible parking for west offices.

E. The structures on the property were constructed after the Zoning Ordinance was adopted by Champaign County on October 10, 1973.

F. The required variance is as follows:

- (1) Part A: Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.
- (2) Part B: Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding Parts A and B of 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) "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.

*05/06/15 REVISED DRAFT*

- (2) "CANOPY" is a non-retractable roof-like STRUCTURE of either a permanent or non-permanent nature which projects from the wall of a STRUCTURE, is supported above the surface of the ground by poles, posts, columns, beams, girders, or other similar framework attached to the ground, and overhangs or covers the public way or adjacent YARD or COURT.
- (3) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (4) "FRONTAGE" is that portion of a LOT abutting a STREET or ALLEY.
- (5) "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.
- (6) "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.
- (7) "LOT LINES" are the lines bounding a LOT.
- (8) "PARKING GARAGE or LOT" is a LOT, COURT, YARD, or portion thereof used for the parking of vehicles containing one or more PARKING SPACES together with means of ACCESS to a public way.
- (9) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (10) "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.
- (11) "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.
- (12) "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.
- (13) "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.

**05/06/15 REVISED DRAFT**

**Case 792-V-14  
Page 7 of 21**

The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.

- (14) “WAREHOUSE” is a BUILDING within which raw materials, goods, or equipment including vehicles, are kept and wherein no manufacturing, assembly, construction, repair, sales or other activity is performed except for the packaging of goods and materials for shipment.
  - (15) “WAREHOUSE, SELF-STORAGE” is a BUILDING or BUILDINGS containing multiple, independently accessible spaces where raw materials, goods or equipment, or personal goods including personal vehicles, are kept and wherein no other commercial or industrial activity occurs.
  - (16) “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.
  - (17) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each but a STREET RIGHT-OF-WAY both such YARDS shall be classified as front YARDS.
- B. The I-1, Light Industry DISTRICT is established to provide for storage and manufacturing USES not normally creating a nuisance discernible beyond its PROPERTY lines.
- 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.



*05/06/15 REVISED DRAFT*

- (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. Paragraph 7.4.1.C.2. requires that the number of PARKING SPACES for commercial establishments shall be the sum of the individual requirements of the various individual establishments computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.
- E. Paragraph 7.4.1.C.3.b.ii. requires for outdoor areas, including non-permanent STRUCTURES, used for exhibit, educational, entertainment, recreational, or other purpose involving assemblage of patrons, one PARKING SPACE per three patrons based on the estimated number of patrons during peak attendance on a given day during said USE is in operation.
- F. Paragraph 7.4.1.C.3.e. requires ESTABLISHMENTS other than specified above: one such PARKING SPACE for every 200 square feet of floor area or portion thereof.
- G. Regarding the parking requirements for a self-storage warehouse:
- (1) The Zoning Ordinance does not clearly establish parking requirements for self-storage warehouses. Parking requirements for “commercial ESTABLISHMENTS” are found in paragraph 7.4.1.C. of the Ordinance. Self-storage warehouse is not listed in subparagraph 7.4.1.C.3. and therefore a self-storage warehouse could be considered as an “ESTABLISHMENTS other than specified above” in subparagraph 7.4.1.C.3.e., in which case the requirement is one parking space for every 200 square feet of floor area.
  - (2) However, a self-storage warehouse is very similar to the warehouses found in modern office & light industry developments and previous Zoning Administrators have used the parking requirement for industrial uses that is found in paragraph 7.4.1.D. for those warehouses and also for self-storage warehouses. Paragraph 7.4.1.D. requires one parking space per each three employees based on the maximum number of employees during a work period. When applied to self-storage warehouses that standard that has been administered as “one space per three self-storage warehouse units” and that is the standard used to determine the

*05/06/15 REVISED DRAFT*Case 792-V-14  
Page 9 of 21

required parking spaces for the self-storage warehouse portion of the subject property. The minimum required parking for the office portion is still 7.4.1.C.3.e., which is one parking space for every 200 square feet of floor area.

- H. Paragraph 7.4.1.D.1. requires for industrial uses 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.
- I. Zoning Department staff has calculated the following 67 minimum required parking spaces based on the Revised Site Plan received March 30, 2015:
- (1) For 53 storage units, one space per 3 units – 18 spaces
  - (2) For 1,500 square feet of upstairs storage east of the “new garage”, one space per 200 square feet – 8 spaces
  - (3) For 2,805 square feet of the “new garage”, one space per 200 square feet – not applicable because this is a proposed parking area
  - (4) For 2,375 square feet of “new storage” (chiropractor gym space), one space per 200 square feet – 12 spaces
  - (5) For 4,950 square feet of “new offices” on the west end, one space per 200 square feet – 25 spaces
  - (6) For 450 square feet of upstairs “executive office”, one space per 200 square feet – 3 spaces
  - (7) Requirement of one visitor space – 1 space
- J Minimum FRONT SETBACK in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 55 feet.
- K. Minimum FRONT YARD in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 25 feet.

*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“Original plans do not allow but two 5 foot by 10 foot slabs thus limiting HCP and general accessibility to various entry and**

*05/06/15 REVISED DRAFT*

**exit points. Covered porch protects sidewalk and entry points from environmental elements that could cause them to be hazardous, while improving esthetic view of the neighborhood.”**

- B. Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces:
- (1) There appears to be no additional area on the subject property for more parking spaces. The area surrounding the existing buildings is not adequate to accommodate any significant parking because of the minimum separation requirement from the property line and a parking space. A Variance from the minimum separation could be requested, but it would still not add enough parking.
  - (2) The 2,664 square feet “warehouse” shown in the Site Plan dated July 17, 2014 is a bus garage that was added for the former LEX use and it has never been authorized by Zoning Use Permit. The “warehouse” occupies land area that was previously used for a loading berth and six parking spaces. The Revised Site Plan received on March 30, 2015 indicates this area as a “garage” that totals 2,805 square feet.
  - (3) Testimony by adjacent landowners and one business owner who rents space in the subject building indicates that not all parking spaces on the subject property are reliably available for parking due primarily to inadequate access that is quite often blocked.
  - (4) Adjacent landowners have testified that vehicles parking on the west side of the subject property quite often park over the public sidewalk.
- C. Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet:
- (1) The Petitioner, without a Zoning Use Permit, constructed a five foot wide covered porch over a sidewalk on the west side of the existing offices and sales room. Without this covered porch, the front yard would be 25 feet and the setback from the street centerline would be 55 feet, both compliant with the Zoning Ordinance.

***GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application, **“Adhering to strict letter of provision could limit gainful earnings of rental space, by limiting accessibility of patrons of**

*05/06/15 REVISED DRAFT*

**Case 792-V-14**  
**Page 11 of 21**

**Frazier Properties. Without upgrading and maintaining property could affect property value for entire subdivision.”**

- B. Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces:
  - (1) Without the proposed Variance, the Petitioner would have to demolish at least 3,000 square feet of existing buildings and/or covered areas and/or vacate all second floor (upstairs) areas to meet the parking requirements.
- C. Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet:
  - (1) Without the proposed Variance, the Petitioner would have to demolish the existing porch to meet the setback and front yard requirements, and that would not provide enough area for the required parking spaces.
- D. The Zoning Ordinance does not clearly establish parking requirements for self-storage warehouses.

Parking requirements for “commercial ESTABLISHMENTS” are found in paragraph 7.4.1.C. of the Ordinance. Self-storage warehouse is not listed in subparagraph 7.4.1C.3. and therefore a self-storage warehouse could be considered as an “ESTABLISHMENTS other than specified above” in subparagraph 7.4.1.C.3.e., in which case the requirement is one parking space for every 200 square feet of floor area.

However, a self-storage warehouse is very similar to the warehouses found in modern office & light industry developments and previous Zoning Administrators have used the parking requirement for industrial uses that is found in paragraph 7.4.1.D. for those warehouses and also for self-storage warehouses. Paragraph 7.4.1.D. requires one parking space per each three employees based on the maximum number of employees during a work period. When applied to self-storage warehouses that standard that has been administered as “one space per three self-storage warehouse units” and that is the standard used to determine the required parking spaces for the self-storage warehouse portion of the subject property. The minimum required parking for the office portion is still 7.4.1.C.3.e., which is one parking space for every 200 square feet of floor area.

***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, **“With the upgrades, I would say that I have not caused any difficulties or hardships to other properties or myself.”**



Case 792-V-14  
Page 12 of 21

*05/06/15 REVISED DRAFT*

- B. The nearest building on neighboring property is approximately 125 feet from the shared property line to the south.

