

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **March 24, 2016**
Time: **6:30 P.M.**
Place: **John Dimit Meeting Room**
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

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

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes

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

5. Continued Public Hearings

Case 824-AM-15 Petitioner: **Dustin Ehler, d.b.a. Ehler Bros. Co.**
Request: **Amend the Zoning Map to change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1, Rural Trade Center Zoning District in order to expand operations of a Farm Chemicals and Fertilizer Sales Business including incidental storage and mixing of blended fertilizer.**

Location: **A 1.4 acre tract in the Northeast Quarter of the Northwest Quarter of Section 19, Township 20N, Range 11E of the Third Principal Meridian in Ogden Township located immediately east of the existing Ehler Brothers facility with an address of 2475 E CR 2100N, Thomasboro.**

NOTE: TIME OF THE MEETING: 6:30 P.M.

*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.**

6. New Public Hearings
7. Staff Report
8. Other Business
 - A. Review of Docket
 - B. Review of Revised 2016 Calendar
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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

2016 CHAMPAIGN COUNTY PLANNING & ZONING CALENDAR

Brookens Administrative Center
 1776 E. Washington Street
 Urbana, IL 61802
 Phone: (217) 384-3708
 FAX: (217) 819-4021

www.co.champaign.il.us

Zoning Board of Appeals
 April – October: 7:00 p.m.
 November – March: 6:30 p.m.
 (Shields Meeting Room)

(Dimit Room)

Champaign County Board: 6:30 p.m.
 (Shields Mtg Rm)

Environment and Land Use Committee: 6:30 p.m.
 (Shields Mtg Rm)

County Board Committee of the Whole: 6:30 p.m.
 (Shields Mtg Rm)

County Board Study Session
 (Shields Mtg Rm)

Racial Justice Task Force: 6:30 p.m.
 (Shields Mtg Rm)

County Holiday
 (Offices closed)

JANUARY						
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Note: No entrance to building from Washington Street parking lot after 4:30 p.m. Use Northeast parking lot via Lierman Av. and enter building through Northeast door.

MEETING DATES AND TIMES ARE SUBJECT TO CHANGE.

JUNE						
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DRAFT 3/16/2016

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

CASE NO. 824-AM-15

SUPPLEMENTAL MEMORANDUM #2

MARCH 16, 2016

Petitioner: Dustin Ehler d.b.a. Ehler Bros Co.

Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture District to the B-1 Rural Trade Center District in order to expand operations of a Farm Chemicals and Fertilizer Sales business including incidental storage and mixing of blended fertilizer.

Location: A tract in the Northeast Quarter of the Northwest Quarter of Section 19, Township 20N Range 11E of the Third Principal Meridian in Ogden Township located immediately east of the existing Ehler Brothers facility with an address of 2475 E CR 2100 N (CH 20), Thomasboro.

Site Area: 1.4 acres

Time Schedule for Development: As soon as possible

Prepared by: Susan Chavarria
Senior Planner

John Hall
Zoning Administrator

STATUS

On March 11, 2016, staff initiated a consultation with IDNR regarding the Spoon River INAI Site. Attachment A is the initial consultation response from IDNR. We expect to receive an initial determination letter within 30 days which will indicate whether the property requires additional analysis.

Attachment B is a revised proposed site plan, which now includes information on impervious area, distance of structures to the top of the ditch, and location of three catch basins. Attachment C is a group of photos of the catch basins and the property after the December 29, 2015 rain event. Attachment D is an email from Mr. Ehler about the catch basins.

Staff recommends revisions to the decision points for this case based on the new information to date. Please refer to the "Changes to Decision Points" section below.

ADDITIONAL EVIDENCE

Mr. Ehler provided additional information about the existing fertilizer facility at the March 3, 2016 ZBA meeting and via a phone call on March 15, 2016. Staff recommends updating the following evidence in the Findings of Fact based on this new information:

Under LRMP Policy 8.6.2 add item (1)c.:

- (1) Policy 8.6.2 states, "a. For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas. b. With regard to by-right development on good zoning lots, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas."

The proposed rezoning will *HELP ACHIEVE* Policy 8.6.2 for the following reason:

- a. The subject property has been in agricultural production for many years and there is no existing habitat.
- b. The minimum required 50 feet separation between any land disturbance caused by the proposed development and the top of the adjacent unnamed tributary to the Spoon River offers an opportunity for the petitioner to establish appropriate vegetation that could provide habitat and require minimal maintenance once established provided that the vegetation is established as required by paragraph 6.4E. of *The Champaign County Storm Water Management and Erosion Control Ordinance*.
- c. The Spoon River Illinois Natural Area Inventory (INAI) site is a few miles downstream from the subject property and by definition, an INAI site is an existing area that provides habitat for native species. The proposed rezoning itself will not cause any disturbance to the Spoon River INAI site. However, the proposed rezoning will accommodate changes to the existing fertilizer facility including a more modern liquid fertilizer bulk storage tank with a much greater volume of storage. The new tank will be located somewhat further from the adjacent drainage ditch than is the existing bulk tank and should meet the minimum required 50 feet separation to the top of the bank. The new tank is also the style of tank that will offer the greatest possible security against leakage. Regarding other safety measures at the facility that help to minimize the risk of any possible leak that could impact the downstream Spoon River INAI site the petitioner has testified as follows:
 - (a) All operations are regulated by the State and include annual inspections.
 - (b) The proposed new bulk storage tank must be inspected every 5 years.
 - (c) “Our liquid containment building is completely diked. It holds 110% of the volume of herbicides and pesticides stored on premises at any time. As I stated at the last week’s hearing, for liquid fertilizer in the event of a release the steel structure of the tank acts as containment as the actual storage portion of the tank is a rubber liner. This is all up to code and highly regulated by the IDOA and IEPA. The catch basins are solely in place to deal with storm water runoff.”
 - (d) The entire fertilizer plant building is like a swimming pool. Trucks have to drive up a ramp then down into the building. When they are loading they are thus contained.
 - (e) In addition, there are sump pits that collect any spill. Any product going through those goes into a tank where it is reclaimed at the end of the season, diluted, and then sprayed on a farm field. This is the standard, legal practice.
 - (f) Trucks pull into the outside loading area. The pump and hose at the loading station are in contained areas.
 - (g) Applicators are loaded at the fields. It is illegal to load applicators at the subject property and put them on the road. Designated licensed tankers haul the liquid to the sites.
 - (h) When they had the fire and lost the entire plant, the only product lost was what was inside the rubber hoses. What was in those hoses was not enough to be a reportable spill.

