

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **October 29, 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 (September 10, 2015)
5. Continued Public Hearings

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

***Case 792-V-14 (REACTIVATED) Petitioner: Robert Frazier**

Request: Authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District:

Part A. Variance for 48 on-site parking spaces in lieu of the minimum required 67 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.

Part C. Variance for parking 0 feet from the front property line in lieu of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance.

Part D. Variance for allowing at least 19 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as the use served, as required by Section 7.4.1 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.

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
OCTOBER 29, 2015**

6. New Public Hearings

***Case 814-V-15** Petitioner: **Mark Kesler and Adam Kesler d.b.a. No Limits Fitness**

Request: **Authorize the following variance for a new building under construction in the B-4 General Business Zoning District:**

Part A: Authorize a side yard of 6.5 feet in lieu of the required minimum 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: Authorize a rear yard of 13 feet in lieu of the required minimum 20 feet as per Section 5.3 of the Zoning Ordinance.

Location: **A 0.377 acre tract on Lot 2 of Casey's Subdivision, a replat of Lot 1 of Warren Subdivision in Mahomet Township in the East Half of the Northwest Quarter of Section 13, Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as 2107 East Tin Cup Road, Mahomet.**

7. Staff Report

8. Other Business

A. Review of Docket

B. Reminder of Meeting Time: November 1st – March 13th, 2016

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

10. Adjournment

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

1 **MINUTES OF REGULAR MEETING (AS AMENDED 10/20/2015)**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street

4 Urbana, IL 61802

5 **DATE:** September 10, 2015

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

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

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

11 **MEMBERS ABSENT :** Eric Thorsland

12 **STAFF PRESENT :** Lori Busboom, John Hall, Susan Chavarria

13 **OTHERS PRESENT :** Lloyd Allen, Caleb Burton, Robert Frazier, Steve Koester, Keith Padgett

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19
20 **1. Call to Order**

21
22 The meeting was called to order at 7:00 p.m.

23
24 Mr. Hall informed the Board that due to the absence of Eric Thorsland, Chair, the Board needs to appoint an
25 Interim Chair for tonight's meeting.

26
27 **Mr. Passalacqua moved, seconded by Ms. Lee to appoint Ms. Capel as Interim Chair for tonight's**
28 **meeting. The motion carried by voice vote.**

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

37
38 **3. Correspondence**

39
40 None

41
42 **4. Approval of Minutes**

43
44 None

45
46 **5. Continued Public Hearings**

47
48 None

DRAFT

6. New Public Hearings

Case 792-V-14 (REACTIVATED) Petitioner: Robert Frazier Request to authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District: Part A. Variance for 48 on-site parking spaces in lieu of the minimum required 67 parking spaces as required by Section 7.4 of the Zoning Ordinance; and 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; and Part C. Variance for parking 0 feet from the front property line in lieu of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance; and Part D. Variance for allowing at least 19 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as the use served, as required by Section 7.4.1 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.

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

Ms. Lee asked if Ms. Capel should have referred to this case as a reactivated case and not a continued case.

Mr. Hall stated that the status of the case is a minor technicality.

Ms. Capel stated that the case is a continued and reactivated case.

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

Mr. Robert Frazier stated that he had no statement at this time.

Ms. Capel asked if staff had any questions for the petitioner or new information for the Board regarding this case.

Mr. John Hall, Zoning Administrator, stated that staff does have questions for the petitioner regarding the floor plan but currently he would like to discuss some of the larger issues related to this case. He said that

1 the Board is in a difficult position tonight because this case was continued from May and continued to July
2 and that meeting was cancelled which was a very critical time for this case. He said that the May 6, 2015,
3 Supplemental Memorandum reviewed parking concerns and included the revised site plan that was received
4 on March 30, 2015, which he realized that the site plan at this point is not simply the site plan received on
5 March 30th but also includes the email which was received on March 18th from Robert Frazier with
6 attachments. Mr. Hall stated that the key attachments to that March 18th email were a very rough indication
7 of the extra parking spaces that he has leased.

8
9 Mr. Hall stated that in January Mr. Thorsland recommended that Mr. Frazier provide a very accurate site
10 plan indicating all levels and uses and from a staff perspective it is fair to say that we may be half way there
11 but we have a site plan that absolutely depends on these other parking spaces and it is not all included on one
12 plan. He said that the site plan for this case is necessarily a floor plan also and is a floor plan of a building,
13 drawn by an architect in 1997, stated to be in compliance with the Illinois Accessibility Code but the
14 building was completely remodeled later and staff has no idea if the building now complies with the Illinois
15 Accessibility Code or the Americans with Disability Act. He said that he is uncomfortable because staff
16 authorized construction at one point but did not authorize the remodeling and hopefully the Attorney General
17 can take attention to that small detail if fines are ever imposed. He said that at this point this is the first time
18 that the Board has been presented with a floor plan that has been completely revised from what was earlier
19 designed by an architect and stated to be in compliance with all accessibility requirements. He said that he
20 does not see anything on the floor plan or the March 30th site plan indicated as restrooms as there should be
21 two restrooms and they should both be accessible to the public. He said that he has not taken the time to
22 walk through the building to see if the restrooms are there and he is waiting to see how important that is to
23 the Board.

24
25 Mr. Hall stated that the upstairs storage that is indicated on the site plan received March 30th -is indicated as
26 "upstairs storage" but he does not know if it is one storage space used for the business or if it is subdivided
27 into self-storage units. He said that a plan has never been received for the self-storage units on the first floor
28 which probably explains why we have never received one for the second floor. He said that he does not have
29 dimensions of the second floor storage area which is located in the middle portion of the building which is
30 the area that our office has never received permit fees for or ever approved or signed off for compliance.

31
32 Mr. Hall stated that there were a lot of issues reviewed in the May 6th Supplemental Memorandum and that
33 was a critical meeting and the memorandum laid out several important considerations and staff tried to
34 identify the most critical considerations in the July 8th Supplemental Memorandum. He noted that in the
35 second paragraph on page 2 of the July 8th memorandum the special conditions that are before the Board are
36 incompatible with the site plan received on March 30, 2015, as they do not match up with that site plan. He
37 said that at this point the Board needs to decide if they agree to these conditions and if the Board does, a
38 different site plan will be required. He recommended that a new site plan be on one sheet showing the entire
39 project, preferably with some kind of a statement from an Illinois Licensed Architect regarding accessibility.
40 He said that if the Board decides to deny the case, the Board could deny it on the basis of the March 30th site
41 plan or the Board could approve it, taking the time to tailor the Summary of Evidence so that the Board's

1 thinking is documented. He said there is a special condition indicating that staff must always have a lease on
2 file for the parking spaces. He said that this special condition is the only way for staff to track that there is in
3 fact the correct number of parking spaces under lease for this project. From a staff perspective, that is
4 probably better than what we have in an “as-of-right” case because it specifies the number of parking spaces
5 that have to be available which is why that is such a piece of key evidence and why it needs to be included
6 on the site plan. He said that this is just a quick review of the really significant issues that the Board needs to
7 review in this case and he apologized for the conditions that lead to the cancellation of the July 16th meeting
8 but it was out of staff’s control. He said that he wonders if the Board has everything that it needs to take
9 final action on this case tonight, as much as he would hate to see it continued again, these are some
10 significant issues, at least from a staff level, which must be considered.
11

12 Ms. Lee stated that Special Condition C. on page 25 of 25 of the July 16, 2015, Summary of Evidence
13 indicates the following: Within one year of Final Determination in Case 792-V-14, the property owner must
14 reconstruct the curb that was removed and must submit all necessary engineering documentation that would
15 be required for meeting the original design and specifications in the Stahly Subdivision. She asked Mr. Hall
16 if the Champaign Township Highway Commissioner should have the say-so regarding the curb thus
17 eliminating the need for language like this.
18

19 Mr. Hall stated that the special condition could be revised but staff’s thinking was if the curb is replaced to
20 what was there previously and that curb was accepted then why would that same curb not be acceptable
21 today. He said that if the Board agrees he would be happy to insert language regarding approval by the
22 Champaign Township Highway Commissioner.
23

24 Mr. Passalacqua asked if the Board requested additional information regarding the upstairs storage and a
25 floor plan at the previous meeting and no new information has been received.
26

27 Mr. Hall stated that from the previous time that this case was heard the Board does have new information
28 which is the undimensioned sketch of the upstairs storage. He said that as the Zoning Administrator he
29 would like to receive more specific information, but the petitioner did submit the minimal required
30 information by the Board and based on that review the Board may want to get more specific.
31

32 Mr. Randol stated that he would like to see a set of certified plans from a licensed architect showing what
33 everything actually is and where the restrooms are located.
34

35 Mr. Hall stated that technically, in 1997 staff had the plans from the architect and that is what was requested.
36 He said that after receipt of those plans staff reviewed and approved those plans but later the building was
37 completely remodeled without staff’s comments so that is the minimum that the Board should ask for
38 because that is what it would need to be in compliance with the Illinois Accessibility Code.
39

40 Ms. Griest asked Mr. Hall if the remodel is the 2004 stamp on the drawing.
41

1 Mr. Hall stated that he does not remember the specifics but apparently that plan was not submitted until
2 November 30, 2004. He said that at that point staff was approving permits based on a condition that we
3 would receive the required documents prior to compliance. He said that the permit was received or approved
4 in 2002. He said that the stamp on the drawing does not relate to anything in red on that plan.

5
6 Ms. Griest asked if all of the modifications indicated in red are changes since 2002 that the petitioner has
7 chosen to share with us but there may be others that we don't know about.

8
9 Mr. Hall stated that including the floor plan indicated on page 2 of Attachment C indicates the office for
10 Frazier Properties, six other offices off of a hallway, two spaces labeled BH1 and BH2. He said that BH2 is
11 available to all of the other offices but BH1 is not, which is why Mr. Hall questioned the restrooms. He said
12 that originally the plan indicated that the restrooms were located on the west side of the building but the
13 spaces indicated as BH1 and BH2 are on the east side of that building wing. He said that the Silverback
14 Barrel Club was previously a storage area but is now a gymnasium. He said that he would have to go back
15 through the drawings but he does believe that the Board did receive the Joseph Coble floor plan indicated as
16 Sheet 1. He said that the area that was subdivided into all of the separate offices was originally indicated as
17 new offices and sales room for Bright Ideas and there were two restrooms which appeared to meet the
18 accessibility standards and, as required by law, the licensed architect signed off on the plans. He said that
19 the changes that are indicated in red may be acceptable but they don't appear acceptable and more
20 importantly there is no licensed professional signing off on the revised plan which is a key thing for him. He
21 said that as the Zoning Administrator he is personally liable for any plan that is approved and he can be fined
22 up to \$1,000 if something gets built that does not meet the Illinois Accessibility Code therefore it is his goal
23 to never let that happen. He said that as staff there is only so much that we can force the petitioner to do
24 outside of a public hearing therefore the Board may want to give more detail in its directions to the
25 petitioner.

26
27 Ms. Capel asked the Board if there were any questions for Mr. Frazier.

28
29 Mr. Passalacqua stated yes.

30
31 Mr. Hall suggested that the Board take comments from witnesses prior to calling the petitioner to the witness
32 microphone.

33
34 Ms. Capel called Lloyd Allen to testify.

35
36 Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, asked Ms. Capel if anything can be
37 brought up that was discussed at the prior meetings.

38
39 Ms. Capel stated yes.

40
41 Mr. Allen stated that he has been involved in construction and has served on many committees throughout

1 his career. He noted that the Board does have the right to get an architect involved to verify that the non-
2 permitted additions and remodeling was done to comply with the code.

3
4 Mr. Hall stated that Mr. Allen is correct in regards to Illinois Accessibility Code.

5
6 Mr. Allen asked Mr. Hall if a permit would have been required for construction to assure it meets code.

7
8 Mr. Hall stated that Champaign County has never adopted a building code and the State of Illinois has a
9 mandated code for any new construction after February 2015. He said that when the State of Illinois adopted
10 that code they didn't provide any details regarding additions to existing buildings or remodeling so it is very
11 complicated and he does not require anything when it is an addition.

12
13 Mr. Allen asked Mr. Hall if staff has the responsibility regarding the square footage of building versus the
14 square footage of property.

15
16 Mr. Hall stated that under the Zoning Ordinance staff does have that responsibility and does review that.

17
18 Mr. Allen stated that if staff was never given a permit for approval then, why not still require it for review to
19 assure compliance.

20
21 Mr. Hall stated that he has tried as hard as he can to make it clear tonight that a permit should be a
22 requirement.

23
24 Mr. Allen stated that he would like to work through the list of requested variances and present his reasons
25 why they should not be approved. He said that Part A. indicates a variance for 48 on-site parking spaces in
26 lieu of the maximum required 67 parking spaces as required by Section 7.4 of the Zoning Ordinance. He
27 said that he does not believe that 67 parking spaces are enough with the way that Mr. Frazier is currently
28 using his property. Mr. Allen stated that he has one access into his rental property, which is to the back, and
29 it is a concrete driveway that was poured approximately one year ago and it seems like numerous people,
30 including Mr. Frazier, enjoy parking on the driveway. Mr. Allen said that Mr. Frazier parks buses on the
31 driveway overnight and his tenants park on the driveway to the point that anyone who has rental property in
32 this area is forced to use someone else's property to get to those rental spaces. He repeated that he does not
33 believe that 67 parking spaces is even enough for the way that Mr. Frazier is using the property.

34
35 Mr. Allen stated that Part B. indicates a variance for a setback of 50 feet and a front yard of 20 feet between
36 the principal building and Tiffany Drive in lieu of the minimum required setback of 55 feet and the
37 minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance. Mr. Allen asked
38 Mr. Hall to indicate how long the minimum required setback of 55 feet and the minimum required front yard
39 of 25 feet have been in effect.

40
41 Mr. Hall stated that these requirements have been in effect from day one of the Zoning Ordinance.