*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 this variance and permitting upgrades, it will be the final face of construction in the west yard. With the exception of preventive maintenance will be no more need to improve property in that area.”**
- B. Regarding the requested Variance:
- (1) Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces: the requested variance provides 10 fewer parking spaces, equivalent to 83% of the minimum required, for a variance of 17%.
  - (2) Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet: the requested variance for the setback is 5 feet less, or 91% of the minimum required, for a variance of 9%; the front yard is 5 feet less, or 80% of the minimum required, for a variance of 20%.
- C. Regarding Part A of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlie the parking requirements. Presumably the parking space requirements are intended to ensure that employees, customers, and deliverers of goods and services have ample room to park safely in consideration of pedestrians and other roadway users.
  - (2) In a memo to the Petitioner dated December 15, 2014, John Hall indicated that “if there are more or less than 3 company vehicles, the number of required spaces will change and if any company vehicles are parked indoors the number of required spaces would be reduced accordingly.”
  - (3) Eighteen of the 58 required parking spaces are for use by patrons of the self-storage units. One can reasonably assume that all patrons would rarely enter the property at the same time, which would result in less demand for the available parking spaces.
- D. Regarding Part B of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlie the front setback and front yard requirements. Presumably the front setback and front yard are intended to ensure the following:

*05/06/15 REVISED DRAFT*

*Case 792-V-14  
Page 13 of 21*

- (a) Adequate separation from roads.
  - (b) Allow adequate area for road expansion and right-of-way acquisition.
  - (c) Parking, where applicable.
- (2) The subject property is on a cul-de-sac with generally lower traffic volumes and speed limits than other minor roads. No further right-of-way acquisition is anticipated.
- E. 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: **“Factors that tend to insure that variance will not be injurious to the neighborhood or otherwise to the public health safety or welfare are: 1) We will not be asking for parking spaces to change or impede into public roadway, just move them 5 feet to the west (that still maintains 300 sq. ft. as required and 10 foot setback requirement) and 2) 5 feet dedicated to covered porch will insure safe HCP, general public and patrons accessibility to Frazier Properties.”**
  - B. The Township Road Commissioner has been notified of this variance and had the following comments:
    - (1) At the February 12, 2015 public hearing, Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that from sidewalk to sidewalk is the jurisdiction of Champaign Township. He is concerned that there has been 100 feet of the barrier curb removed without permission, notice of removal, or granting of permit therefore Champaign Township has lost 100 feet of barrier curb.
    - (2) In an email received April 30, 2015, Mr. Padgett indicated the following:
      - (a) Champaign Township Road District has no problem with parking spaces on Mr. Frazier’s property as long as they do not extend over the pedestrian sidewalk.
      - (b) The missing curb and the driving over unprotected utilities in the area between the sidewalk and the street is still an issue. He suggested that six inches of concrete poured in this area would be acceptable.

*05/06/15 REVISED DRAFT*

- (c) He would like to see the Township reimbursed for the replacement of the curb at some time since the Township Road District did not remove it nor did they approve its removal.
- C. The Scott Fire Protection District has been notified of this variance but no comments have been received.
- D. City of Champaign Planning Department was consulted to see if a long-term parking lease on a property within the City of Champaign would require subdivision approval by the city in addition to any applicable County regulations. Rob Kowalski, Assistant Director of Planning and Development for the City of Champaign, responded in an email received May 1, 2015 that city subdivision approval would not be necessary if Mr. Frazier decides to lease spaces from his neighbor; however, the neighbor would still have to meet city regulations for parking (see Attachment F).
- E. The nearest building on neighboring property is approximately 125 feet from the shared property line.
- F. Several adjacent business owners testified at the February 12, 2015 public hearing:
- (1) Mr. Lloyd Allen owns the property at 4400 West Springfield Avenue, beside Mr. Frazier's property. He is opposed to approving the variances because of parking concerns, Mr. Frazier cutting sidewalk and curbs out, and removing "No Parking" signs. Mr. Allen submitted photos of parking issues at the hearing, which can be found in Attachment E.
- (2) Mr. Steve Koester owns 305 Tiffany Court, north of Mr. Frazier's property, and also owns the property along the south side of Mr. Frazier's property with Mr. Caleb Burton. He stated concerns about access to his own property by emergency vehicles, delivery trucks and employees. He also stated that Mr. Frazier's customers who park on the west side of the property cover the sidewalk and sometimes park in the cul-de-sac, which is a no parking zone. He stated that Mr. Frazier does not have enough land to support what he has going on there. Mr. Koester stated that he has had many cases of people parking on his south lot, south of Mr. Frazier's property, to go to the mini-warehouses and Mr. Frazier's garbage service parks on Mr. Koester's property to dump Mr. Frazier's dumpster. Mr. Koester stated that he just acquired the property to the south of Mr. Frazier's building and the property was really cheap. Mr. Koester stated that the reason why he was able to purchase the property at such a low price was due to the history of Mr. Frazier's property but the property was also available for Mr. Frazier's purchase so that he could expand. Mr. Koester stated that the closing price for the property was \$125,000 and Mr. Frazier's best move would have been to have purchased the property to the south so that he could run the kind of operation that Mr. Frazier proposes because it would have given him adequate area to meet the

05/06/15 REVISED DRAFT

Case 792-V-14  
Page 15 of 21

County's parking requirements and would not need the requested variances. Mr. Koester stated that he will not lease the property to Mr. Frazier. Mr. Koester submitted photos of parking issues at the hearing, which can be found in Attachment E.

(3) Mr. Caleb Burton, whose business is located at 314 Tiffany Court, has concerns about the 10 foot drive Mr. Frazier has for his property. He stated that he has seen vehicles blocking the front yard, making Mr. Frazier's property inaccessible and that Mr. Frazier's clients use Mr. Burton's service entrance daily. Mr. Burton is also concerned about how Mr. Frazier poured concrete that drains south and nothing was done to taper the drainage or direct it to the street therefore it drains onto Mr. Burton's property.

(4) Mr. Andrew Tunstall operates a chiropractic, exercise and rehabilitation facility in one of the offices at the west end of Mr. Frazier's property. He stated that his clients have complained about the parking. His clients cannot access the area Mr. Frazier identified as overflow parking back by the mini storage units.

His actual gym site is 2,375 square feet in area and he has two additional therapy rooms and a reception area that take up an additional 1,025 square feet. On a typical slow night between 3 and 6 PM he will see 4 to 6 people but on a busy night he may see up to 16 people; he has the operation set up to accommodate up to 24 people at one time.

*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: "Upgrades and allowing of variance will provide strong and ensured growth to Stahly subdivision by providing a safe and inviting place for small business to grow and contribute to the local economy."

*GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL*

13. Regarding proposed special conditions of approval:

**A. The Petitioner shall maintain the required 67 parking spaces either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department. Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

**To ensure that adequate parking is provided for the subject property.**



05/06/15 REVISED DRAFT

- B. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

**To ensure that safety is a priority in designing parking for the subject property.**

- C. Within one year of Final Determination in Case 792-V-14, the property owner must reconstruct the curb that was removed and must submit all necessary engineering documentation that would be required for meeting the original design and specifications in the Stahly Subdivision.**

The special condition stated above is to ensure the following:

**To ensure that the curb is restored so that the street right of way functions according to its original design.**

- D. A Change of Use Permit must be approved for each change of use on the subject property.**

The special condition stated above is to ensure the following:

**To ensure that only those uses authorized in the I-1 Light Industry District can be located on the subject property.**

**05/06/15 REVISED DRAFT**

**Case 792-V-14  
Page 17 of 21**

**DOCUMENTS OF RECORD**

1. Variance Application received on July 17, 2014, with attachments:
  - A Site Plan
  
2. Preliminary Memorandum dated January 22, 2015 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Approved Site Plan for ZUPA # 351-02-03
  - C Site Plan received July 17, 2014
  - D Annotated Site Plan
  - E Images packet dated December 30, 2014
  - F Draft Summary of Evidence, Finding of Fact, and Final Determination
  
3. Photos submitted during February 12, 2015 ZBA hearing from Lloyd Allen and Steve Koester
  
4. Email from Robert Frazier received March 18, 2015, with attachments:
  - A Signed lease for parking spaces
  - B Image of parking area
  
5. Revised Site Plan received March 30, 2015
  
6. Email from Keith Padgett, Champaign Township Highway Commissioner received April 30, 2015
  
7. Email from Rob Kowalski, City of Champaign, received May 1, 2015
  
8. Paving Plan and Profile for Stahly Subdivision, received August 12, 1986
  
9. Supplemental Memorandum #1 dated May 6, 2015, with attachments:
  - A Email from Robert Frazier received March 18, 2015, with attachments
  - B Revised Site Plan received March 30, 2015
  - C Email from Keith Padgett, Champaign Township Highway Commissioner received April 30, 2015
  - D Approved minutes from February 12, 2015 ZBA hearing
  - E Photos submitted during February 12, 2015 ZBA hearing from Lloyd Allen and Steve Koester
  - F Email from Rob Kowalski, City of Champaign, received May 1, 2015
  - G Paving Plan and Profile for Stahly Subdivision, received August 12, 1986
  - H Revised Draft Summary of Evidence dated May 6, 2015