Under LRMP Policy 8.6.4, add item (3)b.:

- (3) Policy 8.6.4 states, "The County will require implementation of IDNR recommendations for discretionary development sites that contain endangered or threatened species, and will seek to ensure that recommended management practices are maintained on such sites.

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 8.6.4 for the following reasons:

- a. On March 2, 2016, staff contacted the Illinois Department of Natural Resources regarding the proposed expansion as it relates to the Spoon River tributary that runs on the west side of the existing Ehler Bros facility. No comments have been received.
- b. On March 11, 2016, staff initiated a formal consultation process with the Illinois Department of Natural Resources. An initial letter stating if more analysis is needed can be expected within 30 days.

CHANGES TO DECISION POINTS

Staff recommends the following revisions to the decision points offered in the preliminary memo and Findings of Fact dated March 3, 2016:

Change the following decision points to a staff recommendation of "will HELP ACHIEVE":

- Page 14, Item 18: Goal 8 Natural Resources
 - Item 18.A. – Objective 8.4
 - Policy 8.4.1
 - Policy 8.4.2
 - Item 18.B. – Objective 8.5
 - Policy 8.5.2

Change the following staff recommendation of "will HELP ACHIEVE" to a decision point stating {will/will not HELP ACHIEVE"}:

- Item 18.C. – Objective 8.6
 - Policy 8.6.2
 - Policy 8.6.4

Maintain the following decision points that have no recommendation from staff:

- Page 8, Item 14: Goal 4 Agriculture and subsidiary decision points
Note that this decision point is based on the decision points in Goal 8
 - Item 14.D. – Objective 4.1
 - Policy 4.1.6 and item h. of that policy
- Page 19, Item 21.H. – overall conformance with LRMP
- Page 19, Item 22 – overall achievement of Zoning Ordinance purpose

ATTACHMENTS

- A IDNR consultation initial response, Project Number 1608384 dated 3/11/16
- B Revised proposed site plan received March 14, 2016
- C Photos received March 14, 2016
- D Email from Dustin Ehler regarding catch basins received March 15, 2016

Applicant: Susan Chavarria
Contact: Susan Chavarria
Address: Champaign County Planning & Zoning
1776 East Washington Street
Urbana, IL 61802

IDNR Project Number: 1608384
Date: 03/11/2016
Alternate Number: 824-AM-15

Project: Ehler Bros. Facility
Address: 2475 CR 2100 N, Thomasboro

Description: expansion of a fertilizer blending, storage and sales business which abuts a tributary of a tributary of the Spoon River in Champaign County

Natural Resource Review Results

Consultation for Endangered Species Protection and Natural Areas Preservation (Part 1075)

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Spoon River INAI Site

An IDNR staff member will evaluate this information and contact you to request additional information or to terminate consultation if adverse effects are unlikely.

Location

The applicant is responsible for the accuracy of the location submitted for the project.

County: Champaign

Township, Range, Section:
20N, 11E, 19



IL Department of Natural Resources
Contact
Natalia Jones
217-785-5500
Division of Ecosystems & Environment

Government Jurisdiction
Champaign County Planning and Zoning
Susan Chavarria
1776 East Washington Street
Urbana, Illinois 61802

Disclaimer

The Illinois Natural Heritage Database cannot provide a conclusive statement on the presence, absence, or condition of natural resources in Illinois. This review reflects the information existing in the Database at the time of this inquiry, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, compliance with applicable statutes and regulations is required.

Terms of Use

By using this website, you acknowledge that you have read and agree to these terms. These terms may be revised by IDNR as necessary. If you continue to use the EcoCAT application after we post changes to these terms, it will mean that you accept such changes. If at any time you do not accept the Terms of Use, you may not continue to use the website.

1. The IDNR EcoCAT website was developed so that units of local government, state agencies and the public could request information or begin natural resource consultations on-line for the Illinois Endangered Species Protection Act, Illinois Natural Areas Preservation Act, and Illinois Interagency Wetland Policy Act. EcoCAT uses databases, Geographic Information System mapping, and a set of programmed decision rules to determine if proposed actions are in the vicinity of protected natural resources. By indicating your agreement to the Terms of Use for this application, you warrant that you will not use this web site for any other purpose.