1
2 Mr. Allen stated that this requirement has been in effect for years and he cannot see why this Board would
3 change this requirement when it has worked so well. He said that one person has violated the Zoning
4 Ordinance requirements by completing construction without obtaining a Zoning Use Permit so why would
5 the Board be willing to make an exception for that person.
6

7 Mr. Allen stated that Part C. indicates a variance for parking 0 feet from the front property line in lieu of the
8 minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance.
9 He said that he doesn't really have anything to say about this request.
10

11 Mr. Allen stated that Part D. indicates a variance for allowing at least 19 off-street parking spaces on an
12 adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as
13 the use served, as required by Section 7.4.1 of the Zoning Ordinance. He said that this Board does not have
14 a policy to enforce this request because the Board has no idea when a space is being leased or not. He said
15 that he does not know if Mr. Frazier's off-street parking is being leased currently and has heard rumors that
16 Mr. Frazier was no longer paying for the lease therefore he no longer has access to that property. He said
17 that the people who were parking at that location were landscapers and is now blocking the drive on the
18 other side. He said that Mr. Frazier has been involved in construction installing room additions, pools, etc.,
19 therefore he should be very knowledgeable about getting permits but now we have a person who has built
20 buildings without a permit and added a porch without a permit. Mr. Allen stated that in regards to life safety
21 the porch is over three foot and has no guardrails to prevent wheelchairs from rolling off of it and any city in
22 the world would not allow it. He said that Mr. Frazier has changed the use of the building and has admitted
23 to cutting three curbs on the property without permits. Mr. Allen stated that Mr. Frazier has modified the
24 buildings and no one knows if he complies with the restroom requirements. He said that staff has indicated
25 that two restrooms are required but what is the state code for bathrooms per people. Mr. Allen stated that
26 without an architect no one knows if Mr. Frazier is compliant locally or with the state which is the reason
27 why he has stated that the Board does have the right to force that an architect be involved. Mr. Allen stated
28 that he does not believe that Mr. Frazier has enough space and he continually gives tenants the use of the
29 property to the south to access their areas because the driveway is always blocked by parked vehicles. He
30 said that this has been dragged out long enough and we need a decision because this has been going on for
31 over one year.
32

33 Ms. Capel asked the Board if there were any questions for Mr. Allen and there were none.
34

35 Ms. Capel asked if staff had any questions for Mr. Allen.
36

37 Mr. Hall stated that in regards to the variance for off-site parking, a variance from the off-site parking
38 requirement is not a prohibited variance so the Board has the authority to grant that variance if they believe
39 they can make the necessary findings. He said that he would like to see a site plan of the off-street parking
40 because it is on an adjacent lot. He said that even if we went with what is before the Board tonight, we know
41 that the parking is adjacent and as long as that is leased for the use of the subject property, the Board still

1 needs to grant the variance because the off-street parking is not on-site and there is good justification for
2 granting it. He said that whether or not the Board will grant the variance or not is up to the Board but they
3 do have that authority.
4

5 Mr. Allen stated that he understands the Board's authority but how will the Board know if the off-street
6 parking is leased now or not.
7

8 Mr. Hall stated that the condition does not apply right now so he does not know but once this variance is
9 approved it will apply. He said that the current lease ends in 2018 if the payments are kept up.
10

11 Mr. Allen stated that the Board is basing this entire variance on that lease and will not know if it has been
12 cancelled.
13

14 Ms. Griest asked Mr. Hall if the variance was approved and it contained a condition regarding the lease, if
15 the lease lapsed for any potential reason would the variance no longer be valid. If not, she would question
16 how much value the condition provides if the condition is violated and that violation does not suspend the
17 authorization.
18

19 Mr. Hall stated that the lease does provide for default but the one weakness is that it doesn't require the
20 Zoning Administrator to be copied on those default documents. He said that this is a legal document and to
21 know whether it is enforceable might require review by the State's Attorney because he cannot provide the
22 legal review that the State's Attorney's Office can provide.
23

24 Ms. Griest asked Mr. Hall if he is addressing his response to her question whether default would suspend the
25 variance. She said that this is not a special use case, but a variance case whereas a condition like that in a
26 special use would automatically suspend the special use, but being a variance she questions whether it really
27 has any teeth.
28

29 Mr. Hall stated that it does have teeth provided that we are made aware of it and that is the problem because
30 the lease does not provide notice to the Zoning Administrator when there is a default and that is what we
31 need to have to make it enforceable.
32

33 Ms. Griest asked Mr. Hall to review what happens if the lease goes into default or lapses.
34

35 Mr. Hall stated that the condition currently indicates that a lease must be on file with the Department of
36 Planning and Zoning. He said that the current condition is clearly inadequate unless you interpret it to mean
37 a lease that is not in default, which one should assume but then again may not stand up in a court of law.
38

39 Ms. Griest stated that the language in the condition needs to be much stronger and contain filing
40 requirements for the Zoning Administrator to be notified of any lapse. She said that she is not sure that she
41 can support the current condition because it makes the whole concept too vulnerable.

1

2 Mr. Randol stated that if the landowner who is giving the lease decides to not renew the lease then it comes
3 back on the ZBA for something that they have already approved and in one or two years the current parking
4 may not be there.

5

6 Mr. Hall stated that under the terms that are before the Board there would have to be a new lease no later
7 than February 28, 2018, because the current lease expires on that date and unfortunately there is a loophole
8 because the lease could have been in default the entire time and the only time that the condition would kick
9 in is when the new lease is required.

10

11 Mr. Allen stated that this is why the Board should not approve it because the Board and staff have no control
12 over it and they can't monitor it. He said that Mr. Frazier could be in default right now. He said that if the
13 Board approves this case and Mr. Frazier lost the lease for non-payment how will the Board make up those
14 19 parking spaces.

15

16 Mr. Hall stated that he is of the opinion that an adequately reviewed lease and an adequate condition and
17 those are no two small tasks and perhaps the condition is the important thing, because there is already a lease
18 between the two parties and it apparently needs to be amended to meet the Board's required condition and
19 that would be up to the petitioner to get that done. He said that once the Board has this condition they have
20 more control than any other time during the permitting process regarding parking because people can sell off
21 the area that is required for their parking on any day of the week and staff would never know about it. He
22 said that this is one instance when the Board can absolutely nail it down if they get the adequate legal review
23 in the beginning and that is no small task.

24

25 Mr. Allen asked Ms. Capel if the Board is basing Part D of the variance on whether Mr. Frazier has the lease
26 right now.

27

28 Ms. Capel stated yes.

29

30 Mr. Allen asked if he would be out of order in asking Mr. Frazier if he still has a lease on that property.

31

32 Mr. Hall stated that the Board would not be out of order in asking the petitioner that question.

33

34 Mr. Allen suggested that the Board ask Mr. Frazier that question.

35

36 Ms. Capel asked Mr. Hall to indicate what the consequences are if the lease lapses.

37

38 Mr. Hall stated that then it becomes an enforcement case but right now there is no provision for that.

39

40 Mr. Passalacqua asked Mr. Hall if part of this property is already an enforcement case because there
41 were structures built without a permit and the parking spaces are a needed result of all of the after-the-

1 fact stuff has already been done. He asked Mr. Allen if he submitted the photos of the subject property
2 for review tonight.

3
4 Mr. Allen stated yes.

5
6 Mr. Passalacqua stated that he is attempting to interpret the pictures against the map. He said that if the
7 photograph is an indication of what happens every day then all of the parking spots in the back of the
8 property are basically useless.

9
10 Mr. Allen agreed.

11
12 Ms. Griest stated that she believes that the Board is spinning their wheels until they have a certified
13 architect's plan that gives the Board compliance with parking and accessibility and until then she
14 believes everyone is wasting their time in being here including the other witnesses and staff. She said
15 that there is no way the Board can go much further.

16
17 Mr. Hall stated that he does not know what the Board can do about vehicles being parked along the south
18 access way because when somebody parks there it makes the rest of the parking inaccessible unless they
19 knew enough to go around via the north route, which they could do.

20
21 Mr. Allen stated that the vehicles would have to go onto someone else's property. He requested that the
22 Board review the previously submitted photographs.

23
24 Mr. Hall stated that the north route is located on this property.

25
26 Mr. Allen stated that the access to the area is impossible because the septic is torn up.

27
28 Mr. Hall stated that from the documents that have been submitted to staff there is a traffic path on the north
29 side but perhaps this is another good question for the petitioner. He said that it is unfortunate that the Board
30 has to verify everything that is submitted in a zoning case but perhaps that is the situation that we are in.

31
32 Ms. Capel asked Mr. Hall if the Board could send someone out to inspect the property.

33
34 Ms. Chavarria stated that she has been to the property several times and can verify that the north side of the
35 building is inaccessible for vehicles with the septic and there is no level of pavement there. At this point
36 there is the southern concrete driveway and the gravel drive on the lot to the south, which is not on the
37 property, and the use of these drives is the only way to get around the vehicles that are parked in these
38 photos.

39
40 Mr. Hall asked Ms. Chavarria if her inspection finds that the plan that was submitted on March 30, 2015, that
41 shows red arrows indicating the direction of traffic movement along the north side of the property is not

1 possible.

2

3 Ms. Chavarria stated that her inspection did find that it is not possible, but it also wasn't clear at what point
4 Mr. Frazier is in his construction of the proposed site plan. She said that she did not highlight that point
5 because it could mean that construction is still forthcoming.

6

7 Ms. Lee stated that she understands that Ms. Griest would like to continue this meeting to a later date until
8 more information is received but there are witnesses here tonight who may have issues which may be
9 relevant to this case.

10

11 Ms. Capel stated that if someone has signed the witness register and they are still here she will call them to
12 testify.

13

14 Ms. Capel asked the Board if there were any additional questions for Mr. Allen.

15

16 Mr. Passalacqua asked Mr. Allen if the photographs are a clear indication of what goes on daily.

17

18 Mr. Allen stated that he sees this occurrence very often. He said that the buses were there for a good period
19 of time and people are always parking in the driveway so anyone else has to use the entrance on the property
20 to the south to travel to the back of the property. He said that the landscaper tenant parks in front of the one
21 building every day and night and he literally has to drive into the drive from the parking lot to the south. He
22 said that someone is always parked on the concrete and he could provide loads of pictures to prove it but
23 what good would it do.

24

25 Mr. Randol stated that he drives past the property several times during the week and there is always
26 something parked there. He said that the vehicle may not be there for an extensive period of time but there is
27 something always parked there.

28

29 Ms. Capel called Keith Padgett to testify.

30

31 Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that his office is located at 3900
32 Kearns Drive, Champaign. He said that he appreciates all of the trials and tribulations in trying to get this
33 matter resolved beyond the sidewalk as the area from the sidewalk to the street is his jurisdiction. He said
34 that when the Board is done with all of the other issues regarding this property, Champaign Township needs
35 the curb replaced and he hopes that this is involved in the Board's final decision.

36

37 Ms. Capel asked the Board if there were any questions for Mr. Padgett.

38

39 Ms. Lee asked Mr. Padgett if he has tried to get Mr. Frazier to replace the curbs that he removed.

40

41 Mr. Padgett stated that he has not had contact with Mr. Frazier other than seeing him at these meetings. He

1 said that the curb has been cut and people drive across it all day long. He said that he does wonder what
2 damages are being done to utilities in this area that do not have a concrete surface over the top for protection.
3 He said that no damage may be occurring, but if there is damage, who will be held responsible for that
4 damage.

5
6 Ms. Lee asked Mr. Padgett if he has contacted any legal authority regarding this issue.
7

8 Mr. Padgett stated no because he has been attending the meetings regarding this property and letting the case
9 run its course.

10
11 Ms. Lee stated that this is destruction of government property.
12

13 Mr. Padgett stated that he agrees.
14

15 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Padgett.
16

17 Mr. Hall stated that the condition may actually be written too broadly. He asked Mr. Padgett if the curb were
18 replaced with the exception of the two driveways would he be acceptable of the two driveways.
19

20 Mr. Padgett stated that the way that vehicles are parked there now they will have to attempt to jump the curb
21 and if they would change the way that they park there they would have to go in one drive and would not have
22 the daily traffic on the easement that is not protected. He said that this type of curb is a barrier curb which is
23 harder to drive over as opposed to some of the curbs you would find in a subdivision. He said that the
24 barrier curb is supposed to keep things out in the road.
25

26 Mr. Hall asked Mr. Padgett if it would be cumbersome if the Board wanted to include some sort of approval
27 from Mr. Padgett regarding post construction and then as-built.
28

29 Mr. Padgett stated that he could do that but he relies heavily on the Champaign County Engineering Division
30 for most of their road projects because they see these built every day and having them involved in it assures
31 that the curb is built correctly.
32

33 Mr. Passalacqua asked Mr. Padgett if the curb were replaced is there enough dimension in the apron to make
34 ingress in and out of those front parking spaces as designed on the print or will those spots become useless.
35

36 Mr. Padgett stated that he would say that those spots will become useless or parallel spots. He said that the
37 downfall has been cut off of the curb but the base and the flag are still there and in order to replace the curb
38 everything has to be torn out so that one solid unit can exist so that when he plows snow the top of the curb
39 isn't broken off.
40

41 Mr. Hall stated that before the curb can be replaced the remaining portion of the old curb must be removed

1 which is no small task.

2
3 Ms. Lee stated that it is really important to have the County engineers involved in this issue.

4
5 Mr. Passalacqua asked Mr. Padgett if the curb was milled when it was removed.

6
7 Mr. Padgett stated yes but the remainder of that curb base is still underground.

8
9 Ms. Capel asked the audience if anyone desired to cross examine Mr. Padgett.

10
11 Mr. Lloyd Allen stated that utility companies require raceways in the concrete for future access.

12
13 Ms. Capel informed Mr. Allen that new testimony cannot be offered during the cross examination.

14
15 Mr. Allen stated that Mr. Padgett did mention utilities during his testimony.

16
17 Ms. Capel agreed and allowed Mr. Allen to continue with his question.

18
19 Mr. Padgett stated that there can be in certain situations, if the utility is not there and is expected in the near
20 future they will sometimes require a steel duct or pipe placed under the driveway so that they can run their
21 wires through it. He said that he believes that water or gas lines are located on that side of the curb and it is
22 deep enough that the traffic is probably not hurting them but the concrete was not designed to have the traffic
23 on top of it because that is what driveways are for.

24
25 Mr. Allen noted that the water line is located at that location.

26
27 Ms. Capel asked the audience if anyone else desired to cross examine Mr. Padgett and there was no one.

28
29 Ms. Capel called Steve Koester to testify.

30
31 Mr. Steve Koester, who resides at 1919 N. Old Route 47, Monticello, stated that his business address is
32 located at the Stahly Industrial Park at 305 Tiffany Court and he jointly owns 314 Tiffany Court which is
33 located on the south side of Mr. Frazier's property. He said that he has been frustrated by the use of his
34 property as access for the tenants traveling to the rear of Mr. Frazier's property and he has had discussions
35 with Mr. Frazier about this issue. He said that they have discussed the relocation of the buses and the last
36 time that he knew there were still buses on the property, although Mr. Frazier testified at the previous
37 meeting that the buses would be gone within two weeks. Mr. Koester stated he would like to build a fence
38 but the property owner to the north built a very nice fence, which Mr. Koester constructed, and it has been
39 destroyed by Mr. Frazier's tenants, therefore he is sure that any improvements that he makes on that side
40 would suffer the same consequences. He said that he did have a discussion with Mr. Isaacs who is the
41 person who leased Mr. Frazier the 19 spaces that were previously discussed tonight and Mr. Isaacs indicated

1 that he did cancel the lease on the 19 parking spaces. He said that the information regarding the lease should
2 have been disclosed prior to this meeting. Mr. Koester stated that he agrees that the north area is virtually
3 impossible to access for tenants going to the rear of the property. He said that he would love to see a
4 resolution to this because it has gone on for a very long time and he has not seen a lot of improvement from
5 the action that has been taken so far. He said that he drives several miles to attend these meetings and has
6 done so several times even though the person who applied for the variance didn't bother to make the trip.
7 He requested a resolution to these issues and a decision regarding the variance request.

8
9 Ms. Capel asked the Board if there were any questions for Mr. Koester.

10
11 Ms. Lee asked Mr. Koester when he had his conversation with Mr. Isaacs.

12
13 Mr. Koester stated that two weeks ago he had his discussion with Mr. Isaacs, owner of 306 Tiffany Court.

14
15 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Koester and there were
16 none.

17
18 Ms. Capel asked the audience if anyone desired to cross examine Mr. Koester and there was no one.