Case 792-V-14  
Page 18 of 21

05/06/15 REVISED DRAFT

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 792-V-14 held on **January 29, 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. The Petitioner shall maintain the required 67 parking spaces either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease**

*05/06/15 REVISED DRAFT*

Case 792-V-14  
Page 19 of 21

**must be provided annually to the Zoning Department. Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

**To ensure that adequate parking is provided for the subject property.**

**B. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

**To ensure that safety is a priority in designing parking for the subject property.**

**C. Within one year of Final Determination in Case 792-V-14, the property owner must reconstruct the curb that was removed and must submit all necessary engineering documentation that would be required for meeting the original design and specifications in the Stahly Subdivision.**

The special condition stated above is to ensure the following:

**To ensure that the curb is restored so that the street right of way functions according to its original design.**

**D. A Change of Use Permit must be approved for each change of use on the subject property.**

The special condition stated above is to ensure the following:

**To ensure that only those uses authorized in the I-1 Light Industry District can be located on the subject property.**



Case 792-V-14  
Page 20 of 21

05/06/15 REVISED DRAFT

## FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 792-V-14 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Robert Frazier** to authorize the following variances in the I-1 Light Industry Zoning District:

**Part A. Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.**

**Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

**A. The Petitioner shall maintain the required 67 parking spaces either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department. Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

**To ensure that adequate parking is provided for the subject property.**

**B. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

**To ensure that safety is a priority in designing parking for the subject property.**

**C. Within one year of Final Determination in Case 792-V-14, the property owner must reconstruct the curb that was removed and must submit all necessary engineering documentation that would be required for meeting the original design and specifications in the Stahly Subdivision.**

The special condition stated above is to ensure the following:

*05/06/15 REVISED DRAFT*

**Case 792-V-14**  
**Page 21 of 21**

**To ensure that the curb is restored so that the street right of way functions according to its original design.**

**D. A Change of Use Permit must be approved for each change of use on the subject property.**

The special condition stated above is to ensure the following:

**To ensure that only those uses authorized in the I-1 Light Industry District can be located on the subject property.**

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. 793-S-14**  
**SUPPLEMENTAL MEMORANDUM #5**

May 6, 2015

Petitioner: **Lawrence Johnson and Fuad Handal**

Request:

- 1) **Authorize a kennel as a Special Use on 1.8 acres located in the AG-1 Agriculture Zoning District.**
- 2) **Authorize the following waivers to the standard conditions of the Kennel special use as per Section 6.1.3 of the Zoning Ordinance:**
  - a. ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet; and~~
  - b. ~~No noise buffer of evergreen shrubs or trees~~ **A six feet tall wood privacy fence surrounding the activity area on the south, northeast and north sides** in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use; and
  - c. **A side yard setback of 85 feet in lieu of the required 200 feet.**

Location: **A 1.8 acre tract in the Southeast Quarter of the Southeast Quarter of Section 5 T. 19 N. R. 8 E. in Champaign Township with an address of 1211 N Staley Road, Champaign.**

Site Area: **1.8 acres (80,772 square feet)**

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

Prepared by: **Susan Chavarria**  
Senior Planner

**John Hall**  
Zoning Administrator

---

## STATUS

At the April 16, 2015 ZBA hearing, several documents were requested of Mr. Johnson and Mr. Handal:

1. A revised site plan of the entire property, including:
  - Everything shown in previous proposed site plans, plus
  - The new proposed location for the activity area fence, with measurements, and the new 6 feet tall wood privacy fence surrounding the fenced activity area
2. A certificate of insurance for the kennel operation
3. A copy of the registration form clients fill out for kennel services
4. A copy of the invoice for the septic system inspection and cleaning, on company letterhead

On April 22, 2015 the Zoning Department received a Certificate of Liability Insurance from Mr. Johnson's insurance company. On April 24, 2015, Mr. Johnson delivered a copy of the registration form for his clients and a revised site plan showing where they propose to relocate the large fenced activity area. On April 29, 2015, Mr. Johnson submitted an invoice on letterhead from the septic company.

No additional public comments have been received since the April 16, 2015 ZBA hearing.

**SPECIAL CONDITIONS**

The following are proposed special conditions for the case:

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- B. **The number of animals to be boarded at one time will not exceed 15, including dogs that are the property of anyone residing on the property and any dogs belonging to the owner of the property, which is the number the Petitioner indicated as the maximum that they would board.**

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

**That noise from the proposed Special Use is minimally disruptive to the surrounding area.**

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has installed either slats into the existing six feet tall chain link fence surrounding the exercise area, or a six feet tall wood fence on the south, north, and east sides and chain link on the west side of the relocated fenced activity area. There can be no gap between the wood fence and the chain link fence.**

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

**That the Special Use conforms to the Zoning Ordinance requirement 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.**

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

**That all state accessibility requirements have been met.**

- E. **No dog shall be kenneled outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**

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

**To ensure that kennel operations are consistent with the testimony and to minimize impact on the neighbors.**

- F. **The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur**



**on at least a triennial basis and all maintenance reports shall be made available for review by the Zoning Administrator. Failure to provide copies of maintenance reports when requested shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State’s Attorney for legal action.**

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

**To ensure that the septic system continues to be of sufficient capacity and in operation given the increase in use from a single family residence to a residence with a Kennel.**

**G. No trash or garbage shall be burned on the property.**

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

**To ensure that the Special Use conforms with the Zoning Ordinance policy protecting the health, safety, and general welfare of area residents.**

**H. The Special Use Permit shall expire when the current resident operator Mr. Reginald Johnson no longer resides on the property.**

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

**To ensure that there is an experienced and qualified resident operator that has been involved in the public hearing for this case.**

**I. The Revised Site Plan received April 24, 2015 will be the final site plan for approval and will include the floor plans received April 7, 2015.**

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

**To ensure that all parties are clear in which submitted site plan is the official site plan for approval.**

**ATTACHMENTS**

- A Certificate of Liability Insurance from Country Financial, received April 22, 2015
- B Copy of registration form for kennel clients, received April 24, 2015
- C Revised site plan indicating relocated activity area, received April 24, 2015
- D Invoice for septic system maintenance, received April 29, 2015
- E Draft minutes from April 16, 2015 ZBA hearing
- F Revised Summary of Evidence dated May 6, 2015



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/20/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> CC Services 1705 N Towanda Ave PO Box 2020 Bloomington IL 61702-2020	<b>CONTACT NAME:</b> CC Services
	<b>PHONE (A/C, No, Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> _____
<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURER A:</b> Capitol Insurance Companies <span style="float: right;">NAIC #</span>	
<b>INSURER B:</b> _____	
<b>INSURER C:</b> _____	
<b>INSURER D:</b> _____	
<b>INSURER E:</b> _____	
<b>INSURER F:</b> _____	

**COVERAGES** **CERTIFICATE NUMBER:** CL1542006689 **REVISION NUMBER:** \_\_\_\_\_

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____			BP02355193-02	3/28/2015	3/28/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ _____ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ _____ \$ _____
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ _____ BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ \$ _____
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ _____ AGGREGATE \$ _____ \$ _____
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ _____ E.L. DISEASE - EA EMPLOYEE \$ _____ E.L. DISEASE - POLICY LIMIT \$ _____

RECEIVED

APR 22 2015

CHAMPAIGN CO. P & Z DEPARTMENT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER** **CANCELLATION**

Champaign County Planning and Review  
 Attn: Planning and Zoning  
 1776 E Washington  
 Urbana, IL 61802

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
 Angela Murphy/LC

Disclaimer

Dog House on the Prairie requires that all dogs coming in for boarding, daycare, board and train, and grooming be fully vaccinated with the following; distemper complex (normally given by your vet and includes parvo and leptospirosis), rabies (state requirement), and bordetella (kennel cough). These vaccines help control the spread of disease. We will need a copy with your vets letterhead of these vaccinations to keep for our records. No aggressive dogs will be boarded. By signing the bottom you agree to the temporary release of custody of your dog(s) to Dog House on the Prairie. In the event of an emergency you agree to let us take your dog(s) to the vet of your choice. In the event that your vet is unavailable we will use ours. You agree to pay all charges. Payment in full is expected upon pick up.

Dog(s) Name.....

Print..... Phone.....

Sign..... Emergency Phone.....

Date.....