2. Unauthorized attempts to upload, download, or change information on this website are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and/or the National Information Infrastructure Protection Act.

3. IDNR reserves the right to enhance, modify, alter, or suspend the website at any time without notice, or to terminate or restrict access.

Security

EcoCAT operates on a state of Illinois computer system. We may use software to monitor traffic and to identify unauthorized attempts to upload, download, or change information, to cause harm or otherwise to damage this site. Unauthorized attempts to upload, download, or change information on this server is strictly prohibited by law.

Unauthorized use, tampering with or modification of this system, including supporting hardware or software, may subject the violator to criminal and civil penalties. In the event of unauthorized intrusion, all relevant information regarding possible violation of law may be provided to law enforcement officials.

Privacy

EcoCAT generates a public record subject to disclosure under the Freedom of Information Act. Otherwise, IDNR uses the information submitted to EcoCAT solely for internal tracking purposes.

IDNR Project Number: 1608384



EcoCAT Receipt	Project Code 1608384
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APPLICANT	DATE
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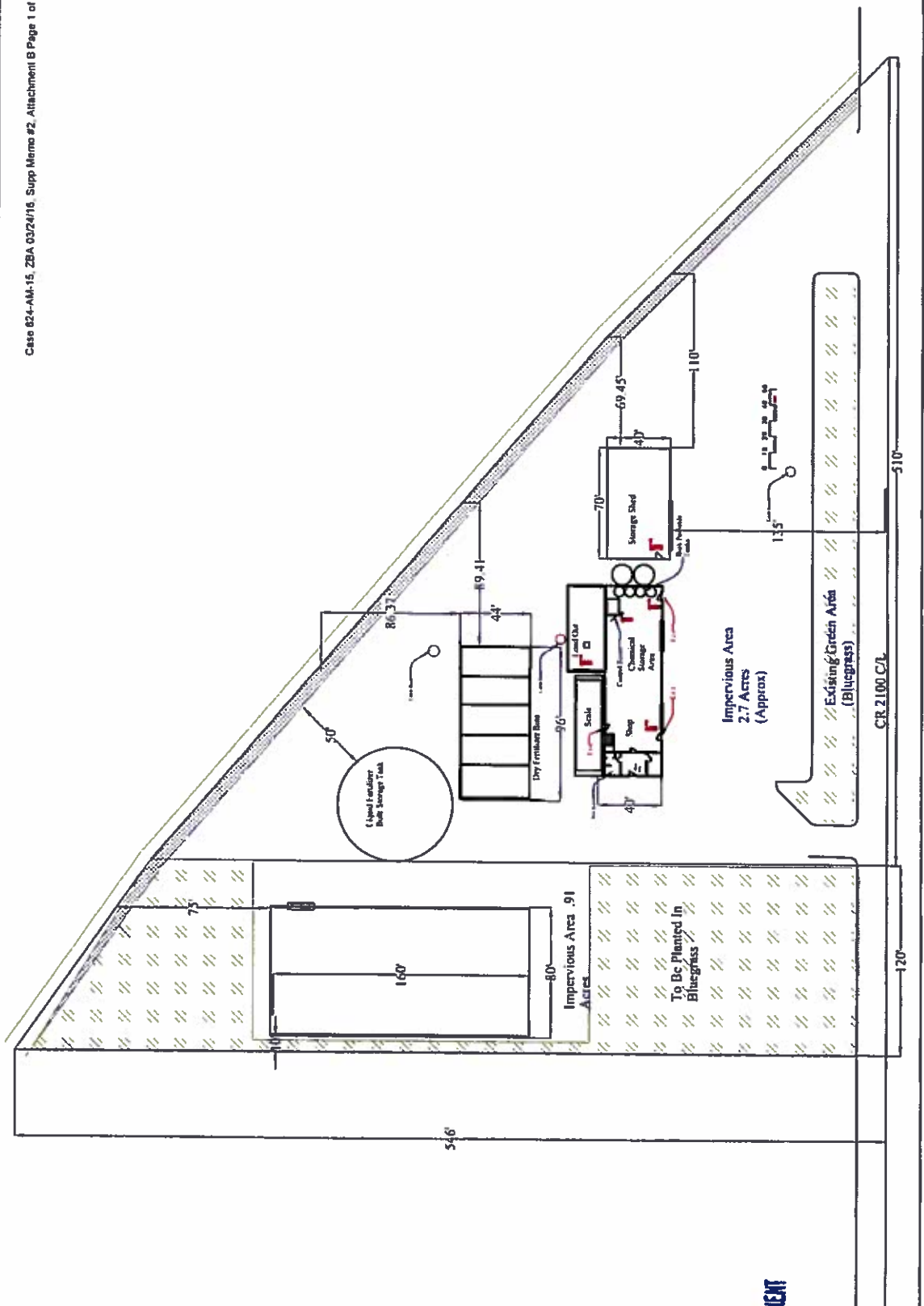
Susan Chavarria Johny Hall 1776 E Washington St 1776 East Washington Street Urbana, IL 61802	3/11/2016
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DESCRIPTION	FEE	CONVENIENCE FEE	TOTAL PAID
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EcoCAT Consultation	\$ 500.00	\$ 11.75	\$ 511.75
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TOTAL PAID	\$ 511.75
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Illinois Department of Natural Resources
 One Natural Resources Way
 Springfield, IL 62702
 217-785-5500
dnr.ecocat@illinois.gov