19
20 Ms. Capel called Caleb Burton to testify.

21
22 Mr. Caleb Burton, who resides at 2409 W. Daniel Street, Champaign, stated that he jointly owns 314 Tiffany
23 Court, which is the property that is encroached upon due to Mr. Frazier having vehicles parked on the side of
24 his building. He said that he is tired of seeing everyone driving over his property because that leads to them
25 illegally disposing their waste into the dumpsters on his property that he pays for. He said that this situation
26 with Mr. Frazier continues to cause problems with adjacent landowners.

27
28 Ms. Capel asked the Board if there were any questions for Mr. Burton and there were none.

29
30 Ms. Capel asked staff if there were any questions for Mr. Burton.

31
32 Mr. Hall asked Mr. Burton if he could imagine any situation under which he could lease the north 10 or 12
33 feet of his property to Mr. Frazier, provided that the lease was adequate in terms of payment. He asked Mr.
34 Burton if there was any reason why he couldn't lease the 10 or 12 feet to Mr. Frazier or does Mr. Burton
35 need that area for his own operations and parking.

36
37 Mr. Burton stated that it would be a conflict of interest to lease it because Mr. Frazier has tenants who travel
38 in and out of the property with heavy trucks and equipment. He said that it is his understanding that a
39 previous lease for additional parking expired due to nonpayment by Mr. Frazier so it would not behoove him
40 to enter in such a lease agreement.

1 Mr. Hall asked if a lease would be possible if the lease allowed for Mr. Burton's continued use of the area.
2 He said that the Board is facing the most difficult situation that the ZBA could ever face if the parking area is
3 not corrected because if not corrected very significant building area will have to be removed. He said that
4 removing minor building area has happened before and it is an accepted risk but when we are talking about
5 removing thousands of square feet of building area he wonders how long that may take to get resolved in the
6 court system. He asked Mr. Burton if the lease was reviewed so that staff knew the minute it went into
7 default could he make that area available to Mr. Frazier.

8
9 Mr. Burton stated no. He said that he has no interest at all in entering into a lease agreement with Mr.
10 Frazier.

11
12 Mr. Hall stated that sometimes the Board uses no available land as a justification for a variance.
13

14 Mr. Burton stated that the Board has spent hours discussing parking but there are significant other safety
15 issues with this property and parking is probably the smallest thing that we are dealing with here. He said
16 that for whatever reason, every time he attends these meetings the Boards tends to focus on parking and he
17 believes that the parking is the least important thing that the Board needs to talk about. He said this situation
18 has been going on for a long time and it is his intention to stay at his current location for a long time but Mr.
19 Frazier continues to operate out there and he does not want to deal with it. He said that he is not interested
20 in leasing any space to Mr. Frazier and he would like the Board to concentrate on the unauthorized buildings
21 and uses on the property and violations regarding setbacks. He said that he isn't even sure if the area in front
22 of the porch will allow for parallel parking.

23
24 Mr. Hall stated that the area has been measured and it is adequate for parallel parking and no variance would
25 be required for the parking if it were parallel to the building and against the building but there is a variance
26 required for setback, which is not an unusual request for a variance, but in this case the variance for a
27 setback implicates all of these other issues. He asked Mr. Burton if he has any concerns regarding life safety
28 in regards to just the vehicles on Mr. Frazier's property.

29
30 Mr. Burton stated that the life safety issues would be that there are no handrails and the steps are constructed
31 from landscape blocks therefore he cannot see how it can be ADA compliant.

32
33 Mr. Hall stated that he has not indicated that it is ADA compliant.

34
35 Mr. Burton stated that he could bring the Board a set of plans that he has drawn all over and indicate that the
36 plans indicate what he is going to do although he can't imagine that anyone could accept such drawings.

37
38 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Burton and there were
39 none.

40
41 Ms. Capel asked the audience if anyone desired to cross examine Mr. Burton and there was no one.

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Ms. Capel called Robert Frazier to testify.

Mr. Frazier declined to testify at this time.

Ms. Capel requested the Board's thoughts regarding this case.

Ms. Lee stated that the applicant should have informed staff that the lease was no longer in affect. She said that if it was two weeks ago that it has been cancelled then Mr. Frazier is not acting in good faith.

Mr. Hall stated that at this point the discussion regarding the lease being cancelled is hearsay. He said that the testimony regarding the cancelled lease has not been countered by the petitioner so maybe that means something but it is still hearsay.

Ms. Lee asked if it would be appropriate to call the petitioner to the witness microphone so that the Board can discuss this matter with him.

Mr. Hall stated that it is up to the Board.

Ms. Lee requested that Mr. Frazier be called to the witness microphone to address the Board.

Ms. Capel called Mr. Frazier to the witness microphone.

Mr. Robert Frazier stated that his business address is 310 Tiffany Court, Champaign.

Ms. Lee asked Mr. Frazier if the lease for the 19 parking spaces has been cancelled by the landlord due to nonpayment.

Mr. Frazier stated no.

Ms. Lee asked Mr. Frazier if the lease has been cancelled by the landlord.

Mr. Frazier stated that the lease is good for six months and the check has already been approved and paid for in cash therefore the lease is enforce for six months. He said that if after six months the landlord decides to not renew the lease then that is his decision.

Ms. Lee asked Mr. Frazier when he made his last payment for the lease.

Mr. Frazier stated that the payments are made for six months as he has the option of a six month or yearly lease. He said that he paid for a six month lease in full and Mr. Hall probably has record of that.

1 Mr. Hall stated that staff has no record of when Mr. Frazier does or does not pay his bills.

2

3 Mr. Frazier stated that the lease was paid on the date that the lease was written and he would have to look at
4 the cancelled check for a specific date.

5

6 Mr. Hall stated that the lease does not provide for a payment for only six months.

7

8 Mr. Frazier stated that it is a six month lease and it is paid for in full and he can provide a cancelled receipt.

9

10 Mr. Hall stated that the lease agreement states the following: "The Lessee agrees to pay as rent for said
11 premises the sum of \$1,500 per year beginning on the 1st day of March, 2015 to the 28th day of February,
12 2016." He asked Mr. Frazier if there is another agreement which allows him to pay for this lease in six
13 month terms.

14

15 Mr. Frazier stated that the landlord does allow him to pay for the lease in six month increments or one year
16 in advance.

17

18 Ms. Lee stated that March 1st to September 1st is six months. She asked Mr. Frazier if he has paid for the
19 next six months.

20

21 Mr. Frazier stated that he has not paid for the second six months. He asked if the lease indicates when the
22 lease first started.

23

24 Ms. Griest stated that the lease does state that it begins on March 1, 2015 and today's date is September 10th
25 therefore the lease is currently in default.

26

27 Mr. Frazier stated that Ms. Griest is correct.

28

29 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier.

30

31 Mr. Hall stated that as a staff person he can ask Mr. Frazier questions about things that Mr. Frazier has not
32 discussed. He asked Mr. Frazier if there are two public accessible restrooms in the office portion of this
33 building which are accessible to all of the office spaces.

34

35 Mr. Frazier stated yes, and there has been no change since the original design.

36

37 Mr. Hall asked Mr. Frazier if there is some reason why these restrooms are not reflected in the red sketch on
38 the site plan received March 30, 2015. Mr. Hall stated that the site plan was supposed to indicate the interior
39 arrangement but Mr. Frazier is indicating that the plan did not include the restrooms.

40

41 Mr. Frazier stated that page 2 of the plan indicates that there is a hallway leading to bathroom #2 and

1 bathroom #1 leads into the larger area called the Silverback Barrel Club.

2

3 Mr. Hall stated that there are not two public bathrooms available for all of the various office spaces.

4

5 Ms. Griest stated that each office has to have access to both restrooms to be compliant and the drawing
6 indicates that some of the offices have access to one restroom and the larger area has access to a restroom by
7 itself.

8

9 Mr. Frazier agreed.

10

11 Mr. Hall asked Mr. Frazier to indicate what "BH" means on the plans.

12

13 Mr. Frazier stated that "BH" stands for bathroom.

14

15 Mr. Hall stated that it may well be that given the way the Illinois Plumbing Code is enforced or not it may be
16 acceptable to have one restroom available for a portion of these office areas. He said that this would be
17 unusual but he can't rule it out right now which, in his view, is why it is so important to have an architect
18 certify that it meets the accessibility code.

19

20 Mr. Passalacqua stated that it appears that an architect needs to be involved in constructing plans for the curb
21 that needs replaced, accessible restrooms, access to the property, parking, adequate dimensions, etc. He
22 asked Mr. Frazier if he is willing to get an architect involved and do everything that is required to make this
23 work.

24

25 Mr. Frazier stated yes.

26

27 Mr. Passalacqua stated that the Board is at a point where a homework list needs to be compiled for Mr.
28 Frazier. He said that to be honest in looking at the sketch that has been drawn over in red and hearing the
29 testimony and viewing the pictures, Mr. Frazier has about six parking spaces that can be used which is a long
30 way away from what is even being varied. He said that if Mr. Frazier's heart is in this then it is time to get a
31 more detailed drawing and show the Board how he can do this within the confines of his property and not by
32 making ingress and egress through someone else's property. He said that parking is a topic that the Board
33 talks about because the Board can put a number on it. He said that he has a real problem with all of the
34 construction that was completed without a permit and all of that stuff needs to be brought up to speed or
35 varied. He said that he believes that it is going to be very hard to give the Board a good site plan rewriting
36 over the existing plan therefore a new professional print with real dimensions and a game plan on what is
37 going to happen with the north egress and the disturbed ground. He said that testimony appears to indicate
38 that the north throughway needs to be eliminated because it doesn't seem that it has the dimension to even
39 get through. He said that another thing that the Board often requests is a copy of the lease that Mr. Frazier
40 has with his other tenants. He said that a lease normally will indicate to the tenants what is and is not
41 acceptable on the property. He said that a copy of those leases will assist the Board in making sure that the

1 tenants are aware of the appropriate parking areas and prevent them from parking on adjacent He said that
2 these required documents will add time to the case but if the Board has to decide on this case with the
3 testimony and Documents of Record that is currently in front of the Board then he is sure that the result will
4 be a 100% denial. He noted to Mr. Frazier that if his heart is truly in this project then there is a lot of work
5 that must be done.

6
7 Mr. Hall stated that he did not understand what Mr. Passalacqua meant by a throughway not being included.

8
9 Mr. Passalacqua stated that the throughway has been deemed impassible by the photographs and the site
10 visit. He said that if the throughway is indeed impassible then he can see why it should be included on a new
11 site plan.

12
13 Mr. Hall stated that perhaps all it needs is a note saying that it will be constructed if it is found to be
14 acceptable.

15
16 Mr. Passalacqua stated then that is what he is asking for.

17
18 Ms. Capel asked Mr. Hall if the Board can ask Mr. Frazier to build a fence.

19
20 Mr. Hall stated that if the fence is not for screening then it is a gray area and he would prefer to leave any
21 trespass issues as a private matter.

22
23 Mr. Frazier stated that there appears to be some confusion regarding the red arrows. He said that the red
24 arrows are indicating the pattern of rain runoff and is not indicating a traffic pattern.

25
26 Ms. Griest stated that the directional arrows are not driveways but are indicating rain runoff.

27
28 Mr. Frazier stated yes. He said that it is possible to make the north area accessible and he can talk to the
29 architect about that possibility.

30
31 Mr. Passalacqua stated that Mr. Frazier has no way to get to the back parking spots by using his property
32 because the photographs indicate that the buses are parked on the south side blocking that access.

33
34 Mr. Frazier stated that the buses can be moved and are not permanent.

35
36 Mr. Passalacqua stated that Mr. Frazier's testimony is just as important to him as the witness who testified
37 before Mr. Frazier. He said that the witness before Mr. Frazier has testified that the neighboring property
38 gets traveled upon because Mr. Frazier does not have open access there.

39
40 Mr. Frazier stated that there are cases when there have been vehicles parked there and as far as access
41 through the neighbor's property then the answer would be yes. He said that, as Mr. Hall stated, it is a legal

1 issue and if the neighbors have any problems, as far as he is concerned, they can file a lawsuit and settle it
2 through a court of law. He said that if the neighbors don't like it they can construct a fence.

3
4 Ms. Griest stated that she understands Mr. Frazier's anger or disappointment but he is asking this Board for
5 approval on a variance therefore it behooves him to be cooperative and to not patronize this Board because
6 currently the Board is looking at what is available for his parcel and only his parcel and all of the operations
7 must occur on his parcel. She said that it is her personal opinion that if the operations cannot occur on Mr.
8 Frazier's property, in good faith, she cannot consider approving the variance request.

9
10 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier and there were none.

11
12 Ms. Capel asked staff if there were any questions for Mr. Frazier.

13
14 Mr. Hall stated that to clarify his misreading of the red arrows being rain runoff arrows and not traffic pattern
15 arrows goes back to the original plan that was submitted. He said that it was previously explained that there
16 was a driveway around the north side of the property and given the nature of this property he cannot imagine
17 anything being approved if Mr. Frazier cannot guarantee to this Board that there will be a complete path
18 around the edge of his property for vehicles that will be kept clear with no parking at any time. He said that
19 frankly he believes that the Board should carefully consider whether they want to consider this case or deny
20 it and have staff take it to the State's Attorney's office for court action.

21
22 Ms. Capel asked the audience if anyone desired to cross examine Mr. Frazier.

23
24 Mr. Lloyd Allen asked Mr. Frazier if he knew why Mr. Isaacs would indicate that the lease had been
25 cancelled if it wasn't.

26
27 Mr. Frazier stated that one tenant violated the lease and parked his truck and dumped his excess wood on the
28 leased area therefore the lease was cancelled.

29
30 Mr. Allen asked Mr. Frazier if Mr. Isaacs notified him that the lease had been cancelled.

31
32 Mr. Frazier stated that he and Mr. Isaacs were both upset over the situation and the lease was cancelled but
33 Mr. Frazier indicated that he is willing to discuss the lease with Mr. Isaacs.

34
35 Ms. Capel asked the Board if they desired to proceed with this case.

36
37 **Ms. Lee moved, based on Mr. Hall's previous discussion, that the Board deny all of these things and**
38 **proceed to the State's Attorney's Office.**

39
40 Mr. Hall stated that a denial has to have just as carefully constructed findings as an approval and he would
41 dare say even more carefully constructed.

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Ms. Lee withdrew her motion at this time.

Mr. Passalacqua stated that he is not an architect however it appears that some of the square footage of the building must be removed to get vehicles legally on the lot. He asked Mr. Frazier if this is an expense and proposal that he can work with.

Mr. Frazier stated that he is willing to work with an architect to make sure that the property is in compliance with the rules.

Mr. Passalacqua stated that there are vehicles which need to leave Tiffany Court and there are probably lumber, shingles, concrete floors and stairways that need to leave Tiffany Court. He said that Mr. Frazier will have to lose part of the building structure and some vehicles to make this property hold what he desires it to hold. He said that the required reconstruction of the curb which the Champaign Township Highway Commissioner discussed has to be replaced which will get the parallel parking in front of the building down to four or five spots.

Mr. Frazier stated that he would go back to the original design.