RECEIVED

APR 24 2015

CHAMPAIGN CO. P & Z DEPARTMENT









1985-2015 CELEBRATING 30 YEARS  
 1009 BOYDEN - URBANA IL 61802  
 (217) 337-5996 FAX: (217) 344-4451

# Invoice

Date	Invoice #
8/6/2012	33252

**PAID**  
 08/07/2012

Bill To	Ship To
FUAD J. HANDAL 1807 RIDGE PARK RD. URBANA,IL 61802-7065	1211 N. STALEY CHAMPAIGN

P.O. Number	Terms	TECHNICIAN	Date of Service	TANK SIZE	DEPTH	HOSE
1524	Due on receipt	JRK	8/6/2012	SURFACE	500	

Quantity	Item Code	Description	Price Each	Amount
1	SEPCLEAND	SEPTIC TANK CLEANED	95.00	95.00
1	DISPOSAL	WASTE DISPOSAL - GALLONS PUMPED - 500	75.00	75.00
1	FUELCHARGE	FUEL SURCHARGE	10.00	10.00
		HEAVY GREASE AND DEBRIS.		
		TANK LOCATION = 6' OUT FROM NORTHSIDE OF DRIVEWAY.		
		PAID IN FULL WITH CHECK #1524		
		RICH Sales Tax	0.00%	0.00

Thank you for your business

**RECEIVED**

APR 29 2015

CHAMPAIGN CO. P & Z DEPARTMENT

<b>Subtotal</b>	\$180.00
<b>Payments Applied</b>	-\$180.00
<b>Balance Due</b>	\$0.00

**Attachment E: Draft Minutes from 4/16/15 ZBA Hearing**  
will be distributed as a handout at the 5/14/15 meeting

**05/06/15 REVISED DRAFT**

**793-S-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: ***{ May 14, 2015 }***

Petitioners: Lawrence Johnson and Fuad Handal

- Request:
- 1) Authorize a kennel as a Special Use on 1.8 acres located in the AG-1 Agriculture Zoning District.
  - 2) Authorize the following waivers to the standard conditions of the Kennel special use as per Section 6.1.3 of the Zoning Ordinance:
    - a. ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet; and~~
    - b. ~~No noise buffer of evergreen shrubs or trees~~ A six feet tall wood privacy fence around the activity area in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use; and
    - c. A side yard setback of 85 feet in lieu of the required 200 feet.

**Table of Contents**

**General Application Information ..... 2 - 4**

**Specific Ordinance Requirements ..... 4 - 13**

**Special Use Evidence .....13 - 30**

**Documents of Record ..... 31**

**Case 793-S-14 Finding of Fact.....33 - 36**

**Case 793-S-14 Final Determination ..... 37 - 39**

Case 793-S-14  
Page 2 of 39

05/06/15 REVISED DRAFT

## SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 12, 2015, April 16, 2015, and May 14, 2015** the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Fuad Handal owns the subject property and Lawrence Johnson resides on the property; the latter will manage the kennel.
2. The subject property is a 1.8 acre tract in the Southeast Quarter of the Southeast Quarter of Section 5 T. 19 N. R. 8 E. in Champaign Township with an address of 1211 N Staley Road, Champaign.
3. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they do receive notice of such cases and they are invited to comment. Regarding the City of Champaign Comprehensive Plan:
  - A. A letter dated February 6, 2014, was received from City of Champaign Senior Planner Jeff Marino which can be summarized as follows:
    - (1) Due to the inability to extend sanitary sewer to this lot it is not identified as being in the growth area for the City of Champaign.
    - (2) Since the property is zoned AG-1, if the property were to be annexed it would be annexed as SF1, Single Family Residential Zoning District.
    - (3) Kennels are not allowed in the SF1 Zoning District.
    - (4) Based on the inconsistency with the City of Champaign's Comprehensive Plan, the City of Champaign staff's position is that approval of this special use permit is not appropriate.
  - B. The City of Champaign Comprehensive Plan indicates four types of land areas based on growth potential which are Tier One (areas that are already suitable for urban development); Tier Two (areas suitable for urban development if services and infrastructure are made available); Tier Three (land not appropriate for urban development for many years); and an unnamed fourth category of land that is not discussed at all and is less suitable for development than even Tier Three land. The City and surrounding land are divided into 11 "growth areas" which are identified as Growth Areas A through L. The subject property and all land west of Staley Road and north of I-72 is in Growth Area C of the Comprehensive Plan in the unnamed fourth category of land which presumably may never even be considered as Tier Three land.



**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 3 of 39**

**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 1.8 acre tract zoned AG-1 Agriculture and is in use as a single family residence.
  - B. Land to the north, west, and south of the subject property is zoned AG-1 Agriculture and is in use as farmland.
  - C. Land to the east of the subject property is in the City of Champaign, is zoned SF-1 Single Family Residential and is in use as single family dwellings.

**GENERALLY REGARDING THE PROPOSED SPECIAL USE**

5. Regarding the site plan of the subject site:
  - A. The Petitioner's Revised Site Plan, received January 21, 2015 indicates the following:
    - (1) Existing residence with footprint of approximately 29 feet by 49 feet;
    - (2) Existing detached garage, approximately 24 feet by 24 feet;
    - (3) Existing detached, covered "play kennel", approximately 20 feet by 20 feet;
    - (4) Existing large shed, approximately 60 by 80 feet;
    - (5) Existing smaller "old shed", to be demolished;
    - (6) Existing six feet tall chain link fenced activity area for dogs, 65 feet by 80 feet. The eastern side of the fence runs between power line poles along Staley Road; it is unclear if that part of the fence is within the road right-of-way. Note: This exercise area and fence enclosure is relocated on the Revised Site Plan received 4/24/15. See below.
    - (7) No additional improvements are anticipated for the proposed Special Use.
  - B. A floor plan of the dwelling in which the kennel is proposed was received April 7, 2015, and indicates the following:
    - (1) The first floor includes the following rooms and spaces:
      - a. A kitchen and pantry
      - b. An office
      - c. A rear entry area
      - d. A bathroom

*05/06/15 REVISED DRAFT*

- e. A Boarding Room that is approximately 448 square feet in area and contains the following kennels and crates:
  - (a) 2 kennels that are each 5 feet by 5 feet and approximately 5 feet tall.
  - (b) 2 kennels that are each 4 feet by 4 feet and approximately 4 feet tall.
  - (c) Four crates that are each 29.5 inches wide by 48 inches long by 32 inches tall.
  - (d) Photographs of the kennels and crates were received on February 11, 2015, and included with the Supplemental Memorandum dated 2/12/15.
  
- f. A Grooming Room that is approximately 96 square feet in area and contains a table, a crate (24 inches wide by 36 inches long by 26 inches tall), and a tub.
  
- (2) The second floor includes two bedrooms, a bathroom, and a hallway and no boarding kennels or crates are indicated.
  
- (3) The basement is one large space and no boarding kennels or crates are indicated.
  
- C. Regarding the operations of the proposed Kennel Special Use Permit, the petitioners have provided the following:
  - (1) On the Special Use Permit application:
    - a. The dogs are let out into play areas that are enclosed with human supervision and are not allowed out of the play areas without being on a leash.
  
    - b. All trash including feces is thrown away in the garbage and collected weekly by a professional trash collector.
  
  - (2) In testimony given in the public hearing on February 12, 2015:
    - a. Regarding the hours of operation:
      - (a) The regular hours of operation at 7AM to 7PM.
  
      - (b) Owners may drop dogs off at other hours due to an emergency.
  
      - (c) Mr. Johnson lives on the property with his own dogs.
  
    - b. Regarding staffing:

**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 5 of 39**

- (a) Mr. Reginald Johnson is currently the only employee and he is a certified dog trainer.
- (b) Mr. Johnson may consider adding an additional employee if the business grows enough to require an additional employee.
- c. Regarding boarding of dogs:
  - (a) Mr. Johnson currently has six dogs (all male) and his six dogs are part of the total of 15 dogs that are proposed to be kenneled.
  - (b) The dogs are housed in crates and kennels in the house.
  - (c) The dogs sleep in their crates and kennels at night and do sleep all night.
  - (d) Mr. Johnson keeps records of the dog's shots.
- d. Regarding outdoor exercise for the dogs:
  - (a) The dogs are let out to exercise every other hour so that they are not cooped up in the crates and kennels for several hours at a time. Depending upon the weather, there are six to eight exercise times per day.
  - (b) Mr. Johnson is always outside with the dogs during their exercise time.
  - (c) The dogs are not left outside for hours at a time unsupervised.
  - (d) The dogs that get along are allowed to go out together under supervision but there are times when only one dog may be exercised outside and other times there are two or three dogs exercised.
  - (e) Mr. Johnson does not take his dogs for exercise on the sidewalk on the other side of Staley Road.
- e. Regarding dog training at the kennel:
  - (a) Dogs with serious behavioral issues do not come to the facility because aggressive dogs are not allowed to be at the facility.
  - (b) When Mr. Johnson does train dogs with behavioral issues the owner will bring the dog to the kennel and Mr. Johnson will work with the owner and the dog and then the owner takes the dog back home.