RECEIVED

MAR 14 2016

CHAMPAIGN CO. P & Z DEPARTMENT

Sheet Title
Proposed Site Plan

Scale
See Scale Bar

Sheet 1 of 1

Facility
Ehler Brothers
Royal, IL

Drawn
Design
Checked
Rendered

Drawn By
EB

Water Flow Direction
Electrical Panel

EB

Fire Extinguisher
Safety Equipment
Shower & First Aid Kit
Gas Shutoff

Safety Consulting Services

1001 S. Center St
Mahomet, IL 61853
888-791-2530

824-AM-15 Images 2



Catch basin in north parking lot



Catch basin by load out area

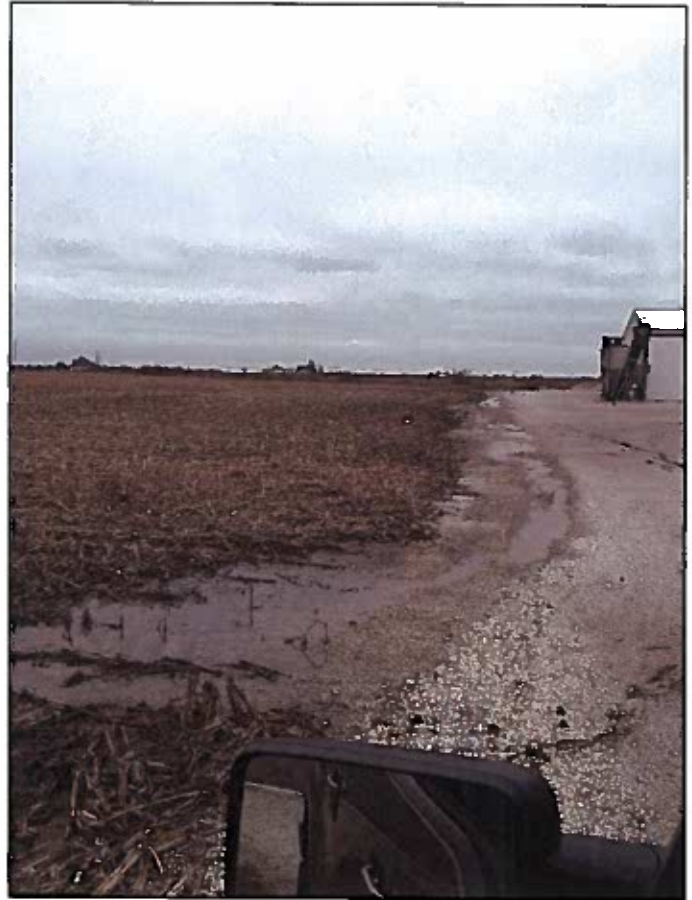
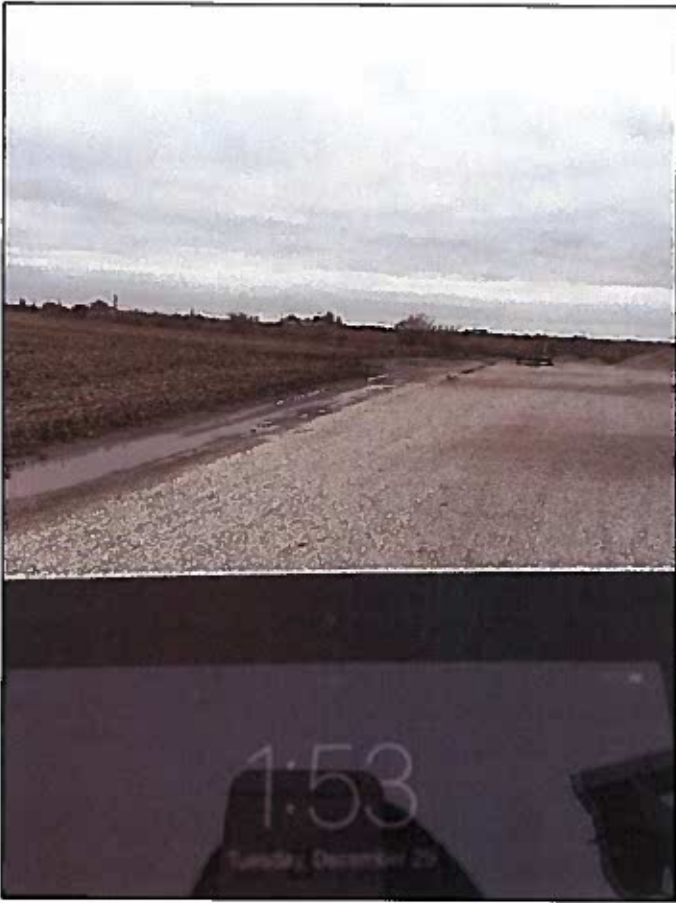
824-AM-15 Images 2



Catch basin near ditch



Northwest corner of property roadside ditch



East side of property after December 29, 2016 rain event

Susan Chavarria

From: Dustin Ehler <dustinehler@gmail.com>
Sent: Tuesday, March 15, 2016 8:26 AM
To: Susan Chavarria
Subject: RE: catch basins?

They are connected to a tile that drains into the drainage ditch. I also intend on tiling the down spouts on the proposed new building to the ditch as well.

-----Original Message-----

From: Susan Chavarria [<mailto:schavarr@co.champaign.il.us>]
Sent: Tuesday, March 15, 2016 8:22 AM
To: Dustin Ehler
Subject: catch basins?