Mr. Passalacqua asked Mr. Hall how much building area has to go away if we actually have a feasible count on parking spots.

Mr. Hall asked Mr. Passalacqua if he is assuming that the leased parking is no longer part of the package.

Mr. Passalacqua stated that he has no confidence in the leased parking whatsoever.

Mr. Hall stated that this is a huge issue.

Ms. Chavarria stated that at one time she had calculated that it would take 3,000 square feet out of the building although that was before the leased parking was ever an option. She said that staff will need to recalculate the square footage based on the plan that has been presented to assure that it is in compliance with the Zoning Ordinance.

Ms. Griest asked Mr. Hall if the impervious ratio has been calculated for this site.

Mr. Hall stated that this subdivision was approved by the City of Champaign with stormwater detention provided so the whole lot is nearly all impervious area and is just fine in terms of detention. He said that one thing that staff has learned from Tiffany Court is that detention is one thing but adequate stormwater conveyance, so that stormwater can get to the basin, is another and our current way of doing developments like this does not provide for that. He said that the subdivision plat is what it is. He stressed that having leased parking under a good lease, wherein staff gets notified when there are any changes, is so far so much

1 better than the normal parking analysis that is done and getting an adequate lease is no small thing but it is
2 no more difficult than hiring an architect to draw the plan.
3

4 Mr. Randol asked if the Board could request that the leaseholder appear before the Board.
5

6 Mr. Hall stated that the Board can request that anyone appear and the Board could go so far to make them
7 appear. He said that staff can send Mr. Isaacs a letter requesting his attendance at the next meeting regarding
8 this case.
9

10 Mr. Randol stated that it would be nice to have Mr. Isaacs appear before the Board to testify whether he
11 would or would not have a problem leasing the space for Mr. Frazier's parking. He said that currently Mr.
12 Frazier has a contract that is basically void.
13

14 Ms. Capel stated that not only is it a voided lease but it was paid in way that is not indicated in the lease.
15

16 Mr. Randol stated that Mr. Isaacs needs to tell the Board if he is going to do a six month lease with Mr.
17 Frazier because Mr. Randol would question as to what will happen at the end of six months more than he
18 would question what will happen at the end of one year.
19

20 Mr. Hall stated that as long as the Board can make sure that staff is notified when the parking is no longer
21 available then it would be very clear as to what staff needs to do. He said that it would be good to know if
22 both parties would be willing to revise the lease to include some conditions. He said that he would like to
23 talk to the State's Attorney's office to receive some guidance regarding those conditions and that would not
24 be an unusual request. He said that he would like the Board to try to meet some kind of a requirement like
25 that before they just deny the request.
26

27 Mr. Randol stated that the Board needs to review plans from an architect so that the Board has solid
28 information.
29

30 Mr. Hall stated that the Board needs to know what the payment terms are and everything has to be specified
31 in the lease. He said that if there are outside agreements that allow other things to happen then, in his
32 opinion that is the same as not meeting the condition.
33

34 Ms. Lee stated that she knows that Mr. Hall has great confidence in drafted leases but in her practical
35 experience it could appear that you have a good lease or any other legal document but you can't predict what
36 crazy things are going to happen if you don't have it in writing in that document.
37

38 Ms. Griest stated that the Board has a bigger problem than the 19 parking spaces because it could be that
39 there are substantially more than 19 parking spaces that are required. She said that until the Board sees an
40 actual drawing by an architect, the Board will not know the number of spaces that are required.
41

1 Mr. Hall asked Ms. Griest if she is referring to the number of spaces that are needed.

2
3 Ms. Griest stated that she is referring to the number of additional spaces that are needed because the Board
4 has heard testimony, including from Mr. Frazier, that not all of the parking spaces on the marked up drawing
5 are viable spaces and that when some those spaces are used they completely obstruct the traffic flow. She
6 said that until she sees something from an architect that indicates that this is in compliance and that it meets
7 the requirements for parking, the Board will not know if the required amount of parking is 19 or 67 spaces.
8 She said that she is sure that Mr. Hall discussed this earlier but she is torn by the fact that the Board can
9 count ten spaces inside of a garage that is being used for bus parking as ten parking spaces. She said that she
10 would consider those ten spaces as garage stalls.

11
12 Mr. Hall stated that staff has already reviewed this and staff is not counting on ten inside parking spaces
13 within a garage which is less than 3,000 square feet. He said that staff assumed only however many there
14 were on the west side originally therefore staff saw that there was a lot of over optimism in the tally of the
15 parking spaces that Mr. Frazier submitted. He said that staff did their own calculation, and other than
16 somebody blocking the perimeter path so that vehicles cannot get to the west side, there is enough space. He
17 said that if there is a bus sitting on the south property line then most of the parking is not available if there is
18 not a path on the north. He said that from the very beginning staff was told that there was a path on the north
19 or that there would be a path on the north.

20
21 Ms. Capel stated that Mr. Isaacs' property also has 32 parking spaces.

22
23 Mr. Passalacqua stated that the numbers could always change because the township highway commissioner
24 testified that the curb needs replaced and the angled parking spots won't work anymore.

25
26 Mr. Hall stated that staff had assumed that and knew that the Board would not accept perpendicular spaces.

27
28 Ms. Griest stated that her error is that she counted the "p's" on the drawing and came up with 38 parking
29 spots with the note that indicated ten inside parking spaces. She asked if staff had a different plan with
30 parking that the Board hasn't seen yet.

31
32 Mr. Hall stated no, staff did their own take-off and disregarded things that staff knew were not accurate. He
33 said that staff would never have let this case get this far if staff hadn't done that. He said that the one thing
34 that staff did not know is anything about the so-called "upstairs storage."

35
36 Mr. Passalacqua asked if the square footage of the "upstairs storage" requires more parking spots.

37
38 Ms. Chavarria stated that there is a notation that existing upstairs storage is 1,500 square feet therefore she
39 calculated that square footage in the new configuration of 67 required parking spaces.

40
41 Mr. Hall asked what the parking load assumed for the 1,500 square feet.

- 1
2 Ms. Chavarria stated that it was used as storage for the business.
3
4 Mr. Hall asked Ms. Chavarria if the upstairs storage is used for the business or storage as in “self-storage.”
5
6 Ms. Chavarria stated storage for the business.
7
8 Mr. Hall asked Mr. Frazier if the upstairs storage is used for his business or is it rented out.
9
10 Mr. Frazier stated both.
11
12 Mr. Hall stated that he does not know the percentage of the area that is used for the business.
13
14 Mr. Frazier stated that staff has made it perfectly clear that they do not understand the drawings and that they
15 do not indicate what information is required. He said that at this point it has been recommended that he hire
16 an architect to work directly with staff so that everyone understands what is on the property and what needs
17 to be changed in order to be compliant with the Zoning Ordinance. He said that his recommendation would
18 be that we could argue about this and that for a long time or we could hire an architect so that it could all be
19 hammered out. He asked the Board if they would be agreeable to that.
20
21 Mr. Randol informed Mr. Frazier that he is the one who needs an architect and not the Board.
22
23 Mr. Frazier stated that he understands who needs the architect.
24
25 Ms. Lee asked Mr. Frazier to define what he meant when he previously indicated “both.”
26
27 Mr. Frazier stated that the front portion of the building has a few mini-warehouses and the rest is his attic
28 space.
29
30 Ms. Lee asked Mr. Frazier to indicate what portion of the 1,500 square feet is used for his business and what
31 portion is used as rental space.
32
33 Mr. Frazier stated that he is not sure of the square footage.
34
35 Ms. Capel stated that the architectural plans will indicate the square footage if the “upstairs storage.”
36
37 Mr. Frazier stated that his rendition of the architect’s drawings from the original plans are not good enough
38 therefore he will hire an architect to prepare a more accurate plan for the Board’s review.
39
40 Mr. Passalacqua asked staff if the minutes can indicate the items that are required by the Board or should the
41 Board and staff begin a list of the things that are required for review.

1
2 Mr. Hall encouraged the Board to construct the list during this public hearing. He said that we got into detail
3 about the parking spaces because the Board was not convinced that the 32 leased spaces met the necessary
4 requirements and if the Board is still doubtful of that he is uncomfortable with Mr. Frazier hiring an architect
5 to do a plan.
6

7 Mr. Passalacqua stated that he is no architect but he is getting the impression that Mr. Frazier needs to lose
8 3,000 square feet of space that he rents out. Mr. Passalacqua said that he is also getting the impression that
9 Mr. Frazier will need to lose some of his own vehicles and tenants which means that Mr. Frazier will lose
10 money. Mr. Passalacqua stated that Mr. Frazier is also going to spend money because the curb must be
11 replaced and there could be required demolition and both will be very expensive. Mr. Passalacqua stated
12 that if Mr. Frazier believes that he can make this calculation work without 3,000 square feet of rentable
13 space and without tenants who have buses or wood chippers then Mr. Frazier is in good faith but if we are
14 just kicking this can down the road then that is in bad faith. Mr. Passalacqua said that if Mr. Frazier is not
15 comfortable in losing square footage and vehicles then everyone's time is being wasted.
16

17 Mr. Frazier stated that he had built a garage for LEX buses for when LEX was in business and that garage is
18 currently vacant. He said that he has already taken half of the garage down and it is not closed in due to the
19 pending decision that this Board will make. He said that he is comfortable taking the rest of the building
20 down and going back to the original buildings that was granted over 20 years ago by Champaign County. He
21 said that if we are talking about a simple wooden structure with some metal on the roof then he is willing to
22 remove it.
23

24 Mr. Passalacqua stated that to make numbers work and the parking load work there are probably some things
25 that need to leave. He said that there are structures on the property currently that were not part of the original
26 approval therefore those structures must be addressed by this Board as well.
27

28 Mr. Frazier stated that other than the garage, he has built a cover over the front of the building to keep the
29 rain off of people using the existing wheelchair access. He said that his structures look very nice.
30

31 Mr. Passalacqua stated that there is no doubt in his mind that the structure is nice and functional although it
32 still has to fall within the County's requirements.
33

34 Mr. Frazier stated that the building may be beautiful and functional for everyone but due to the zoning laws
35 he will have to rip it down.
36

37 Mr. Passalacqua stated that this process is not a personal attack. He said that the Board must consider how
38 not only the uses on the property affect Mr. Frazier but also how they affect Mr. Frazier's neighbors. Mr.
39 Passalacqua said that in order for Mr. Frazier to use his property as it is today he has to use more than his
40 own property and from testimony the neighbors would like that to stop. Mr. Passalacqua stated that the
41 Board is in a tight spot because they do not want to inform Mr. Frazier that he can't do something on his

1 property as income or personal use but the Board also doesn't want those uses to affect Mr. Frazier's
2 neighbors. He said that all of the things that may be required will be expensive and time consuming but the
3 Board is trying to find a way to make it happen.

4
5 Mr. Frazier agreed that there has to be a way to make all of this work.

6
7 Mr. Hall asked the Board if they desire a plan that has no leased parking.

8
9 Ms. Griest stated that she would prefer a plan indicating no leased parking.

10
11 Ms. Lee agreed with Ms. Griest.

12
13 Mr. Hall stated that originally there were only 11 spaces where the bus garage is now located and currently to
14 make this work Mr. Frazier needs 32 off-site spaces. He said that a lot more building area than just the
15 garage and the new covered area over the walkway will need to be removed if the Board desires no leased
16 parking and going back to parallel parking on the west, and even then the Board will have to rely on this
17 perimeter traffic path to be open. He said that if the Board is prepared to accept that Mr. Frazier will do his
18 best to keep it open then okay but he is seriously concerned about how much building area needs to be
19 removed to make all of the parking fit on this property.

20
21 Mr. Passalacqua stated that during a previous case for a storage building on a small lot, the Board required a
22 professional print and found that for the petitioner to have adequate parking and a loading berth the building
23 would not be large enough for it to be functional, so today the lot is in grass. He said that he does not
24 believe that this case needs to go in that same direction but it is the same kind of a thing except the building
25 is after the fact. He said that everything is hearsay at this point and the Board does not have a good record of
26 rental history for off-site parking but testimony indicates that this is not a happy neighborhood. He said that
27 relying on a third party to make this happen does not sit well with him today.

28
29 Ms. Griest asked Mr. Hall how many parking spaces were indicated on the approved site plan for this parcel
30 before Mr. Frazier began constructing extra buildings that were not permitted.

31
32 Mr. Passalacqua stated that Ms. Griest's question is not an easy question for staff to answer because at that
33 time it was just an approved site plan for Bright Ideas.

34
35 Ms. Lee stated that Mr. Frazier also sold off some of the land.

36
37 Mr. Hall stated that the main difference is the changing of what is now a gym that was previously just one
38 storage area. He said that this change was big because those spaces cannot be provided on this property. He
39 said that staff has gone back and verified that this property worked before but the uses were so much
40 different. He said that the property did not have a gymnasium or upstairs storage area. He said that there has
41 been testimony about how the gymnasium clients desire parking close by but that is not going to happen.

1
2 Mr. Randol stated that off-site parking is not going to remedy the gymnasium clients' desire for close by
3 parking either.

4
5 Mr. Hall stated that the off-site parking is just across the property lot line to the north. He said that Mr.
6 Frazier leased property to the north for off-site parking and the gymnasium is in the chiropractic office on the
7 northwest corner and is in the perfect location for those customers.

8
9 Mr. Frazier stated that no one, other than the wood chipper, parked on the leased parking spaces during the
10 last six months.

11
12 Mr. Hall asked Mr. Frazier if everyone was able to park on his property.

13
14 Mr. Frazier stated yes, every day. He said that no one parked on the leased property and no one parked in the
15 street either. He said that this is not a normal gymnasium but is a specialized gym and only a handful of
16 people are present at any one time because it is more for dead lifters and not people on treadmills. He said
17 that he monitored the parking during the six month time period when he had the 32 parking spaces available
18 not one person parked on that area, not even the wood chipper. He said that his neighbors could also
19 probably testify that no one has parked on the leased area as well. He said that he is not trying to indicate
20 that he is not going to follow the regulations or rules but the actual rules do not correlate with the usage. He
21 said that the only thing that has changed since he built Bright Ideas and the mini-warehouse complex 20
22 years ago is that the garage area is now a gym and he did build a structure over where his buses were stored.
23 He said that the mini-warehouses have always remained as mini-warehouses and Bright Ideas and its parking
24 was approved by the Champaign County ZBA. He said that he admits that he did cut the curb and if the
25 rules indicate that the curbs must be replaced and the original parallel parking scheme has to be followed
26 then he will obviously do that. He said that perhaps a better alternative for parking would be if he purchased
27 that area rather than leasing it but he must know if purchasing that property is acceptable by the Board.

28
29 Mr. Randol stated that he still would like to have an architect submit a complete set of plans. He said that
30 once staff and the Board can review those plans we can provide a set of variables for parking that may or
31 may not be needed.

32
33 Ms. Capel stated that there is a possibility that a lease can be written indicating that staff and the Board must
34 be notified of any lapses.