Case 793-S-14  
Page 6 of 39

*05/06/15 REVISED DRAFT*

- D. The petitioner applied for and received a license from the Illinois Department of Agriculture to run a dog kennel, which requires renewal by June 30<sup>th</sup> each year.
- (1) The license application specific to “buildings and premises” for kennels operator include review of the following:
- (a) Describe buildings and premises where applicant intends to conduct operation (dimensions, type of flooring, roofing, and size of different rooms;
  - (b) Number of cages, pens, and/or aquariums on the premises;
  - (c) Average number of dogs, cats, birds, fish, or reptiles on hand;
  - (d) Describe storage and disposal of waste materials and dead animals (schedule of pick-up service and by whom);
  - (e) What control measures are taken to prevent infestation of animals and premises with external parasites and vermin;
  - (f) What precautions are taken for the isolation of diseased animals to avoid exposure to healthy and salable animals;
  - (g) How often are cages, runs, and tanks cleaned and disinfected when in current use; and
  - (h) Describe heating and ventilation system in the kennel area.
- (2) The license application specific to “animals in transit” for kennels operator include review of the following:
- (a) Method of handling animals in transit in relation to feeding, watering, freedom of movement, type of conveyance, heat and ventilation, disinfecting, and sanitary measures.
- E. Petitioner Johnson indicated they can board up to 15 dogs in the house; the dogs will only be let outside for periodic necessary activity.
- F. A revised Site Plan received April 24, 2015 indicates that the Petitioners will move the fenced activity area from the northeast corner of the property to an area behind the house. They will also install a wood privacy fence on the south, northeast, and north sides of the activity area.
- G. The petitioner has requested the following waivers (variances) specific to the Kennel use:



**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 7 of 39**

- (1) ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet;~~
- (2) ~~No noise buffer of evergreen shrubs or trees~~ A six feet tall wood privacy fence around the activity area in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use;
- (3) A side yard setback of 85 feet in lieu of the required 200 feet.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding the proposed Special Use:

A. Section 5.2 authorizes a “Kennel” as a Special Use only in the CR, AG-1, AG-2 and B-4 Zoning Districts, and by-right in the I-1 and I-2 Zoning Districts.

B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:

- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
  - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
  - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
  - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
  - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
  - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer’s documentation of the full-cutoff feature for all exterior light fixtures.
- (2) Subsection 6.1.3 indicates the following standard conditions that apply specifically to Kennels:

**05/06/15 REVISED DRAFT**

- (a) Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL. One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.
  - (b) KENNELS where animals are kept temporarily or permanently outside of the KENNEL shall adhere to the following requirements:
    - (1) Provide a 6' wire mesh fence to encompass outdoor animal exercise and/or training area.
    - 2) Any outdoor animal exercise and/or training area shall be 200' from any adjacent residential STRUCTURE and/or USE and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in HEIGHT installed separating the exercise and/or training area from any adjacent residential STRUCTURE and/or USE. Measurements shall be made from LOT LINE of an adjacent residential STRUCTURE and/or USE.
    - 3) Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet.
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
  - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT 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.
  - (3) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
  - (4) "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, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
  - (6) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

**05/06/15 REVISED DRAFT****Case 793-S-14  
Page 9 of 39**

- (7) “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.
- (8) “KENNEL” is a LOT or PREMISES on which six or more dogs or six or more cats (or any combination thereof) at least six months of age are kept, boarded, bred, or retained for compensation; or a LOT or PREMISES on which dogs and/or cats are raised and offered for sale, adoption, or exchange, with or without compensation.
- (9) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (10) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE 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.
- (11) “PARKING SPACE” is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (12) “SCREEN” is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (13) “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.
- (14) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (15) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (16) “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.
- (17) “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.

*05/06/15 REVISED DRAFT*

- (18) "SUITED OVERALL" is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
- a. The site features or site location will not detract from the proposed use;
  - b. The site will not create a risk to health, safety or property of the occupants, the neighbors or the general public;
  - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
  - d. Necessary infrastructure is in place or provided by the proposed development; and
  - e. Available public services are adequate to support the proposed development effectively and safely.
- (19) "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.
- (20) "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.
- (21) "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.
- (22) "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.
- (23) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- D. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;



**05/06/15 REVISED DRAFT****Case 793-S-14  
Page 11 of 39**

- (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- E. 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.
- 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

*05/06/15 REVISED DRAFT*

- c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- (4) Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- a. 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.
- b. 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. The requested variances are as follows:
- (a) ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet; and~~
  - (b) ~~No noise buffer of evergreen shrubs or trees~~ A six feet tall wood privacy fence around the activity area in lieu of the required noise

**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 13 of 39**

buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use; and

- (c) A side yard setback of 85 feet in lieu of the required 200 feet.

**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 received April 30, 2014, **“I am an important service to the community. I provide a resource for people with pets who require a safe place for their pets to stay while they work, travel, are in school, and also offer emergency pet care for people that may end up in the hospital or another tragic event like a house fire. I aid and assist the average dog owner with proper care taking, which includes exercise and training, thus curbing behavioral issues, which often leads to the dog going to the pound or other over-crowded rescues.”**

**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, **“Not more injurious or detrimental. As this property is zoned AG-1, it could be used as a farm, or to keep other livestock. Dogs are cleaner than livestock that are kept in barns or pastures like cows and pigs that create smells that go beyond the perimeter of the property. All dogs are boarded indoors. I care for household pets that are family companions. They are tended to regularly both day and night. The dogs are let out into play areas that are enclosed with human supervision. They are not allowed outside of these areas without being on a leash. All trash including feces are thrown away in the garbage and collected weekly by a professional trash collector.”**
- B. Regarding surface drainage:
- (1) The subject property is located in the Fountain Head drainage district.
  - (2) The site is located at the top of a hill; drainage appears to flow across the property primarily to the west but also to the north and south.
  - (3) The Champaign County Soil and Water Conservation District Natural Resource Report does not identify any concerns related to surface drainage for the proposed project.

*05/06/15 REVISED DRAFT*

- C. The subject property location is on Staley Road, approximately 325 feet north of Bradley Avenue. Regarding the general traffic conditions on Staley Road at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The AADT on Staley Road north of Bradley Avenue is 6,800 as of 2011, the most recent year counts were done.
  - (2) Visits to the subject property might be several vehicles a day. No significant increase in traffic is anticipated.
  - (3) The Township Highway Commissioner and County Engineer have been notified of these cases and no comments have been received at this time.
- D. The subject property is located on best prime farmland. The subject property soil consists of Dana Silt Loam (56B2) and Wyanet Silt Loam (622C2). The site has a relative Land Evaluation (LE) value of 91. The following factors must be considered to ensure that the property is WELL SUITED OVERALL:
- 1) Will the site features or site location to operate as a Kennel detract from the proposed use?
  - 2) Will the site create a risk to health, safety or property of the occupants, the neighbors or the general public?
  - 3) Is the site clearly inadequate in one respect even if it is acceptable in other respects?
  - 4) Is the necessary infrastructure in place or provided by the proposed development?
  - 5) Are available public services adequate to support the proposed development effectively and safely?
- E. Regarding fire protection of the subject property, the subject property is within the protection area of the Scott Fire Protection District. The subject property is approximately 4.2 road miles from the fire station in Bondville. The Fire Protection District Chief has been notified of this request and no comments have been received.
- F. Regarding subsurface drainage:
- (1) The subject property is not located within a Special Flood Hazard Area.



**05/06/15 REVISED DRAFT****Case 793-S-14  
Page 15 of 39**

- (2) It is unknown if the subject property contains any agricultural field tile. Any tile that is discovered on the subject property will have to be protected as per the requirements of the Stormwater Management Policy.
  - (3) The Champaign County Soil and Water Conservation District Natural Resource Report for the proposed project received January 23, 2015 states: "It is likely that this site contains agricultural tile, if any tile is found care should be taken to maintain the tile in working order. Severe ponding, along with wetness may be a limitation associated with the two soil types on the site. Installing a property designed subsurface drainage system will minimize adverse effects. Reinforcing foundations helps to prevent the structural damage caused by shrinking and swelling of naturally wet soils."
- G. Regarding outdoor lighting on the subject property:
- (1) The Revised Site Plan received January 21, 2015 indicates no outdoor lighting.
  - (2) Field inspection indicates that there is outdoor lighting from the second story of the house illuminating the detached garage/driveway area. It is not clear if the fixtures are full cut off.
- H. Regarding wastewater treatment and disposal on the subject property:
- (1) ~~No information has been provided regarding the existing septic system.~~ On April 7, 2015, Mr. Johnson delivered a paid invoice dated 08/06/12 for septic cleaning services for the subject property. The invoice indicates:
    - a. That the septic system was cleaned of 500 gallons of waste;
    - b. That the tank is located six feet out from the north side of the driveway.
- 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.