Hi Dustin,

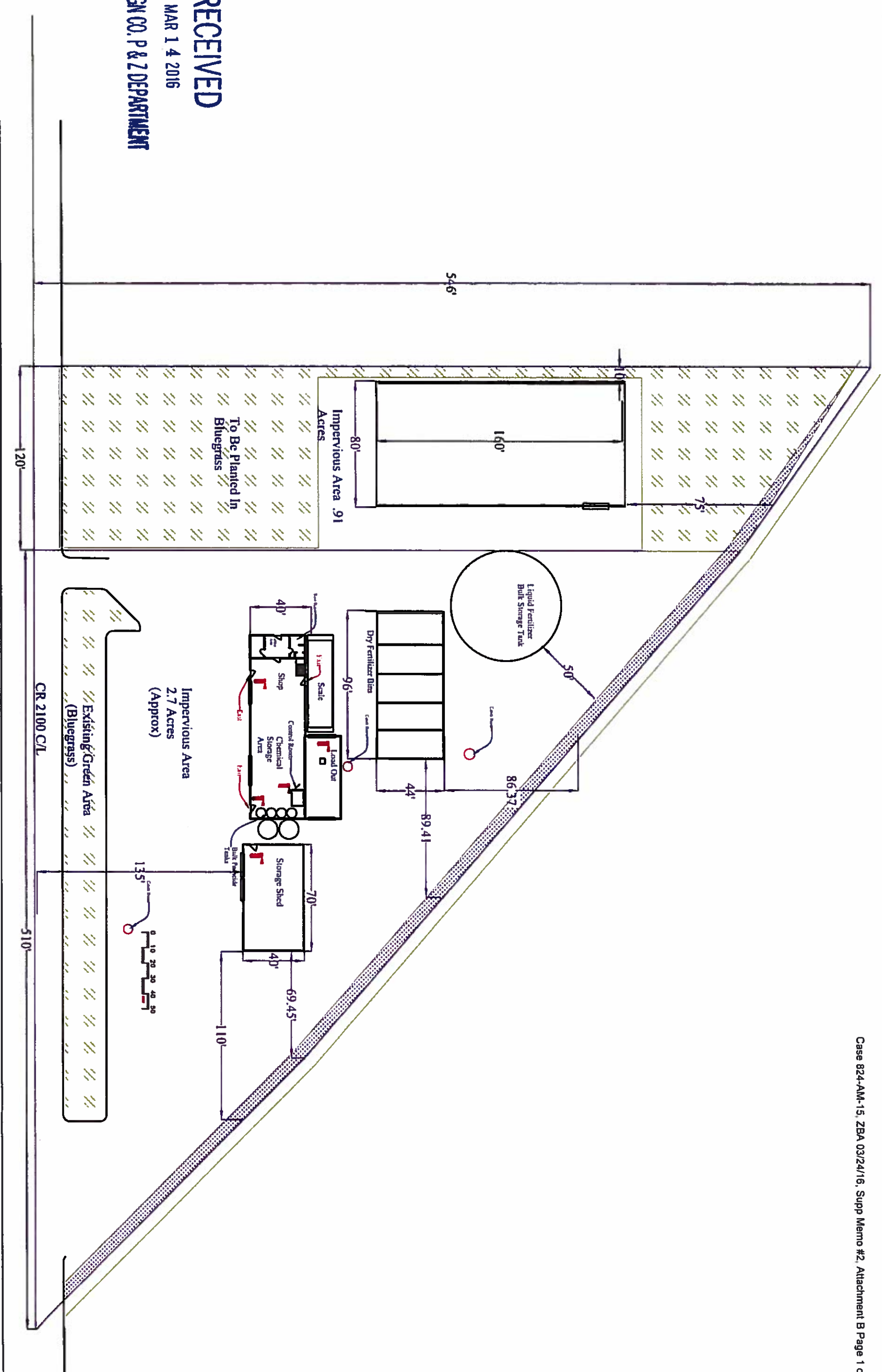
Could you please explain to me how the catch basins work, i.e. where does the water go once it is in the basin?

Thanks,
Susan

RECEIVED

MAR 15 2016

CHAMPAIGN CO. P & Z DEPARTMENT



RECEIVED

MAR 14 2016

CHAMPAIGN CO. P & Z DEPARTMENT

Safety Consulting Services
 1001 S. Center St
 Mahomet, IL 61853
 888-791-2530

Fire Extinguisher Safety Equipment
 Showers, Eye Wash, Respirator
Gas Shutoff

Water Flow Direction Electrical Panel

← FLOW →
 (EB)

Drawn Design Reviewed
 Dan Ray

Facility
 Ehler Brothers
 Royal, IL

Sheet Title
 Proposed Site Plan
 Scale: See Scale Bar
 Sheet 1 of 1

CASE NO. 792-V-14 REACTIVATED
SUPPLEMENTAL MEMORANDUM #4
March 16, 2016

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 28 on-site parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.

Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany 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

This case was continued from the October 29, 2015 ZBA meeting until the January 28, 2016 meeting. Staff contacted all parties in attendance at previous hearings for this case and it was determined that January 28th would not work. Staff requested availability from the same parties, and all indicated that March 24, 2016 would be feasible.

Mr. Frazier contacted staff via email on March 5, 2016 to provide an update. He stated that he has a Site Plan with parking prepared for the proposed north lot. He stated that Andrew Fell has measured and is preparing plans for the subject property. Staff contacted Mr. Fell, who sent a copy of the Site Plan via email on March 7, 2016 – see below for further details.