35
36 Mr. Hall stated that if the Board had a choice between a lease and an outright purchase an outright purchase
37 would always be preferred. He said that in this location it would probably require some kind of subdivision
38 approval with the City of Champaign. He said that the purchase would be better if it could be done. He said
39 that staff can spend all of the time it takes to find out what can be done on this parcel, given what Mr. Frazier
40 is willing to do. He said that Mr. Frazier stated that he is willing to remove the bus garage and build the
41 traffic path along the north and talk more about the upstairs storage so that staff knows what the required

1 parking loading is. He said that he is assuming that the Board desires to have something in the lease
2 regarding that a traffic aisle can never be blocked.

3
4 Mr. Passalacqua stated that if the traffic aisle is blocked then those parking spots do not count.

5
6 Ms. Capel stated that perhaps a condition could be constructed regarding the traffic aisle.

7
8 Mr. Hall agreed. He said that such a condition is something that Mr. Frazier must be prepared for.

9
10 Mr. Passalacqua stated that the Board needs to review the use of the property when designing the
11 throughways. He said that if one of Mr. Frazier's tenants has a large truck with a large trailer there needs to
12 be an accommodation on the property for the truck to maneuver on the property. He said that everything that
13 occurs on the property needs to happen on the property. He said that this is not an inexpensive proposal and
14 part of the homework for Mr. Frazier may be a cost analysis to determine if he will earn enough rental
15 income and maintain enough use from his property to do the things that are required to make this happen.

16
17 Ms. Capel asked the audience if anyone desired to cross examine Mr. Frazier and there was no one.

18
19 Ms. Capel called Mr. Lloyd Allen to testify.

20
21 Mr. Lloyd Allen stated that the Board is stuck on the parking issue. He said that the parallel parking area
22 was discussed but everything has changed from the original blueprint. He said that Mr. Frazier built the
23 front building in 2004 and not 20 years ago. Mr. Allen stated that when Mr. Frazier constructed the
24 overhang on the building he lost his access to the parallel parking therefore requiring people to drive on the
25 sidewalk to exit the property. He said that he believes that the upstairs storage area is more than 1,500
26 square feet because the Board also needs to count the upper office in the new part that was constructed. He
27 said that months ago the Board suggested to Mr. Frazier that he obtain the services of a registered architect
28 to assure that everything was in compliance on the property. He asked why the Board has waited over seven
29 months to acquire the document that they have already suggested that Mr. Frazier obtain for review. He
30 asked why the Board is dragging this issue out because there are other issues to be resolved on this property.
31 He requested that the Board settle something on this property and stop dragging it out.

32
33 Mr. Hall stated that the one thing that the ZBA has to do is exhaust all remedies at the Zoning Board and
34 until it is exhausted they don't have a good basis for denial. He said that the Board has not approached the
35 patience with this petitioner that they have done in other cases even though from Mr. Allen's position it
36 appears a little over the top. He said that only after all remedies have been exhausted will the Board have
37 any basis for a denial.

38
39 Mr. Allen stated that the Board is doing all of this for uses and structures that was not permitted by the
40 County and are all after the fact.

1 Mr. Hall stated that all of these issues will be taken care of in the end. He noted that zoning does not exist to
2 penalize people but to make things conform to the Ordinance and that is what staff and the Board are here
3 for and both have put in a lot of time working on it.
4

5 Mr. Passalacqua stated that he has the same concerns but the ZBA is not a penalty Board. He said that he
6 has seen a lot of cases that are after the fact and they irritate him but it is not this Board's venue to penalize
7 those petitioners. He said that he cannot state that he agrees with everything 100% but the County has
8 Ordinances and other people which are more powerful than this Board to satisfy and it is frustrating to
9 everyone. He said that the Board has to try to make it work and not everything gets approved. He said that
10 he understands and appreciates Mr. Allen's frustration with this case.
11

12 Mr. Allen stated that he has attended every one of these meetings, unlike everyone else, but the Board has
13 policies as to how long these variance cases should take and one year is not one of those policies. He said
14 that the policy states that cases are to be finalized in a reasonable amount of time and being that this is the
15 same case number as when Mr. Frazier originally applied this case has taken more than one year to finalize.
16

17 Ms. Capel asked the audience if anyone desired to cross examine Mr. Allen and there was no one.
18

19 Ms. Capel asked the audience if anyone else desired to testify regarding this case and there was no one.
20

21 Ms. Capel closed the witness register.
22

23 Ms. Capel entertained a motion to continue Case 792-V-14.
24

25 Ms. Lee asked Mr. Hall if the Board should have a motion regarding the requirement of the services of an
26 architect.
27

28 Mr. Hall stated that the Board has made that requirement very clear and Mr. Frazier has agreed to the
29 Board's request. He said that there is a lot that needs to be done and the Board could revisit this case within
30 the 100 day limit on November 12th.
31

32 Mr. Passalacqua asked Mr. Hall if it is feasible that staff would have time to review any newly submitted
33 plans and information to see if it is in Mr. Frazier's best interest financially and then allow him to decide if
34 he wants to proceed further. He said that it may be possible that there will not be another meeting regarding
35 this request.
36

37 Mr. Hall stated that Mr. Passalacqua is correct in that there may not be another meeting regarding this
38 request but staff does have to get some information from Mr. Frazier before he puts an architect to work.
39

40 Mr. Passalacqua stated that he does not want Mr. Frazier to hire an architect tomorrow and spend over
41 \$6,000 and then find out that it is not financially feasible.

1
2 Mr. Hall stated that Mr. Frazier can always hire an architect but he should not put him to work until he has
3 some information from staff about what parking scenario seems to be one that the Board would support.
4

5 Mr. Passalacqua stated that it should be clear to everyone that the feeling of this Board is that this does not
6 work in its current configuration and it does need a lot of work. He said that major changes must happen for
7 this request to be considered.
8

9 Ms. Griest stated that the Board has seen this scenario before where petitioners in good faith want to proceed
10 but once they actually got all of the information that was available to them they decided that it was simply
11 not financially feasible. She said that Mr. Frazier needs some time to make those assessments based upon
12 hard facts that fit within the law. She said that she understands the witnesses' concerns but this is a Board
13 that tries to find the win that works for everyone and not just one side or the other. She said that she believes
14 that Mr. Frazier is going to come to a conclusion that this is not feasible the way that it is currently
15 configured therefore we may or may not see everyone back.
16

17 **Ms. Griest moved to continue Case 792-V-14 to the November 12, 2015, meeting.**
18

19 Mr. Hall stated that the case that is already docketed for November 12th is likely to be two cases when it
20 comes back to the Board. He said that due to the physical constraints of having people sit through a hearing,
21 it may be better to suspend the rules and continue this case to the December 17th meeting. He said that a
22 continuance to December 17th is one month later than the 100 day limit but there is no other case currently
23 docketed for December 17th.
24

25 **Ms. Griest amended her motion to include suspending the 100 day limit for continuance and continue**
26 **Case 792-V-14 to the December 17th meeting.**
27

28 Mr. Passalacqua stated that he would rather see the case be continued to a busy night because the December
29 17th meeting is not necessarily a time when he is in town and he would like to be a part of this case. He said
30 that even if it will be a tough load on a docket date he would rather not see this continued to December 17th.
31 He said that a continuance of 100 days is a lot but 130 is too much.
32

33 Mr. Randol stated that he agreed with Mr. Passalacqua.
34

35 **Ms. Griest withdrew her amended motion.**
36

37 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 792-V-14 to the October 29, 2015,**
38 **meeting. The motion carried by voice vote.**
39

40 Ms. Chavarria stated that staff is trying to ensure that Mr. Frazier has an architect to prepare plans but how is
41 staff to know how long this will take. She asked Mr. Hall what happens if Mr. Frazier does not get back to

1 staff before October 29th.

2
3 Mr. Hall stated that if nothing else the October 29th meeting can be a good status update which is just a
4 reality which is why he was recommending a continuance to the December 17th meeting. He said that
5 December is always a difficult month for the Zoning Board.

6
7 **7. Staff Report**

8
9 None

10
11 **8. Other Business**

12 A. Review of Docket

13
14 None

15
16 **9. Audience Participation with respect to matters other than cases pending before the Board**

17
18 None

19
20 **10. Adjournment**

21
22 Ms. Capel entertained a motion to adjourn the meeting.

23
24 **Ms. Griest moved, seconded by Ms. Passalacqua to adjourn the meeting at 9:09 p.m. The motion**
25 **carried by voice vote.**

26
27 The meeting adjourned at 9:09 p.m.

28
29
30 Respectfully submitted

31
32
33
34 Secretary of Zoning Board of Appeals
35
36
37
38
39
40
41

CASE NO. 792-V-14 REACTIVATED

SUPPLEMENTAL MEMORANDUM #3

October 22, 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 on-site parking spaces in lieu of the minimum required 67 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 Drive 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.

Part C. Variance for parking 0 feet from the front property line in lieu of the minimum required 10 feet from the front property line as required by section 7.4.1 of the Zoning Ordinance.

Part D. Variance for allowing at least 19 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as the use served, as required by Section 7.4.1 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 Petitioner contacted Zoning staff by phone on October 20, 2015 to provide a status update. He is in the process of hiring Hartke Engineering to draw up the minor plat for the parking area he intends to purchase from Mr. Isaacs. He indicated that he and Mr. Isaacs have an agreement to purchase the property. No further details were provided.

The Petitioner has also begun discussing annexation with the City of Champaign; City Planner Jeff Marino is the point of contact. Jeff told Mr. Frazier that annexation of 310 Tiffany Court is not required in order to acquire land for parking from Mr. Isaacs to the north (whose property is in the City), but he is welcome to apply. Mr. Frazier was also told that any property seeking annexation by the City must be in compliance with Champaign County Ordinances. Mr. Frazier will need to continue with the current Variance case and also apply and pay for permits for previous construction before the City will consider his property for annexation.

As of October 20, 2015, Mr. Frazier had not yet hired a professional engineer or architect to draw up the site plan/floor plan requested by ZBA members at his September 10, 2015 hearing. Mr. Frazier said that he thought that he would no longer need to have these plans drawn up and incur their cost if he were to annex to the City. However, since the City stated that Mr. Frazier must be compliant with County Zoning, and the County ZBA indicated he must have professionally drawn plans, Mr. Frazier will still need to contract for the drawings.

Zoning staff recommend that Mr. Frazier's hearing could be continued to the second meeting in January 2016 if the Board so desires. This would fall within the 100-day continuance limit, allow time to get the drawings done, and for staff to provide a summary to ZBA members.

Staff emailed Mr. Frazier on October 20, 2015 and indicated that if he can have Hartke send the Zoning Department an email stating that Mr. Frazier has contracted with them to do the drawings and in that email identify a date by which the drawings will be submitted (no later than the end of 2015), we could recommend continuing his hearing to a date in early 2016. No response was received by the morning of October 22, 2015.

REQUIRED PARKING SUMMARY

The subject property, given the current square footage and uses, must have the following elements or a variance to make them compliant with the Zoning Ordinance. This information was provided to the petitioner in a letter dated September 17, 2015.

- 58 parking spaces plus one space per three self-storage units in the unauthorized upstairs storage space, plus spaces for the arborist tenant's work related vehicles (*staff recalculated the minimum parking required based on new information; 67 spaces are no longer required*).
- The subject property has usable area for 36 parking spaces; this assumes that the unauthorized bus garage will be removed and service pits filled to make a level parking surface.
- There must be 10 feet between the Tiffany Court right-of-way and the nearest parking space as well as 5 feet between the nearest parking space and the side and rear lot lines (*this information was provided during the variance application process and in public hearings*).

CASE NO. 814-V-15

PRELIMINARY MEMORANDUM

October 21, 2015

Petitioners: Mark and Adam Kesler, d.b.a. No Limit Fitness LLC

Request: Authorize the following Variance for a new building under construction in the B-4 General Business Zoning District:

Part A: Authorize a side yard of 6.5 feet in lieu of the required minimum 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: Authorize a rear yard of 13 feet in lieu of the required minimum 20 feet as per Section 5.3 of the Zoning Ordinance.

Subject Property: The subject property is a 0.377 acre tract on Lot 2 of Casey's Subdivision, a replat of Lot 1 of Warren Subdivision in Mahomet Township in the East Half of the Northwest Quarter of Section 13, Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as 2107 East Tin Cup Road, Mahomet.

Site Area: 0.377 acre

Time Schedule for Development: Under construction

**Prepared by: Susan Chavarria
Senior Planner**

**John Hall
Zoning Administrator**

BACKGROUND

The Petitioners received Zoning Use Permit # 180-15-01 to construct a new building to house No Limit Fitness Center. The Approved Site Plan for the permit indicates a side yard of 10 feet on each side and a 20 foot rear yard.

Graber Buildings, Inc. began construction, laying footings and concrete for the building and surrounding parking area in September. Mr. Mark Kesler contacted the Zoning Department on September 23, 2015 to say that his construction contractor had made a mistake and poured the footings and concrete 3.5 feet closer to the west property line than what the Approved Site Plan indicated. Two options were discussed: apply for a variance for a side yard of 6.5 feet in lieu of the minimum required 10 feet, or purchase adjacent land so that a variance would not be required. Mr. Kesler submitted an application for the Variance on September 25, 2015.

In reviewing the site plan for this case, Zoning staff determined that due to a jog in the rear property line shown on the Final Plat for the subject property, a variance of 13 feet in lieu of 20 feet would also be needed for the rear yard. The jog was omitted from the site plan and was overlooked by the Zoning Administrator in the approval of Zoning Use Permit #180-15-01.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet, a municipality with zoning. Municipalities have no protest rights on variances and municipal review is not requested for variances.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Commercial (under construction)	B-4 General Business
North	Agriculture	B-4 General Business
East	Commercial	B-4 General Business
West	Commercial (vacant and for sale)	B-4 General Business
South	Commercial (vacant and for sale)	B-4 General Business

IMPACT ON NEIGHBORS

There is a 51 feet wide lot directly west of the subject property. The owner, Jean Huddleston, also owns the property to the south of the subject property as Midland Corporation. Both properties are for sale and the owners desire to sell the properties together. Given the 51 feet width of the adjacent lot, the owner does not plan on building anything on the lot other than an access driveway connecting to their property to the south.

Mr. Kesler has expressed interest in purchasing the property to the west in a year or two, which would negate the need for a variance. Mrs. Huddleston has indicated that she is willing to consider selling a strip of land from the 51 feet property as well as the property to the south so that the Petitioners will not require a variance. No update has been received by staff on whether discussion occurred between the parties.