*05/06/15 REVISED DRAFT*

- 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.
- (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

**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 17 of 39**

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.
- J. 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, no further alteration will be made to the property.”**
  - B. Regarding compliance with the *Zoning Ordinance*, the following evidence was provided:
    - (1) Section 5.2 authorizes a “Kennel” as a Special Use only in the CR, AG-1, AG-2 and B-4 Zoning Districts, and by-right in the I-1 and I-2 Zoning Districts.
    - (2) Paragraph 6.1.2 A. establishes standard conditions for exterior lighting that apply to all Special Use Permits (see Item 6.B.1 above). The petitioner has not provided specifications on the exterior lighting installed on the north side of the house.
    - (3) Subsection 6.1.3 indicates standard conditions that apply specifically to kennels:
      - a. Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL. One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.
        - (a) The Petitioner has stated that the animals will be boarded inside the house, and that they will only be outside in the fenced activity area temporarily.

05/06/15 REVISED DRAFT

- (b) The revised site plan received January 21, 2015, indicates a 20 feet by 20 feet “play kennel” with a 6 foot tall fence south of the garage and behind the residence. The Petitioner indicated that this area would be used as a temporary, covered activity area when weather conditions prevent use of the uncovered, fenced play area.
- b. KENNELS where animals are kept temporarily or permanently outside of the KENNEL shall adhere to the following requirements:
  - (a) Provide a 6' wire mesh fence to encompass outdoor animal exercise and/or training area. The Petitioner installed a six foot wire mesh fence for both the activity area on the north side of the property and the covered play kennel area behind the house. Note: This exercise area and fence enclosure is relocated on the Revised Site Plan received April 24, 2015; the Petitioner also added a 6 feet tall wood privacy fence around the northeast, south and north sides of the fenced play area in the Revised Site Plan.
  - (b) Any outdoor animal exercise and/or training area shall be 200' from any adjacent residential STRUCTURE and/or USE and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in HEIGHT installed separating the exercise and/or training area from any adjacent residential STRUCTURE and/or USE. Measurements shall be made from LOT LINE of an adjacent residential STRUCTURE and/or USE. The Revised Site Plan received April 24, 2015 indicates that the fenced activity area will be moved such that a Variance will no longer be needed for a separation distance of 95 feet away from the nearest lot line of an adjacent residential structure instead of 200 feet. There are no shrubs planted as a noise buffer but the Revised Site Plan received April 24, 2015 indicates a 6 feet tall wood privacy fence surrounding the relocated fenced activity area on the northeast, north, and south sides so that no planted noise buffer will be necessary.
  - (c) Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet. The rear yard has a 300 foot setback. The north side yard has a 92 foot setback. The south side yard has an 85 foot setback.
- C. Regarding compliance with the *Stormwater Management Policy*, the Champaign County Stormwater Management Policy does not apply in this case because the Petitioner will not build any new structures or make further improvements.
- D. Regarding the Special Flood Hazard Areas Ordinance, the subject property is not located in the Special Flood Hazard Area.



**05/06/15 REVISED DRAFT**

**Case 793-S-14**  
**Page 19 of 39**

- E. Regarding the Subdivision Regulations, the subject property conforms to the Champaign County Subdivision Regulations.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District, the proposed use is “Kennel”. The property is in a rural setting on the fringe of the urban area, is already converted from farmland yet maintains a rural landscape, is surrounded by farmland on three sides, and will involve the care of animals.
- G. Regarding accessibility, it is not clear if the proposed use is subject to the Illinois Accessibility Code. A Special Condition has been added to ensure compliance with state accessibility regulations.

**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. KENNEL may be authorized by the ZBA in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
  - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
    - (1) Subsection 5.1.14 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
    - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
  - C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
    - (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

*05/06/15 REVISED DRAFT*

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. However, waivers are required if standard conditions are not met.

- (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, it is unclear what impact the proposed SUP will have on 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.

There are two access drives to the property. Traffic at the kennel is expected to 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.

The requested Special Use Permit is exempt from the Champaign County Stormwater Management Policy; it is outside of the Special Flood Hazard Area, and there are no special drainage problems that appear to be created by the Special Use Permit.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
  - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 21 of 39**

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions. A Special Condition has been identified regarding exterior lighting.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is not relevant to the proposed Special Use Permit because it relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and the proposed use will be entirely new.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-1 Agriculture District and the proposed use will maintain rural characteristics.

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

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

**05/06/15 REVISED DRAFT**

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

The subject property is located in the AG-1 Agriculture District and will serve a nearby population and will not require any new public utilities or public infrastructure.

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

The subject property is located in the AG-1 Agriculture District and serves the agricultural nature of the rural area by requiring no further development to the property's rural character.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance 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.

The proposed use in this case is not related to this purpose.

**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 property is not a non-conforming use.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES FOR A WAIVER (VARIANCE)**

12. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. Minimum setbacks from the centerline of a street, minimum front yards, minimum side yards, minimum rear yards, and maximum lot size in the AG-1 District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a local street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
  - (2) The minimum front yard in regards to a local (collector) street is listed in Footnote 3 of Section 5.3 and Subsection 4.3.2 as 30 feet.
  - (3) The minimum side yard is listed in Section 5.3 as 15 feet.



**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 23 of 39**

- (4) The minimum rear yard is listed in Section 5.3 as 25 feet.

**RELATED TO THE WAIVER (VARIANCE), GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

13. 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. ~~Regarding Part (a) of the waiver (variance) that a separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet:~~
- (1) ~~The nearest residential lot line is 95 feet away across Staley Road to the east. The residence, which faces away from the kennel, has a fenced back yard adjacent to Staley Road.~~
- (2) The fenced animal exercise area abuts a large slope and ditch along Staley Road, which would make buffer plantings difficult to establish.
- B. Regarding Part (b) of the waiver (variance) for no noise buffer of evergreen shrubs or trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height:
- (1) The animal exercise area abuts a large slope and ditch along Staley Road, which would make buffer plantings difficult to establish.
- (2) The Revised Site Plan received April 24, 2015 indicates a 6 feet tall wood privacy fence surrounding the fenced activity area that will be relocated behind the house. A special condition is proposed to require the wood privacy fence as indicated in the Revised Site Plan.
- C. Regarding Part (c) of the waiver (variance) for a side yard setback of 85 feet in lieu of the required 200 feet:
- (1) ~~The nearest dwelling is approximately 3,500 feet from the side property line.~~
- (2) ~~The nearest dwelling is approximately 2,900 feet away from the rear property line.~~
- (3) The land adjacent to the sides and rear property lines is agricultural in use.

**RELATED TO THE WAIVER (VARIANCE), GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE**

14. 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:

Case 793-S-14  
Page 24 of 39

**05/06/15 REVISED DRAFT**

- A. Regarding Part (a) of the waiver (variance) for a separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet:
- (1) The petitioner recently installed the fence around the outdoor activity area, not knowing that permission was needed from the Zoning Department to do so.
  - (2) Without the proposed variance the petitioner would have to remove and reinstall the fence.
  - (3) At the April 16, 2015 public hearing, the Petitioner has agreed to move the fenced activity area behind the house, which removes the need for the variance for a separation distance of 95 feet.
- B. Regarding Part (b) of the waiver (variance) for no noise buffer of evergreen shrubs or trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height:
- (1) The animal exercise area abuts a large slope and ditch along Staley Road, which would make buffer plantings difficult to establish.
  - (2) The revised Site Plan received April 24, 2015 shows the fenced activity area moved behind the house and a wood privacy fence installed around it on the south, north, and northeast sides. This solution is considered more effective than a noise buffer of evergreen shrubs or trees.
- C. Regarding Part (c) of the waiver (variance) for a side yard setback of 85 feet in lieu of the required 200 feet:
- (1) The subject property is adjacent to agricultural land on its side and rear property lines. There are no residences within one-half mile on the sides and rear of the property.
  - (2) Without the proposed waiver, the petitioners would be unable to establish the proposed Special Use on this property.

***RELATED TO THE WAIVER (VARIANCE), GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT***

15. 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. Regarding Part (a) of the waiver (variance) for a separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet:
- (1) The petitioner recently installed the fence around the outdoor activity area, not knowing that permission was needed from the Zoning Department to do so.