The Petitioner is still working toward annexation with the City of Champaign; City Planner Jeff Marino is the point of contact. As stated in the previous Supplemental Memorandum #3, 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.

BACKGROUND SUMMARY

Mr. Frazier's property at 310 Tiffany Court, Champaign is not in compliance with the Champaign County Zoning Ordinance for the following reasons:

- Insufficient on-site parking for the uses at 310 Tiffany Court – we have determined he needs 58 spaces, including whatever is determined necessary for compliance with the Illinois Accessibility Code. This includes 36 spaces for office uses, 18 spaces for the 53 self-storage units, 1 space for a company employee, and 3 spaces for Frazier Properties executive office. He may need additional spaces depending on how many self-storage units he has upstairs in the middle wing as well as sufficient space for the arborist's vehicles that were parking there as of October 2015.
- A variance for a front yard is necessary because Mr. Frazier built the covered walkway too close to his property line, and also did not have a permit to construct that covered walkway. The covered walkway is only 20 feet from the front property line rather than the minimum required 25 feet.
- A variance for a front setback is necessary because Mr. Frazier constructed too close to the roadway centerline. The covered walkway is 50 feet from the street centerline rather than the minimum required 55 feet.
- Mr. Frazier constructed parking on the west end (front side of property) that is not what his approved site plan from a previous zoning case indicated, and the parking as constructed overlaps the sidewalk and creates a safety hazard.
- A variance is necessary if Mr. Frazier does not provide 10 feet of space between the parking spaces and the front property line on the west end of the property. Right now there is no space between the spaces and the front property line.

Apart from the Zoning compliance issues:

- Mr. Frazier removed approximately 100 feet of Township curb along Tiffany Court without permission so he could have head-in parking in front of the offices on the west side. There is a proposed special condition that this curb be replaced to the original design specifications.
- The restrooms, handicap parking and the ramp leading to the covered walkway are not compliant with the Illinois Accessibility Code.

NEW PROPOSED SITE PLAN FROM ANDREW FELL

Staff received a preliminary site plan from Andrew Fell Architecture on March 7, 2016. The site plan is clean and much improved, but needs further revision. Upon review, staff identified approximately 20 items that would need to be verified, revised, and/or expanded upon in order for the site plan to

meet the requirements established by the ZBA at the September 10, 2015 hearing. Staff provided the list of required revisions to Mr. Frazier and Mr. Fell via email on March 8, 2016.

On March 8, 2016, Mr. Frazier responded via email with the following: "I want to keep garage and move Bud's Tree Service inside garage, which is big enough to hold his vehicles. We have not done this, we await your approval."

As of March 16, 2016, Mr. Frazier and Architect Andrew Fell hoped to have a revised site plan ready on March 16th or 17th.

NEW PROPOSED SITE PLAN FOR NORTH PARKING LOT

Mr. Frazier is in the process of acquiring a piece of the property directly to the north of the subject property. This north lot is located within the City of Champaign. In expectation of annexing the subject property to become one lot with the north parking lot, the City of Champaign has reviewed this preliminary lot for conformance with their Ordinances and found that it meets their requirements as per the email received from Eric Hewitt on March 8, 2016.

The proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers, received March 8, 2016, indicates the following:

- Lot 7A (orange area) is 12,487 square feet and has 34 available parking spaces.
- Lot 7A provides a temporary easement for Lot 7B. In an email from Eric Hewitt received March 8, 2016, Mr. Hewitt clarifies that a temporary easement means "if and when Lot 7B is leveled and completely redeveloped the easements would no longer be available."

REVISED SUMMARY OF EVIDENCE

There are a number of proposed revisions to the Summary of Evidence dated 03/16/16. There are some items that have insufficient information from recent submittals and those items will need to be resolved prior to deciding the case.

All revisions are in red underline text for additions and red strikethrough for deletions.

Information has been added about the following where relevant throughout the Summary:

- The petitioner's desire to annex the subject property to the City of Champaign and to purchase land north of the subject property that is already in the City for additional parking spaces;
- The revised Site Plan submitted by Andrew Fell on March 7, 2016;
- The proposed north lot Site Plan submitted by Eric Hewitt on March 8, 2016;
- Parking requirements updated calculations (as of a letter to Mr. Frazier dated September 17, 2015); and
- Evidence submitted as testimony at the September 10, 2015 and October 29, 2015 meetings.

PROPOSED REVISIONS TO SPECIAL CONDITIONS

Staff recommends revising proposed Special Condition A by removing language about leased parking. Staff also recommends the following Special Condition F:

- F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the property until the petitioner has demonstrated that the property complies with the Illinois Accessibility Code.**