ATTACHMENTS

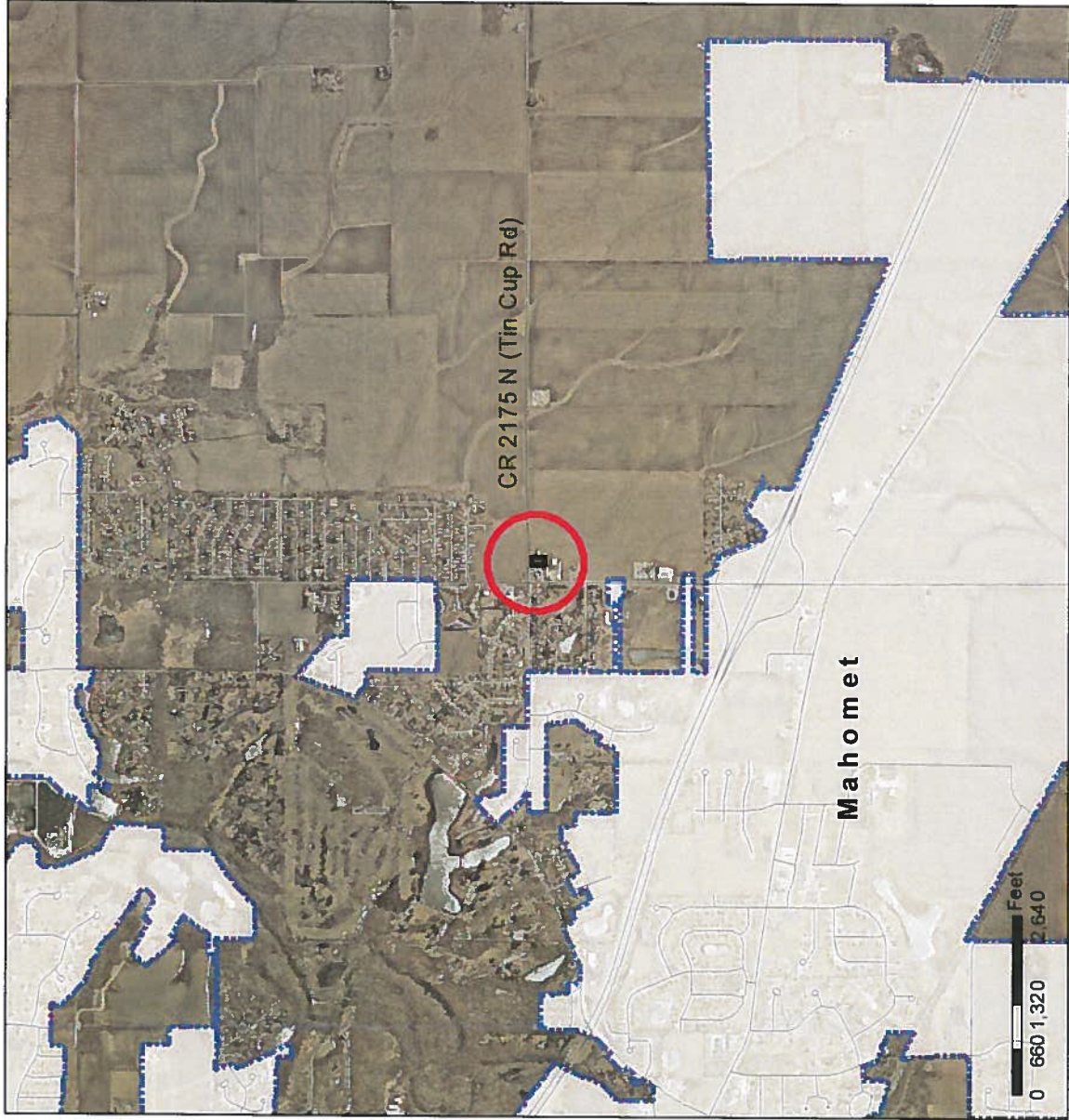
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan approved on August 10, 2015 for Zoning Use Permit 180-15-01 and received September 25, 2015
- C Final Plat of the Prairie View Commercial Subdivision recorded January 16, 2015 and received September 25, 2015
- D Email from Mark Kesler to Alex Ruggieri, cc: Susan Chavarria, received September 28, 2015
- E Email from Alex Ruggieri to Mark Kesler, cc: Susan Chavarria, received September 28, 2015
- F Email from Jean Huddleston to Susan Chavarria, received October 5, 2015
- G Images of Subject Property taken October 6, 2015
- H 2014 aerial photo with parcel boundaries
- I Draft Summary of Evidence, Finding of Fact, and Final Determination

Location Map

Case 814-V-15

October 29, 2015

Subject Property



- Legend**
- Subject Property
 - Municipal Boundary

Property location in Champaign County



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 814-V-15

October 29, 2015



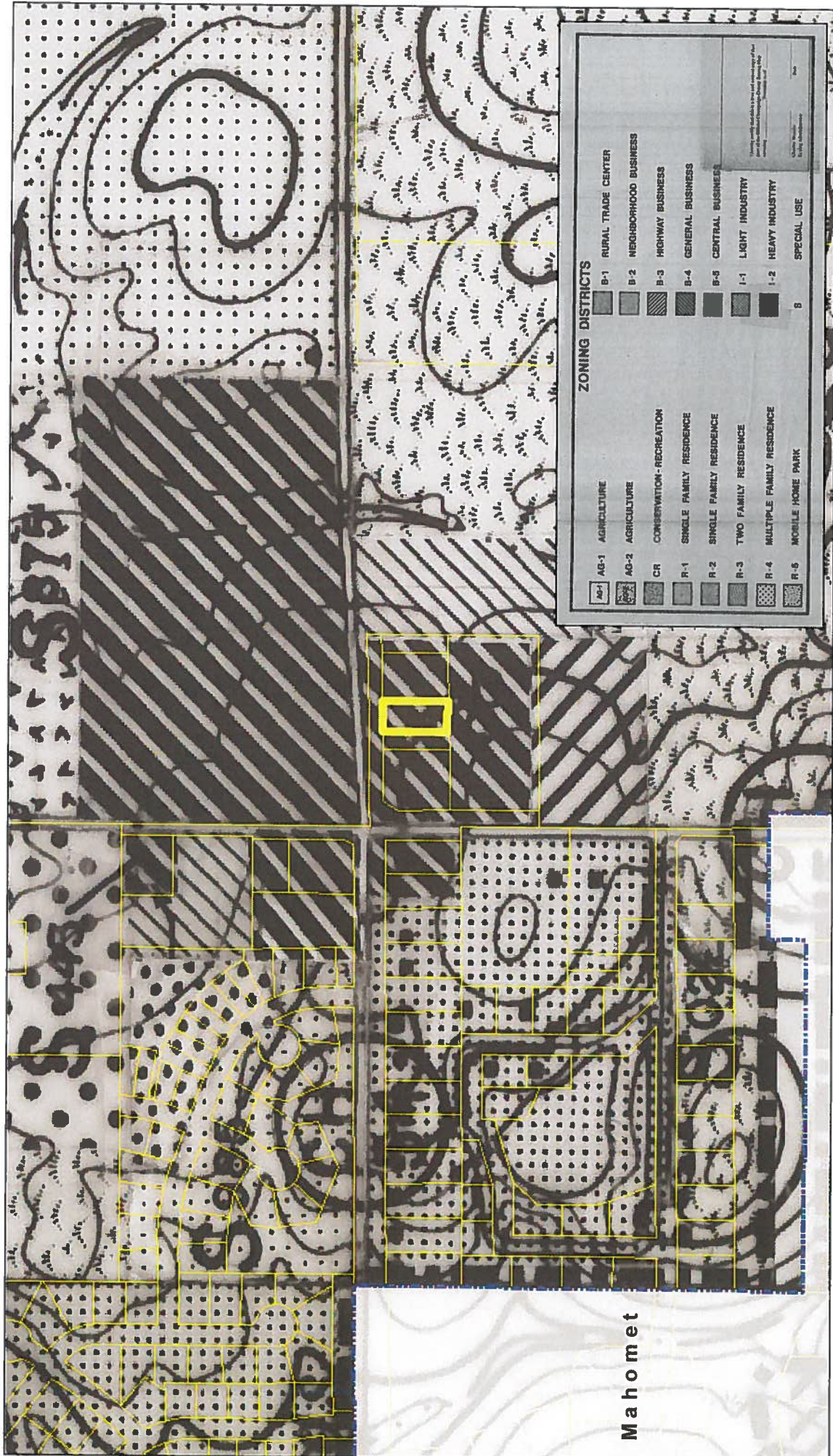
- SF Single Family Residential
- MF Multi Family Residential
- COM Commercial
- AG Agriculture



Zoning Map

Case 814-V-15

October 29, 2015



Mahomet

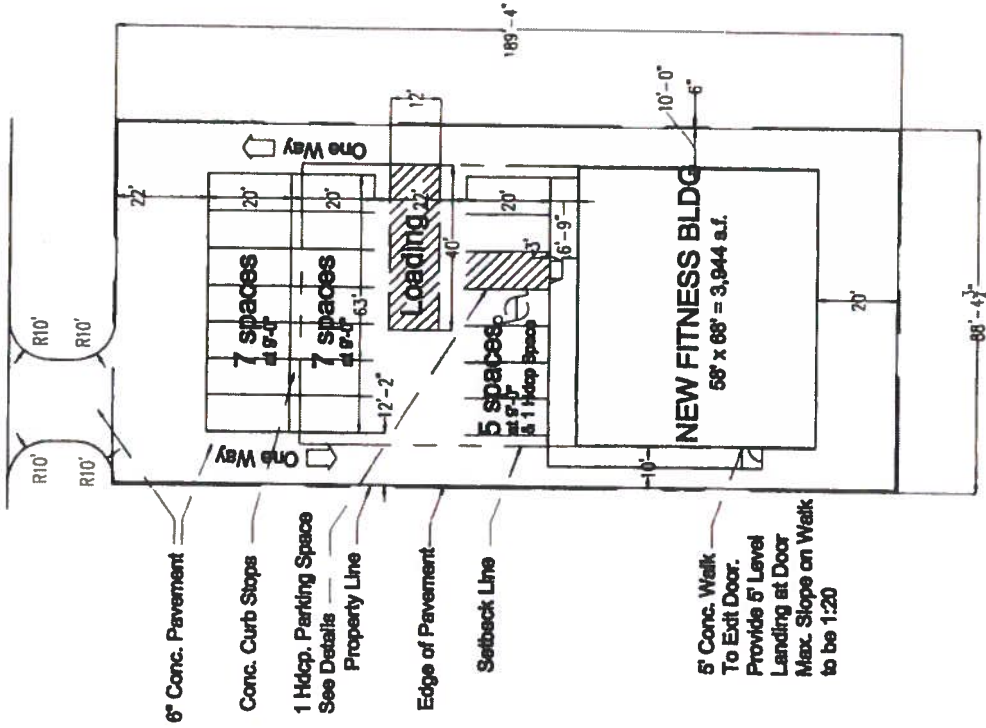
ZONING DISTRICTS	
AG-1 AGRICULTURE	B-1 RURAL TRADE CENTER
AG-2 AGRICULTURE	B-2 NEIGHBORHOOD BUSINESS
CR CONSERVATION-RECREATION	B-3 HIGHWAY BUSINESS
R-1 SINGLE FAMILY RESIDENCE	B-4 GENERAL BUSINESS
R-2 SINGLE FAMILY RESIDENCE	B-5 CENTRAL BUSINESS
R-3 TWO FAMILY RESIDENCE	I-1 LIGHT INDUSTRY
R-4 MULTIPLE FAMILY RESIDENCE	I-2 HEAVY INDUSTRY
R-5 MOBILE HOME PARK	S SPECIAL USE

Legend

-  Subject Property
-  Parcels
-  Municipal Boundary



ROAD



Building Size = 104 x 40 = 4,160 s.f./200 = 20 spaces
TOTAL SPACES

20 spaces

TOTAL PARKING PROVIDED
 Including 1 Handicap Space
 and 1 12'x40' Loading Berth

20 spaces

TOTAL PARKING PROVIDED
 Including 1 Handicap Space
 and 1 12'x40' Loading Berth

20 spaces

Notes:

1. Contractor is responsible for all site and parking lot drainage. Contractor shall provide required positive drainage away from the buildings and all openings. Provide maximum of 1:20 slope at handicap parking space. Meet all Illinois Accessibility Code and ADA requirements.
2. Confirm all property dimensions by locating all lot pins on site.
3. All dimensions and layout shall be confirmed on site by a licensed Civil Engineer. The Engineer shall confirm slopes and dimensions meet all required codes, ordinances, and covenants for the property.



North

SITE PLAN

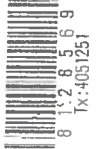
Not To Scale

RECEIVED

SEP 25 2015

CHAMPAIGN CO. P & Z DEPARTMENT

A1

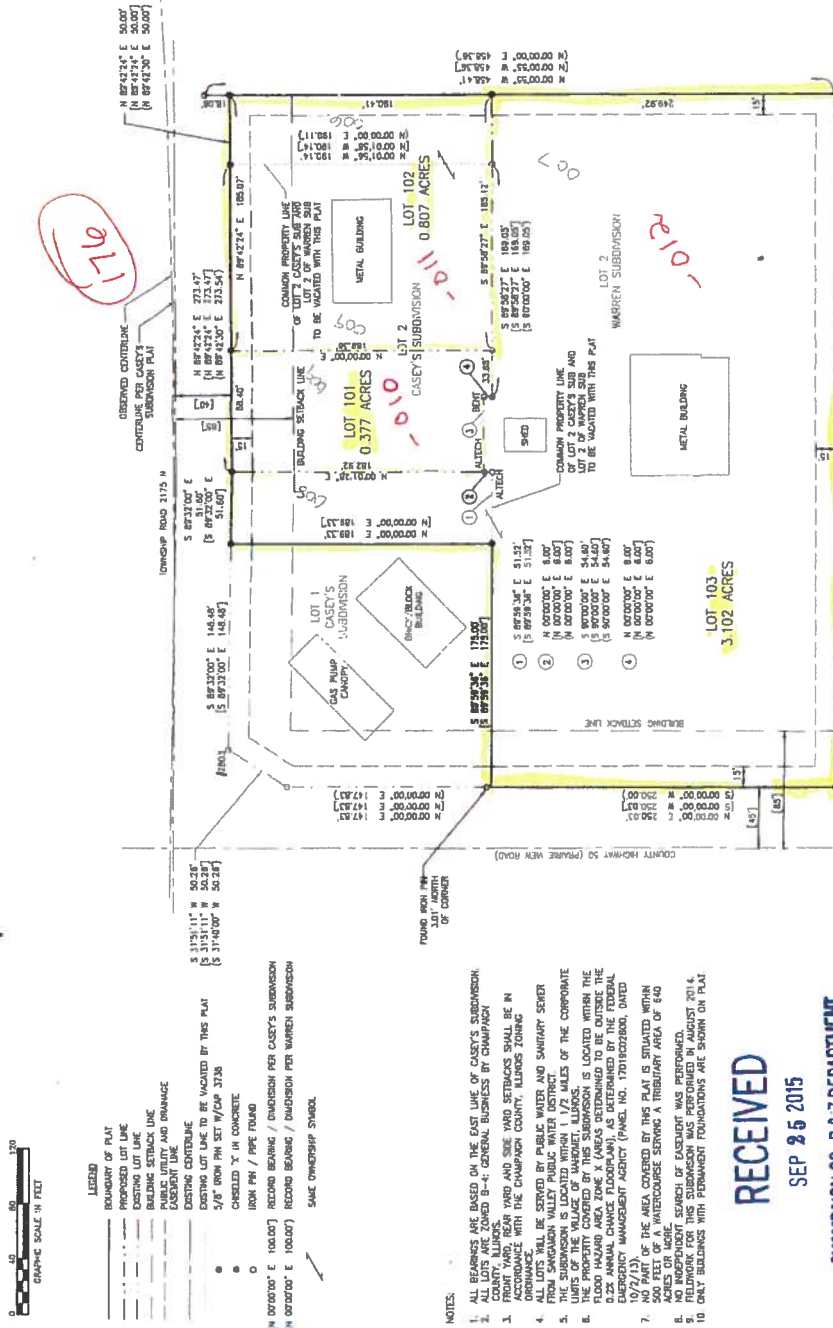


OWNER / SUBMITTER:
 LOT 2 CASEY'S SUBDIVISION
 VICKIE G. THOMPSON, TRUSTEE,
 ON THE SUCCESSORS IN TRUST,
 1000 W. WASHINGTON ST., SUITE 100
 CHAMPAIGN, IL 61820
 (317) 331-2971 OFFICE
 (317) 331-2971 CELL
 PROFESSIONAL DESIGN FIRM
 DATED: JULY 29, 2015
 MAHAJET, N. B. 8183
 (317) 536-4438

AND
 LOT 2 WARREN SUBDIVISION
 MAJLAND CORPORATION
 216 WEBSTER & THIES, P.C.
 1000 W. WASHINGTON ST., SUITE 100
 CHAMPAIGN, IL 61820
 (317) 331-2971

2015R00875
 REC ON: 01/16/2015 1:58:09 PM
 CHAMPAIGN COUNTY
 BARBARA A. FRASCA, RECORDER
 REC FEE: \$6.00
 RHP&S FEE: \$9.00
 PAGES: 6
 PLAT ACT: PLAT PAGE: 1

FINAL PLAT
PRAIRIE VIEW COMMERCIAL SUBDIVISION
 CHAMPAIGN COUNTY, ILLINOIS
 PART OF NW 1/4, SEC. 13, T. 20N., R. 7E., 3rd. P.M.