**05/06/15 REVISED DRAFT**

**Case 793-S-14**  
**Page 25 of 39**

- (2) At the April 16, 2015 public hearing, the Petitioner has agreed to move the fenced activity area behind the house, which removes the need for the variance for a separation distance of 95 feet.
- B. Regarding Part (b) of the waiver (variance) for no noise buffer of evergreen shrubs or trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height:
- (1) The petitioner indicated he was not aware of the Zoning Ordinance requirements; he could have installed the fencing farther back from the difficult topography in order to accommodate the noise buffering shrubs.
  - (2) The revised Site Plan received April 24, 2015 shows the fenced activity area moved behind the house and a wood privacy fence installed around it on the south, north, and northeast sides. This solution is considered more effective than a noise buffer of evergreen shrubs or trees. A special condition is proposed to require the wood privacy fence as indicated in the Revised Site Plan.
- C. Regarding Part (c) of the waiver (variance) for a side yard setback of 85 feet in lieu of the required 200 feet:
- (1) The Petitioner owned the property prior to establishing the Kennel. He was unaware that there are Zoning Ordinance regulations specific to the Kennel use.

**GENERALLY PERTAINING TO WHETHER OR NOT THE WAIVER (VARIANCE) IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

16. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
- A. Regarding Part (a) of the waiver (variance) for a separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet,
- (1) At the April 16, 2015 public hearing, the Petitioner has agreed to move the fenced activity area behind the house, which removes the need for the variance for a separation distance of 95 feet.
- B. Regarding Part (b) of the waiver (variance) for no noise buffer of evergreen shrubs or trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height:
- (1) The revised Site Plan received April 24, 2015 shows the fenced activity area moved behind the house and a wood privacy fence installed around it on the south, north, and northeast sides. This solution is considered more effective than a noise buffer of evergreen shrubs or trees.

**05/06/15 REVISED DRAFT**

- C. Regarding Part (c) of the waiver (variance) for a side yard setback of 85 feet in lieu of the required 200 feet,
- (1) The requested variance is 43% of the minimum required, for a variance of 57%.
  - (2) The Zoning Ordinance does not clearly state the considerations that underlie the 200 foot side yard setback. Presumably the requirement is intended to provide physical separation and noise attenuation.
  - (3) The subject property is surrounded by agriculture to the north, west, and south.

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

17. Regarding the Zoning Ordinance requirement for a finding that the granting of the waiver (variance) will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Township Road Commissioner has received notice of these waivers (variances) and no comments have been received.
  - B. The Fire Protection District has been notified of these waivers (variances) and no comments have been received.
  - C. Neighbors have indicated their concerns about potential noise that may result from up to 15 dogs being cared for at the proposed Kennel.
    - (1) In an email from Tim Donohue, President of the West Ridge Homeowners Association (HOA), received February 3, 2015, the Zoning Office was copied on an email sent to HOA members informing them of the proposed Kennel and encouraging them to submit their opinions and attend the ZBA meeting for this case. West Ridge Subdivision is east of Staley Road across from the proposed use.
    - (2) In an email from the West Ridge Homeowners Association received February 3, 2015, officers of the HOA wrote on behalf of their homeowners asking the ZBA to deny this petition for a Special Use permit because they are concerned about noise coming from the boarded animals.
    - (3) In an email from Ralph and Janet Miller of the West Ridge Subdivision received February 3, 2015, they oppose approval for a Special Use Permit for a Kennel on the subject property. They mention noise concerns and suggest that even a noise buffer of plantings will not reduce the noise of barking dogs.
    - (4) Joe Patton, resident of the West Ridge Subdivision, indicates that his home is slightly north of the 200 foot line from the property in question. He is opposed to the proposed Special Use Permit and concerned about noise, odors, and public safety.



*05/06/15 REVISED DRAFT*

*Case 793-S-14  
Page 27 of 39*

- (5) Laura Schwenker, 1308 Farley Lane, Champaign (in the West Ridge Subdivision) indicates her opposition to the proposed Special Use Permit, with concerns about personal safety, noise, safety of animals, and odor.
  - (6) William Goldschlag, 1329 West Ridge Lane, opposes the proposed kennel special use and granting the associated variances. He cites noise, personal safety, and safety of animals as primary concerns.
  - (7) Derek and Dominique Ely, 1413 Farley Lane, wrote in opposition to the waivers for the proposed kennel. They are concerned about decreased property values, personal safety, noise, odor, and animal waste disposal.
- D. Regarding concerns from the adjacent neighborhood, Mr. Johnson testified at the February 12, 2015 hearing that no one has contacted him with concerns about the kennel and that he actually kenneled some of the neighbors' pets.
- E. At the February 12, 2015 public hearing, several neighbors testified regarding their concerns.
- (1) Ms. Laura Schwenker of the West Ridge Subdivision stated she does not object to the kennel across the street or the boarding or dog training of the dogs at the facility but she does object to no noise abatement measures being required for the facility.
  - (2) Mr. William Goldschlag of the West Ridge Subdivision said that his primary concern is with the noise and the request to not erecting noise barriers for the kennel. He expects more foot traffic on the pedestrian path across from the proposed kennel because it is not only used by joggers but also by families with small children in carriages. He said that there is a newly constructed playground to the north of the subdivision and the walk path is the only way to access the playground from the adjacent Sawgrass Subdivision. He said that he has a direct visual from his home and he sees people walking with their children taking them to the playground and back and he expects that the dogs will spot the pedestrians and begin barking. He stated that he would be happy if the kennel was moved towards the back of the property as far away from the road as possible and if the visual and noise barriers were required.
- F. At the February 12, 2015 public hearing, Petitioner Reggie Johnson testified that he sees people walking and jogging every day on the walk path in the subdivision and there are dogs that live in the subdivision which are near the walk path and they bark at everyone who passes by. He said he has lived at the subject property for over one year and he has his personal dogs and other peoples' dogs and he has not witnessed any of the dogs on his property bark at anyone. He said that he always supervises his dogs and the dogs are not left outside for hours at a time unsupervised. He said that the dogs do go out to exercise but he is with them the entire time.

Case 793-S-14  
Page 28 of 39

05/06/15 REVISED DRAFT

- G. On April 7, 2015, Mr. Johnson delivered a written testimonial from kennel client Teresa Cowser, who provided entirely positive comments about the kennel and care her dog receives there.
- H. At the April 16, 2015 public hearing, several neighbors cross-examined the Petitioners, but no new concerns were raised. Further, the neighbors in attendance and the Petitioners seemed okay with the solutions of moving the fenced activity area, having a wood privacy fence around it, and other special conditions that were discussed.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

18. Regarding proposed special conditions of approval:
- A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- B. **The number of animals to be boarded at one time will not exceed 15, including dogs that are the property of anyone residing on the property and any dogs belonging to the owner of the property, which is the number the Petitioner indicated as the maximum that they would board.**

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

**That noise from the proposed Special Use is minimally disruptive to the surrounding area.**

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has installed either slats into the existing six feet tall chain link fence surrounding the exercise area, or a six feet tall wood fence on the south, north, and northeast sides and chain link on the west side of the relocated fenced activity area. There can be no gap between the wood fence and the chain link fence.**

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

**That the Special Use conforms to the Zoning Ordinance requirement that the Special Use is so designed, located, and proposed as to be operated so that it**

05/06/15 REVISED DRAFT

Case 793-S-14  
Page 29 of 39

**will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare.**

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

**That all state accessibility requirements have been met.**

- E. **No dog shall be kenneled outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**

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

**To ensure that kennel operations are consistent with the testimony and to minimize impact on the neighbors.**

- F. **The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least a triennial basis and all maintenance reports shall be made available for review by the Zoning Administrator. Failure to provide copies of maintenance reports when requested shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State's Attorney for legal action.**

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

**To ensure that the septic system continues to be of sufficient capacity and in operation given the increase in use from a single family residence to a residence with a Kennel.**

- G. **No trash or garbage shall be burned on the property.**

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

**To ensure that the Special Use conforms with the Zoning Ordinance policy protecting the health, safety, and general welfare of area residents.**

- H. **The Special Use Permit shall expire when the current resident operator Mr. Reginald Johnson no longer resides on the property.**

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

Case 793-S-14  
Page 30 of 39

*05/06/15 REVISED DRAFT*

**To ensure that there is an experienced and qualified resident operator that has been involved in the public hearing for this case.**

- I. **The Revised Site Plan received April 24, 2015 will be the final site plan for approval and will include the floor plans received April 7, 2015.**