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

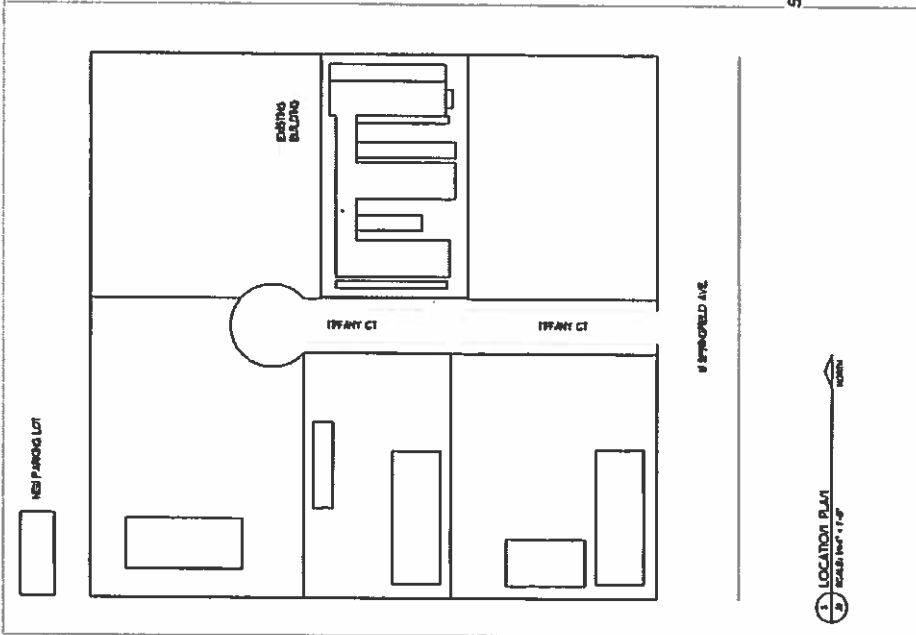
That the proposed uses meet applicable state requirements for accessibility.

UPDATED DOCUMENTS OF RECORD

11. Memo regarding September 2, 2015 ZBA meeting dated September 2, 2015
12. Photographs handed out by neighbor Lloyd Allen received at the September 10, 2015 hearing
13. Handout of the revised site plan received March 30, 2015
14. Approved minutes from September 10, 2015
15. September 17, 2015 letter to petitioner from Susan Chavarria
16. 10/13/15 and 10/20/15 emails to petitioner from Susan Chavarria
17. Supplemental Memo #3 dated October 22, 2015
18. Approved minutes from October 29, 2015
19. Revised site plan created by Andrew Fell Architecture and Design, received March 7, 2016
20. Email from Eric Hewitt with attachment:
Proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers received March 8, 2016
21. Second email from Eric Hewitt regarding proposed north parking lot received March 8, 2016
22. Email from Robert Frazier received March 8, 2016
23. Revised Summary of Evidence dated March 16, 2016

ATTACHMENTS

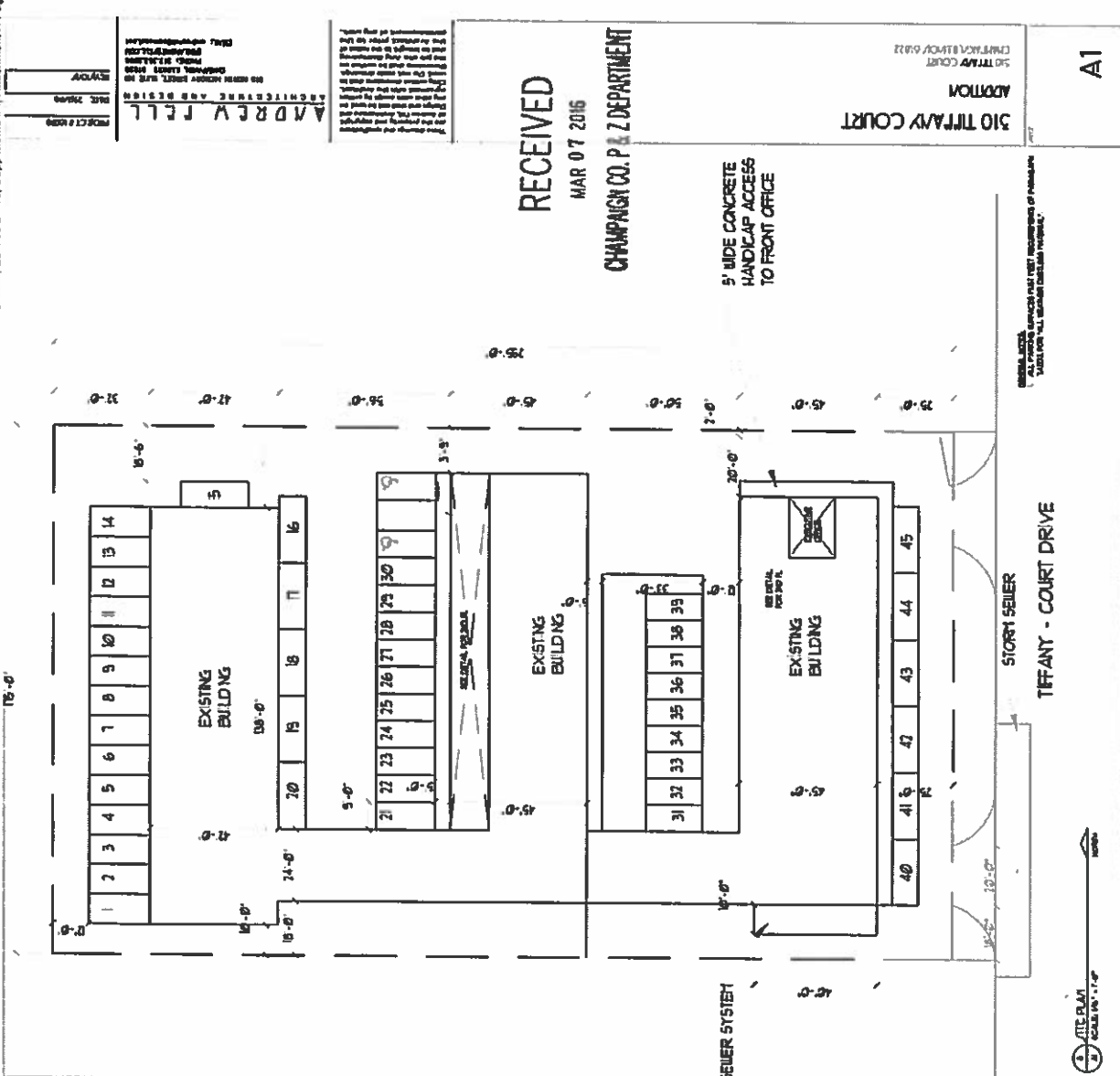
- A Revised site plan created by Andrew Fell Architecture and Design, received March 7, 2016
- B Email received March 8, 2016 from Eric Hewitt with attachment:
Proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers
- C Second email from Eric Hewitt regarding proposed north parking lot received March 8, 2016
- D Email from Robert Frazier received March 8, 2016
- E Approved minutes from September 10, 2015
- F Approved minutes from October 29, 2015
- G Photographs handed out by neighbor Lloyd Allen received at the September 10, 2015 hearing
- H September 17, 2015 letter to petitioner from Susan Chavarria
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- J Supplemental memo #3 dated October 22, 2015
- K Revised Summary of Evidence dated March 16, 2016