APPROVED:
 APPROVAL OF THIS MAJOR SUBDIVISION FINAL PLAT IS HEREBY GRANTED UNDER THE AUTHORITY OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAHAJET. THIS PLAT SHALL BE RECORDED WITH THE CHAMPAIGN COUNTY CLERK'S OFFICE WITHIN ONE YEAR OF THE YEAR OF THIS DATE, OTHERWISE THIS PLAT SHALL BECOME VOID.

Chad N. Johnson
 PRESIDENT, MAHAJET BOARD OF TRUSTEES
 VILLAGE OF MAHAJET
 MAHAJET VILLAGE ATTORNEY

Barbara A. Frasca
 MAHAJET VILLAGE ENGINEER

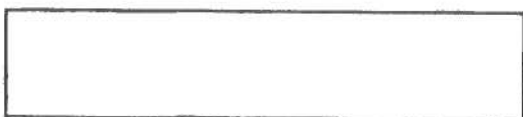
DATE: 11/7/15
 DATE: 11/7/15
 DATE: 11/7/15
 DATE: 11/7/15

Lot 101 pt of 15.13.13-174.009
 Lot 102 pt of 15.13.13.176.009 & all of 176.004
 Lot 103 all of 15.13.13.174.008 & 176.007

RECEIVED
 SEP 25 2015
 CHAMPAIGN CO. P & Z DEPARTMENT

PREPARED FOR RECORDING BY:
 BIG ENGINEERING, INC.
 1000 W. WASHINGTON ST., SUITE 100
 CHAMPAIGN, IL 61820
 (317) 331-2971 OFFICE
 (317) 331-2971 CELL

RETURN TO:
 BIG ENGINEERING, INC.
 1000 W. WASHINGTON ST., SUITE 100
 CHAMPAIGN, IL 61820
 (317) 331-2971 OFFICE
 (317) 331-2971 CELL



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Phone 217.398.1111 | Cell 217.841.4382
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Office independently owned and operated.

On Mon, Sep 28, 2015 at 12:07 PM, Mark Kesler <MKesler@parkland.edu> wrote:

Hi Alex, Mark Kesler. We are building a fitness facility, No Limit Fitness next to the lot owned by Jennifer Huddleston on Tin Cup Road in Mahomet. I talked with you on the phone about the lot availability and you mentioned it was your recommendation at this time to hold onto this lot until the Huddleston building sold, as it might be of interest to the buyer. My problem is an error by our builder, Graber Buildings, Sullivan, IL. We were to leave 10 feet to both the east and west for zoning requirements, unfortunately the builders did not center the building properly and left 13 ½ feet to the east and 6 ½ feet to the west, next to the Huddleston lot. This error was not discovered until we started pouring the parking lot. The foundation and pad have already been poured, as well as all the plumbing, sewer and gas lines.

We have filed a variance with Champaign County Planning and Zoning, which I believe we will receive but Susan Chavarria suggested contacting you as the realtor for the adjacent west lot to ask you to email her an explanation why Huddleston would not want to sell the lot at this time. Please copy me with your explanation. This said, I am still very interested in purchasing the lot if available within the next year or two. Unfortunately, we are not able to financially make an offer at this time. I hope my son's fitness facility will provide enough income that we can talk about a purchase in the future. Thank you for your time and if you have any questions as to what I am asking, please contact me, otherwise please send documentation to Susan indicating this lot is not available to purchase by itself at this time.

Thank you, Mark Kesler

Susan Chavarria: schavarr@co.champaign.il.us

Susan Chavarria

From: Mark Kesler <MKesler@parkland.edu>
Sent: Monday, September 28, 2015 1:56 PM
To: Susan Chavarria
Subject: FW: No Limit Fitness, Mahomet, IL

Hi Susan, the following is the response from Alex Ruggieri, real estate agent for Mrs Huddleston, who owns the lot next to ours. I hope this will help with our variance application. Thank you, Mark Kesler

From: Alex Ruggieri [mailto:alex.ruggieri@svn.com]
Sent: Monday, September 28, 2015 12:14 PM
To: Mark Kesler <MKesler@parkland.edu>
Subject: Re: No Limit Fitness, Mahomet, IL

Mark,

Mrs. Huddleston has consulted with several people who have advised her to wait until she has a buyer for the whole property.

The concern is that selling off a small section may not yield her much in the way of income and may actually devalue the remaining land since it may adversely affect the access to the road on the north.

I called you the week I listed the property to discuss this and left a VM but did not receive a return call.

I would be happy to talk about it at any time.

Should you want to call and discuss my number is 841-4382

Sincerely,

Alex Ruggieri | CRE, CCIM, SEC, MBA

P: [217.359.6400](tel:217.359.6400) C: [217.841-4382](tel:217.841-4382) F: [217.359.6423](tel:217.359.6423)

505 W. University Ave. Champaign, IL 61820

www.ramshaw.com | www.commercial.ramshaw.com

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SEP 28 2015

CHAMPAIGN CO. P & Z DEPARTMENT

Susan Chavarria

From: Huddleston, Jean E <jehuddle@illinois.edu>
Sent: Monday, October 05, 2015 1:59 PM
To: Susan Chavarria
Cc: Amber Drew; Roger Huddleston; James Huddleston; mmanierston@yahoo.com
Subject: RE: No Limits Fitness, Mahomet

RECEIVED

OCT 05 2015

CHAMPAIGN CO. P & Z DEPARTMENT

Susan,

Thank you so much for your help in this matter.

I have been able to clarify a couple of issues since I first talked with you.

1) There is concrete poured on No Limits Fitness property from Midland Corp property line to P & P Property line. As long as 10 feet of that concrete is not building then where they poured the concrete is ok. You have agreed that you will measure to see where the building portion is located within the concrete area and see how close to the property lines it is.

The 51.8 strip east of Casey's is owned by Midland Corporation. Roger Huddleston is the President James Huddleston is the Vice President and Secretary and Jean E Huddleston is the Treasurer. The property South of this property is also owned by Midland Corporation. This 51.8 strip east of Casey's is there to be used as a second access to the Midland Corporation property that is south of this property.

I have made changes in red to the email below also. If you need further information please let me know.

jean e huddleston

From: Susan Chavarria [schavarr@co.champaign.il.us]
Sent: Monday, October 05, 2015 1:01 PM
To: Huddleston, Jean E
Subject: No Limits Fitness, Mahomet

Hi Jean,

Following up with our phone conversation this morning, I wanted to see if the following correctly summarizes your concerns. Please let me know at your earliest convenience and we will follow up on the situation as soon as possible.

Summary of phone call received 10/5/15

Jean Huddleston (Midland Corporation) is the owner of the 50' (51.8) strip east of the Casey's on Prairieview Road and west of the No Limits Fitness site. She and her family (Midland - brother Roger Huddleston is President) are also owners of the warehouses (property)south of No Limits Fitness. The strip is meant to be used as an access point so that semis going to the warehouses have a second access other than Prairieview Road. Even though her access strip is for sale (along with the property south of No Limits Fitness), she wants it maintained so two accesses can remain for the warehouses.

Her first concern is that she thinks Mark Kesler's contractors poured concrete all the way up to her property line. She discussed this with the Kesler's neighbors to the east, P & P Heating and Air, and they too believe that concrete was poured up to their property line. (Which maybe ok as long as the building is set the proper distance back)

She has called the Mahomet Building Inspector to see if he can help verify the property line and the true distance between the poured area and her property line. (I have since found out that they are not the ones to call but your County office is who I should be working with so I am canceling having them come out) She wants to make sure that the Variance for side yard setback requested by Mark Kesler does not get approved until the true separation distance has been ascertained.

Second, when she visited her property today, she found building materials and equipment on her property put there without her permission. Since her property is for sale, she wants it cleaned up for potential buyers. As an aside, she is not interested in selling to Mr. Kesler to remedy his setback issue because it might reduce the strip to a width that a semi cannot use.

I look forward to hearing from you.

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

814-V-15 Images



West side of subject property, taken from southwest property pin



East side of subject property, taken from southeast property pin

814-V-15 Images



Subject property facing northeast



50 foot wide property west of subject property

2014 Aerial


Case 814-V-15

October 29, 2015



Legend

 Subject Property

 Parcels

Cherokee County
Department of

PLANNING &
ZONING



10/21/15 DRAFT

814-V-15

**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: ***{October 29, 2015}***

Petitioners: Mark and Adam Kesler, d.b.a. No Limit Fitness LLC

Request: Authorize the following Variance for a new building under construction in the B-4 General Business Zoning District:

Part A: Authorize a side yard of 6.5 feet in lieu of the required minimum 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: Authorize a rear yard of 13 feet in lieu of the required minimum 20 feet as per Section 5.3 of the Zoning Ordinance.

Table of Contents

General Application Information..... 2

Requested Variance..... 3

Specific Ordinance Requirements.....3-5

Variance Evidence5-8

Documents of Record..... 9

Case 814-V-15 Findings of Fact..... 10

Case 814-V-15 Final Determination 11

10/21/15 PRELIMINARY DRAFT**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 29, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Mark and Adam Kesler, 2328 CR 600 East, d.b.a. No Limit Fitness LLC, own the subject property.
2. The subject property is a 0.377 acre tract that is Lot 101 of the Prairie View Commercial Subdivision in Mahomet Township in the East Half of the Northwest Quarter of Section 13, Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as 2107 East Tin Cup Road, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within Mahomet Township, which has a Planning Commission. Townships with Plan Commissions do not have protest rights on a variance but are notified of such cases.

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 0.377 acre lot and is currently zoned B-4 General Business. Land use is a commercial building under construction.
 - B. Land surrounding the subject property is zoned B-4 General Business.
 - C. Land to the north is agricultural in use; commercial to the east and west; and a vacant property for sale to the south. Adjacent to the west side of the property is a 51 foot wide vacant property that is also for sale and owned by the same company to the south.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject site:
 - A. The Site Plan approved on August 10, 2015 for Zoning Use Permit 180-15-01 and received with the Variance application on September 25, 2015 indicates the following:
 - (1) A new building and parking area, currently under construction.
 - (2) The new building will be 58 feet by 68 feet, or 3,944 square feet.
 - (3) The site will have 20 paved parking spaces, 9 feet by 20 feet each, including one IAC and ADA compliant accessible space, and one 12 feet by 40 feet loading berth.
 - B. There are no previous Zoning Use Permits on the subject property.

- C. As per a phone call received from Mark Kesler on September 23, 2015, the construction contractors accidentally poured the concrete foundation off center, leaving only 6.5 feet for the west side yard and 13.5 feet for the east side yard rather than 10 feet on each side.
- D. The required variance is as follows:
- (1) Part A: Authorize a side yard of 6.5 feet in lieu of the required minimum 10 feet as per Section 5.3 of the Zoning Ordinance.
 - (2) Part B: Authorize a rear yard of 13 feet in lieu of the required minimum 20 feet as per Section 5.3 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
 - (2) "AREA, LOT" is the total area within the LOT LINES.
 - (3) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (5) "LOT 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.
 - (6) "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.
 - (7) "LOT LINES" are the lines bounding a LOT.

10/21/15 PRELIMINARY DRAFT

- (8) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
 - (9) "YARD, 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.
 - (10) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. The B-4 GENERAL BUSINESS DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum SIDE YARD in the B-4 General Business District is established in Section 5.3 of the *Zoning Ordinance* as 10 feet.

- E. Minimum REAR YARD in the B-4 General Business District is established in Section 5.3 of the Zoning Ordinance as 20 feet.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“The building layout was not discovered until we began to pour concrete parking lot. All of our infrastructure is already buried and concrete pad poured.”**
- B. The subject property is 16,422 square feet in area compared to the minimum required lot area of 6,500 square feet and with an average lot width of 88.4 feet compared to the minimum required average lot width of 65 feet.
- C. Regarding Part A of the Variance, for a proposed side yard of 6.5 feet in lieu of the minimum required 10 feet:
- (1) There is a 51 feet wide lot directly west of the subject property. The owner, Midland Corporation, also owns the property to the south of the subject property. Both properties are for sale and the owners desire to sell the properties together.
 - (2) Given the 51 feet width of the adjacent lot, the owner does not plan on building anything on the lot other than an access driveway connecting to their property to the south.
- D. Regarding Part B of the Variance, for a rear yard setback of 13 feet in lieu of the minimum required 20 feet:
- (1) The recorded Plat of the subject property recorded January 16, 2015 indicates that the rear property line has a jog in it such that the western 54.6 feet are 13 feet from the building under construction and the eastern 33.88 feet are 20 feet from the building under construction.
 - (2) The site plan submitted for Zoning Use Permit #180-15-01 was in error because it did not indicate the jog in the rear lot line and that error was not noticed when the permit was originally approved.

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, **“We would need to start all over. We already have \$50,000 invested and would require twice this amount to tear down and rebuild. We cannot afford to do this.”**

10/21/15 PRELIMINARY DRAFT

- B. Regarding the proposed Variance:
- (1) Without Part A of the proposed variance, the petitioner would have to either demolish and rebuild or purchase adjacent land.
 - (2) Without Part B of the proposed variance, the petitioner would have to either demolish and rebuild or purchase adjacent land.