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

**To ensure that all parties are clear in which submitted site plan is the official site plan for approval.**



**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 31 of 39**

**DOCUMENTS OF RECORD**

1. Special Use Permit application received November 20, 2014, with attachments:
  - A Site Plan received December 5, 2014
2. Revised Site Plan received January 21, 2015
3. Natural Resources Report from Champaign County Soil and Water Conservation District received January 23, 2015
4. Preliminary Memorandum dated February 4, 2015, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received December 5, 2014
  - C Revised Site Plan received January 21, 2015
  - D Natural Resources Report from Champaign County Soil and Water Conservation District received January 23, 2015
  - E Site Visit Photos taken December 30, 2014
  - F Draft Summary of Evidence, Finding of Fact, and Final Determination
  - G Public comments received as of February 5, 2015
5. Supplemental Memorandum #1 dated February 12, 2015, with attachments:
  - A Memorandum from City of Champaign received February 11, 2015
  - B Public comments received via email by February 11, 2015
    - Laura Schwenker, 1308 Farley Ln, Champaign
    - Jeff Turner, 4102 Rayburn Ct, Champaign
    - Jaime Reed, 1330 West Ridge Lane, Champaign
    - Maggie & Justin Miller, 4103 Pebblebrook Ln, Champaign
  - C Photos provided by Lawrence Johnson of interior of the kennel, received February 11, 2015
6. Supplemental Memorandum #2 dated April 16, 2015, with attachments:
  - A Illinois Department of Agriculture "Inspection of Animal Welfare Licensees" dated 11/22/2013
  - B Illinois Department of Agriculture Kennel Operator's License, expires annually on June 30
  - C Professional Certification from the National K-9 School for Dog Trainers dated 12/15/2000
  - D Approved Minutes from the February 12, 2015 ZBA Hearing
7. Supplemental Memorandum #3 dated April 16, 2015, with attachments:
  - A Email from West Ridge Homeowners Association received April 10, 2015, with attachments:
    - Copy of Public Notice sent to adjacent homeowners
    - Copy of letter from WRHA to the Zoning Department dated February 3, 2015

Case 793-S-14  
Page 32 of 39

**05/06/15 REVISED DRAFT**

Petition cover letter with recommendations to subdivision residents  
Petition signature pages (4 pages, 62 unconfirmed signatures)  
Copy of optional template letter of opposition for residents to use

8. Supplemental Memorandum #4 dated April 16, 2015, with attachments:
  - A Email from Joe Patton, West Ridge subdivision resident, received April 13, 2015
  - B Email from Laura Schwenker, West Ridge subdivision resident, received April 13, 2015
  - C Email from William Goldshlag, West Ridge subdivision resident, received April 14, 2015
  - D Email from Derek and Dominique Ely, West Ridge subdivision residents, received April 15, 2015
  - E Revised Case Maps with corrected property line location
  
9. Supplemental Memorandum #5 dated May 6, 2015, with attachments:
  - A Certificate of Liability Insurance from Country Financial, received April 22, 2015
  - B Copy of registration form for kennel clients, received April 24, 2015
  - C Revised site plan indicating relocated activity area, received April 24, 2015
  - D Invoice for septic system maintenance, received April 29, 2015
  - E Draft minutes from April 16, 2015 ZBA hearing
  - F Revised Summary of Evidence dated May 6, 2015

05/06/15 REVISED DRAFT

Case 793-S-14  
Page 33 of 39

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 793-S-14 held on February 12, 2015, April 16, 2015, and May 14, 2015, the Zoning Board of Appeals of Champaign County finds that:

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

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

\*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.

Case 793-S-14  
Page 34 of 39

05/06/15 REVISED DRAFT

- 3b. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to ***{CONFORM / NOT CONFORM}*** to all relevant County ordinances and codes.
  - b. The Special Use ***{WILL / WILL NOT}*** be compatible with adjacent uses.
  - c. Public safety will be ***{ADEQUATE / INADEQUATE}***.
  
- 4. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use ***{IS/ IS NOT}*** authorized in the District.
  - b. The requested Special Use Permit ***{IS/ IS NOT}*** necessary for the public convenience at this location.
  - c. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL / WILL NOT}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located.
  
- 5. The requested Special Use ***{IS/ IS NOT}*** an existing nonconforming use and the requested Special Use Permit ***{WILL/ WILL NOT}*** make the existing use more compatible with its surroundings ***{because: \*}*** \_\_\_\_\_
  
- 6. For the requested waivers, 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: \*}*** \_\_\_\_\_
  
- 7. For the requested waivers, 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: \*}*** \_\_\_\_\_
  
- 8. For the requested waivers, the special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant ***{because: \*}***: \_\_\_\_\_
  
- 9. ***{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}***



05/06/15 REVISED DRAFT

Case 793-S-14  
Page 35 of 39

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- B. **The number of animals to be boarded at one time will not exceed 15, including dogs that are the property of anyone residing on the property and any dogs belonging to the owner of the property, which is the number the Petitioner indicated as the maximum that they would board.**

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

**That noise from the proposed Special Use is minimally disruptive to the surrounding area.**

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has installed either slats into the existing six feet tall chain link fence surrounding the exercise area, or a six feet tall wood fence on the south, north, and east sides and chain link on the west side of the relocated fenced activity area. There can be no gap between the wood fence and the chain link fence.**

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

**That the Special Use conforms to the Zoning Ordinance requirement 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.**

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

**That all state accessibility requirements have been met.**

- E. **No dog shall be kenneled outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**

*05/06/15 REVISED DRAFT*

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

**To ensure that kennel operations are consistent with the testimony and to minimize impact on the neighbors.**

- F. **The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least a triennial basis and all maintenance reports shall be made available for review by the Zoning Administrator. Failure to provide copies of maintenance reports when requested shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State's Attorney for legal action.**

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

**To ensure that the septic system continues to be of sufficient capacity and in operation given the increase in use from a single family residence to a residence with a Kennel.**

- G. **No trash or garbage shall be burned on the property.**

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

**To ensure that the Special Use conforms with the Zoning Ordinance policy protecting the health, safety, and general welfare of area residents.**

- H. **The Special Use Permit shall expire when the current resident operator Mr. Reginald Johnson no longer resides on the property.**

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

**To ensure that there is an experienced and qualified resident operator that has been involved in the public hearing for this case.**

- I. **The Revised Site Plan received April 24, 2015 will be the final site plan for approval and will include the floor plans received April 7, 2015.**

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

**To ensure that all parties are clear in which submitted site plan is the official site plan for approval.**

\*The Board may include additional justification if desired, but it is not required.

**05/06/15 REVISED DRAFT**

**Case 793-S-14  
Page 37 of 39**

## **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 **793-S-14** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED }* to the applicants Fuad Handal and Lawrence Johnson, to:

- 1) Authorize a kennel as a Special Use on 1.8 acres located in the AG-1 Agriculture Zoning District.
- 2) Authorize the following waivers to the standard conditions of the Kennel special use as per Section 6.1.3 of the Zoning Ordinance:
  - a. ~~A separation distance of 95 feet between any outdoor animal exercise/training area and any adjacent residential structure and/or use in lieu of the required 200 feet; and~~
  - b. ~~No noise buffer of evergreen shrubs or trees~~ A six feet tall wood privacy fence around the activity area in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use; and
  - c. A side yard setback of 85 feet in lieu of the required 200 feet.

### ***{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }***

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- B. **The number of animals to be boarded at one time will not exceed 15, including dogs that are the property of anyone residing on the property and any dogs belonging to the owner of the property, which is the number the Petitioner indicated as the maximum that they would board.**

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

05/06/15 REVISED DRAFT

That noise from the proposed Special Use is minimally disruptive to the surrounding area.

- C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has installed either slats into the existing six feet tall chain link fence surrounding the exercise area, or a six feet tall wood fence on the south, north, and east sides and chain link on the west side of the relocated fenced activity area. There can be no gap between the wood fence and the chain link fence.

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

That the Special Use conforms to the Zoning Ordinance requirement 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.

- D. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.

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

That all state accessibility requirements have been met.

- E. No dog shall be kenneled outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.

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

To ensure that kennel operations are consistent with the testimony and to minimize impact on the neighbors.

- F. The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least a triennial basis and all maintenance reports shall be made available for review by the Zoning Administrator. Failure to provide copies of maintenance reports when requested shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State's Attorney for legal action.

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



05/06/15 REVISED DRAFT

Case 793-S-14  
Page 39 of 39

**To ensure that the septic system continues to be of sufficient capacity and in operation given the increase in use from a single family residence to a residence with a Kennel.**

G. **No trash or garbage shall be burned on the property.**

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

**To ensure that the Special Use conforms to the Zoning Ordinance policy protecting the health, safety, and general welfare of area residents.**

H. **The Special Use Permit shall expire when the current resident operator Mr. Reginald Johnson no longer resides on the property.**

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

**To ensure that there is an experienced and qualified resident operator that has been involved in the public hearing for this case.**

I. **The Revised Site Plan received April 24, 2015 will be the final site plan for approval and will include the floor plans received April 7, 2015.**

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

**To ensure that all parties are clear in which submitted site plan is the official site plan for approval.**

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

SIGNED:

ATTEST:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date