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, **“Financially we would need to stop the project. It was the builder’s responsibility to follow site plans, which they failed to do.”**
 - B. Regarding Part A of the Variance:
 - (1) The Petitioner consulted with the real estate agent for the 51 feet wide property west of the subject property. In an email received September 28, 2015, Alex Ruggieri states that the owner has been advised to wait until she has a buyer for the whole property rather than possibly devaluing her property by selling the smaller piece alone.
 - (2) In an email to Alex Ruggieri received September 28, 2015, the Petitioner indicated that financially he cannot make an offer to purchase the adjacent property for at least a year or two, contingent on the success of the fitness center.
 - C. Regarding Part B of the Variance:
 - (1) It is unknown if there are easements or other impediments that created a jog in the rear property line as per the Final Plat for the subject property recorded January 16, 2015 and received September 25, 2015.
 - (2) The Site Plan received September 25, 2015 indicates that the rear yard is 20 feet all the way across and is incorrect but the error was overlooked by the Zoning Administrator when Zoning Use Permit #180-15-01 was approved.
 - (3) The Petitioner purchased the property on May 18, 2015.

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, **“We are only 3.5 feet on the west side of meeting the zoning requirements. Considering the lot just west is an access only and no construction will be built, I don’t see this as a real concern.”**

- B. Regarding Part A of the Variance, for a proposed side yard of 6.5 feet in lieu of the minimum required 10 feet: the requested variance is 65% of the minimum required, for a variance of 35%.
- C. Regarding Part B of the Variance, for a proposed rear yard of 13 feet in lieu of the minimum required 20 feet: the requested variance is 68% of the minimum required, for a variance of 32%.
- D. Regarding Parts A and B of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side and rear yards are presumably intended to ensure the following:
 - a. Adequate light and air: The subject property will be a commercial use. The surrounding properties are commercial in use.
 - b. Separation of structures to prevent conflagration: The subject property is within the Edge-Scott Fire Protection District and the station is approximately 0.4 road miles from the subject property. The nearest structure to the building under construction is approximately 45 feet to the east.
 - c. Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
 - (2) The Site Plan received September 25, 2015 indicates that the rear yard is 20 feet all the way across and is incorrect but the error was overlooked by the Zoning Administrator when Zoning Use Permit #180-15-01 was approved.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application: **“The adjacent west lot is an access only and has been unoccupied for many years. We are not on their property and we remained within our property lines.”**
 - B. In a phone call received by Susan Chavarria on October 5, 2015, Jean Huddleston, owner of the adjacent 51 feet wide property to the west, expressed interest in considering the sale of a strip of her property to the Petitioner so that he will have the required minimum side and rear yards for the building under construction. She must be certain that she has sufficient width to construct a paved access on that property, which would be at least 24 feet wide. Staff has not received an update on this possible transaction.
 - C. The Township Road Commissioner has been notified of this variance but no comments have been received.

- D. The Cornbelt Fire Protection District has been notified of this variance but no comments have been received.
- E. The nearest building on neighboring property is approximately 30 feet from the shared property line.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioner has testified on the application: **“If we receive a variance, my plans are to purchase the adjacent lot to the west within 2 years. If I do this, this would not be an issue. I’ve already had discussion with both the owner and the real estate agent about purchasing the lot.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
No special conditions are currently proposed.

DOCUMENTS OF RECORD

1. Variance Application received September 25, 2015, with attachments:
 - A Site Plan approved on August 10, 2015 for Zoning Use Permit 180-15-01 and received September 25, 2015
 - B Final Plat recorded January 16, 2015 and received September 25, 2015
 - C Subsidiary Drainage Plat received September 25, 2015
2. Email from Mark Kesler to Alex Ruggieri, cc: Susan Chavarria, received September 28, 2015
3. Email from Alex Ruggieri to Mark Kesler, cc: Susan Chavarria, received September 28, 2015
4. Email from Jean Huddleston to Susan Chavarria, received October 5, 2015
5. Preliminary Memorandum dated October 21, 2015 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan approved on August 10, 2015 for Zoning Use Permit 180-15-01 and received September 25, 2015
 - C Final Plat of the Prairie View Commercial Subdivision recorded January 16, 2015 and received September 25, 2015
 - D Email from Mark Kesler to Alex Ruggieri, cc: Susan Chavarria, received September 28, 2015
 - E Email from Alex Ruggieri to Mark Kesler, cc: Susan Chavarria, received September 28, 2015
 - F Email from Jean Huddleston to Susan Chavarria, received October 5, 2015
 - G Images of Subject Property taken October 6, 2015
 - H 2014 aerial photo with parcel boundaries
 - I Draft Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 814-V-15 held on **October 29, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

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

The Variance requested in Case **814-V-15** is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Mark and Adam Kesler, d.b.a. No Limit Fitness LLC**, to authorize the following variances in the B-4 General Business Zoning District:

Part A: Authorize a side yard of 6.5 feet in lieu of the required minimum 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: Authorize a rear yard of 13 feet in lieu of the required minimum 20 feet as per Section 5.3 of the Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

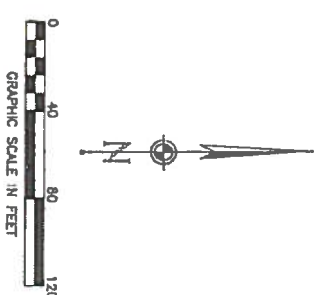
ATTEST:

Secretary to the Zoning Board of Appeals
Date

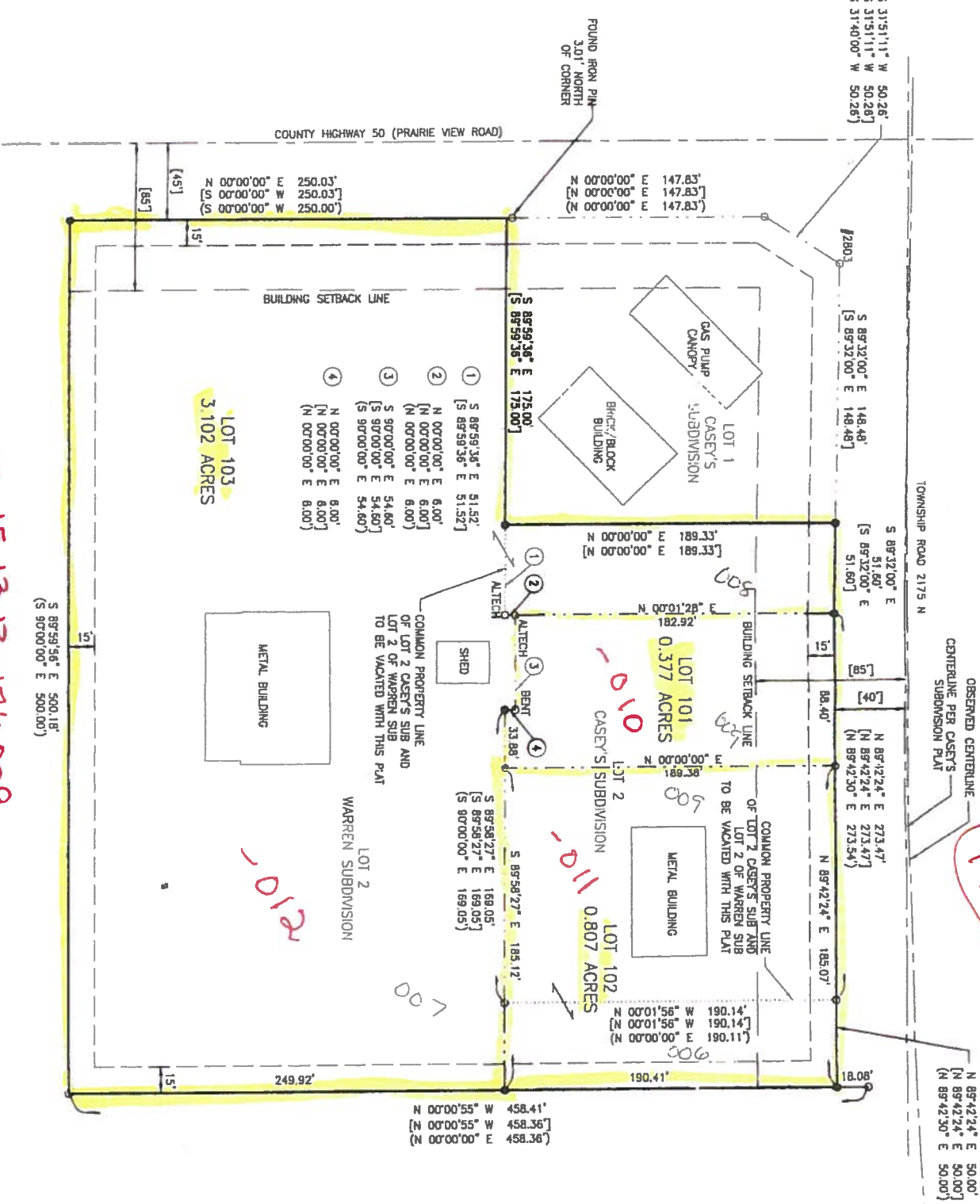
FINAL PLAT

PRAIRIE VIEW COMMERCIAL SUBDIVISION

CHAMPAIGN COUNTY, ILLINOIS
PART OF NW 1/4, SEC. 13, T. 20 N., R. 7 E., 3rd. P.M.



- LEGEND**
- BOUNDARY OF PLAT
 - PROPOSED LOT LINE
 - EXISTING LOT LINE
 - BUILDING SETBACK LINE
 - PUBLIC UTILITY AND DRAINAGE EASEMENT LINE
 - EXISTING CENTERLINE
 - EXISTING LOT LINE TO BE VACATED BY THIS PLAT
 - 5/8" IRON PIN SET W/ CAP 3738
 - CHISELED 'X' IN CONCRETE
 - IRON PIN / PIPE FOUND
 - RECORD BEARING / DIMENSION PER CASEY'S SUBDIVISION [N 00°00'00" E 100.00']
 - RECORD BEARING / DIMENSION PER WARREN SUBDIVISION [N 00°00'00" E 100.00']
 - SAME OWNERSHIP SYMBOL



- NOTES:**
1. ALL BEARINGS ARE BASED ON THE EAST LINE OF CASEY'S SUBDIVISION, COUNTY, ILLINOIS.
 2. ALL LOTS ARE ZONED B-4: GENERAL BUSINESS BY CHAMPAIGN COUNTY, ILLINOIS.
 3. FRONT YARD, REAR YARD AND SIDE YARD SETBACKS SHALL BE IN ACCORDANCE WITH THE CHAMPAIGN COUNTY, ILLINOIS ZONING ORDINANCE.
 4. ALL LOTS WILL BE SERVED BY PUBLIC WATER AND SANITARY SEWER FROM SAMGAMON VALLEY PUBLIC WATER DISTRICT.
 5. THE SUBDIVISION IS LOCATED WITHIN 1 1/2 MILES OF THE CORPORATE LIMITS OF THE VILLAGE OF MAHOMET, ILLINOIS.
 6. THE PROPERTY COVERED BY THIS SUBDIVISION IS LOCATED WITHIN THE FLOOD HAZARD AREA ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) NO. 17019002800, DATED 10/2/13).
 7. NO PART OF THE AREA COVERED BY THIS PLAT IS SITUATED WITHIN 500 FEET OF A WATERCOURSE SERVING A TRIBUTARY AREA OF 640 ACRES OR MORE.
 8. NO INDEPENDENT SEARCH OF EASEMENT WAS PERFORMED.
 9. FIELDWORK FOR THIS SUBDIVISION WAS PERFORMED IN AUGUST 2014.
 10. ONLY BUILDINGS WITH PERMANENT FOUNDATIONS ARE SHOWN ON PLAT.

RECEIVED

SEP 25 2015

CHAMPAIGN CO. P & Z DEPARTMENT

PRESENTED FOR RECORDING BY:

VILLAGE OF MAHOMET
503 E. MAIN ST.
MAHOMET, IL 61853
(217) 586-4456

RETURN TO:
BRB ENGINEERING, INC.
301 N. NEL ST., SUITE 400
CHAMPAIGN, IL 61820
(217) 531-2971 OFFICE
(217) 531-2211 FAX

Lot 101 PT of 15.13.13-174.009

Lot 102 PT of 15.13.13.174.009 & all of 174.004

Lot 103 all of 15.13.13.174.008 & 174.007

ENGINEER/SURVEYOR:
BRB ENGINEERING, INC.
301 N. NEL ST., SUITE 400
CHAMPAIGN, IL 61820
(217) 531-2971 OFFICE
(217) 531-2211 FAX
PROFESSIONAL DESIGN FIRM
NO. 184.005483

OWNER / SUBDIVIDER:
LOT 2 WARREN SUBDIVISION
MIDLAND CORPORATION
c/o WEBBER & THIES, P.C.
202 LINCOLN SQUARE
P.O. BOX 189
URBANA, IL 61803
(217) 567-1126

2015R00875

REC ON: 01/16/2015 1:58:09 PM
CHAMPAIGN COUNTY
BARBARA A. FRASCA, RECORDER
REC FEE: 86.00
RHSPS Fee: 9.00

PAGES 6
PLAT ACT: PLAT PAGE: 1

STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } S.S.
PLAT ACT: PLAT PAGE: 1

1. BRYAN K. BRADSHAW, ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 3738 DO HEREBY CERTIFY THAT AT THE REQUEST OF CHARLES P. THOMPSON & WOCIE G. THOMPSON, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE CHARLES P. AND WOCIE G. THOMPSON LIVING TRUST, DATED JUNE 20, 2000 AND MIDLAND CORPORATION, I HAVE SURVEYED AND SUBDIVIDED THE HEREIN DESCRIBED TRACT OF LAND INTO LOTS AS SHOWN ON THE ATTACHED PLAT. SAID PLAT IS A TRUE REPRESENTATION OF SAID SUBDIVISION, WHICH IS HEREBY SET AS PRAIRIE VIEW COMMERCIAL SUBDIVISION. THE SCALE ON THE PLAT IS AS INDICATED. ALL DISTANCES MARKED ON THE PLAT ARE IN FEET AND DECIMAL PARTS OF FEET. SUBDIVISION AND LOT CORNERS HAVE BEEN MONUMENTED AS SHOWN ON ATTACHED PLAT. I FURTHER CERTIFY THAT A PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. THE PROPERTY TO BE SUBDIVIDED AND PLATTED IS DESCRIBED AS FOLLOWS:

LOT 2 OF CASEY'S SUBDIVISION, A REPLAT OF LOT 1 OF WARREN SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK CC AT PAGE 238, AS DOCUMENT NO. 97801953, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

AND
LOT 2 OF WARREN SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK CC AT PAGE 8 AS DOCUMENT NO. 94815896 IN CHAMPAIGN COUNTY, ILLINOIS.

SIGNED AND SEALED THIS 11th DAY OF December, 2014

BRYAN K. BRADSHAW
ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 3738



APPROVED:
APPROVAL OF THIS MINOR SUBDIVISION FINAL PLAT IS HEREBY GRANTED UNDER THE AUTHORITY OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAHOMET. THIS PLAT SHALL BE RECORDED WITH THE RECORDER OF DEEDS OF CHAMPAIGN COUNTY, ILLINOIS WITHIN ONE (1) YEAR OF THIS DATE, OTHERWISE THIS PLAT SHALL BECOME VOID.

PRESIDENT, VILLAGE ADMINISTRATOR
Paul J. Proulx
DATE: 11/7/15

VILLAGE ATTORNEY
Sam M. Lewis
DATE: 11/7/15

ACTING PRES.
Charles P. Thompson
DATE: 11/7/15

MAHOMET VILLAGE ENGINEER
John P. O'Neil
DATE: 11/7/15