1 LOCATION PLAN
SCALE: 1/8" = 1'-0"



2 ADDITIONAL PARTIAL 2ND FLOOR PLAN
SCALE: 1/8" = 1'-0"



3 FLOOR PLAN
SCALE: 1/8" = 1'-0"

RECEIVED
MAR 07 2016
CHAMPAIGN CO. P.L.Z. DEPARTMENT

5' WIDE CONCRETE HANDICAP ACCESS TO FRONT OFFICE

310 TIFFANY COURT
ADDITION
310 TIFFANY COURT
CHAMPAIGN, ILLINOIS 61822

A1

PROJECT # 10289 **DATE: 2/20/16** **ARCHITECTURE AND DESIGN**
ANDREW FELL
 808 NORTH MONROE STREET, SUITE 100
 CHAMPAIGN, ILLINOIS 61820
 PHONE: 309.556.3333
 FAX: 309.556.3333
 WWW.ANDREWPELL.COM

1. TYPICAL CONTROL LIGHT
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

2. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

3. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
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4. WIRE CONDUIT
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4. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
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5. ELECTRICAL BOX

5. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
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4. WIRE CONDUIT
5. ELECTRICAL BOX

6. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

7. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

8. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

9. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

10. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

11. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

12. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

13. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

14. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

15. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

16. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

17. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

18. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

19. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

20. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

21. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

22. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

23. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

24. TYPICAL LIGHT FIXTURE
SCALE: 1/4" = 1'-0"

1. LENS
2. HOUSING
3. MOUNTING BRACKET
4. WIRE CONDUIT
5. ELECTRICAL BOX

RECEIVED
MAR 07 2016
CHAMPAIGN CO. P & Z DEPARTMENT

310 TIFFANY COURT
ADDITION

ARCHITECTURE AND DESIGN
ANDREW J. CELL
30 NORTH HONOR STREET, SUITE 100
CHICAGO, ILLINOIS 60610
TEL: 312.467.1111
WWW.AJCELL.COM

DETAIL AT BONE RACK
SCALE: 1/4" = 1'-0"

DETAIL AT BONE RACK
SCALE: 1/4" = 1'-0"

DETAIL AT BONE RACK
SCALE: 1/4" = 1'-0"

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SCALE: 1/4" = 1'-0"

DETAIL AT BONE RACK
SCALE: 1/4" = 1'-0"

Susan Chavarria

From: Eric Hewitt <ehewitt@phoenix-ce.com>
Sent: Tuesday, March 08, 2016 11:38 AM
To: Susan Chavarria
Cc: lexillini@gmail.com; tovermyer@phoenix-ce.com
Subject: RE: status of site plan for Zoning Case 792-V-14?
Attachments: 15SUR050 SITE PLAN_PRELIMINARY 020916.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED
MAR 08 2016
CHAMPAIGN CO. P & Z DEPARTMENT

Ms. Chavarria,

Please find attached a site plan prepared by us per Mr. Frazier's request and authorization. The plan is for the property to the north of Mr. Frazier property and addresses the need for additional parking. Lot 7A is the land Mr. Frazier is looking at acquiring. The plan has a parking lot containing 34 spaces and has preliminary staff approval by the City of Champaign.

We have no additional data to provide at this time, as we were not authorized by Mr. Frazier to prepare a plan for his existing property.

Let us know if there are any questions.

Thanks.

*Eric E. Hewitt, PLS
Phoenix Consulting Engineers, LTD
421 E Main St., PO Box 1187
Mahomet, IL 61853
217-586-1803*

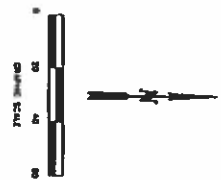
217-840-9129 (cell)

From: Susan Chavarria [<mailto:schavarr@co.champaign.il.us>]
Sent: Monday, February 29, 2016 2:26 PM
To: 'Eric Hewitt'; 'R Frazier'
Subject: status of site plan for Zoning Case 792-V-14?

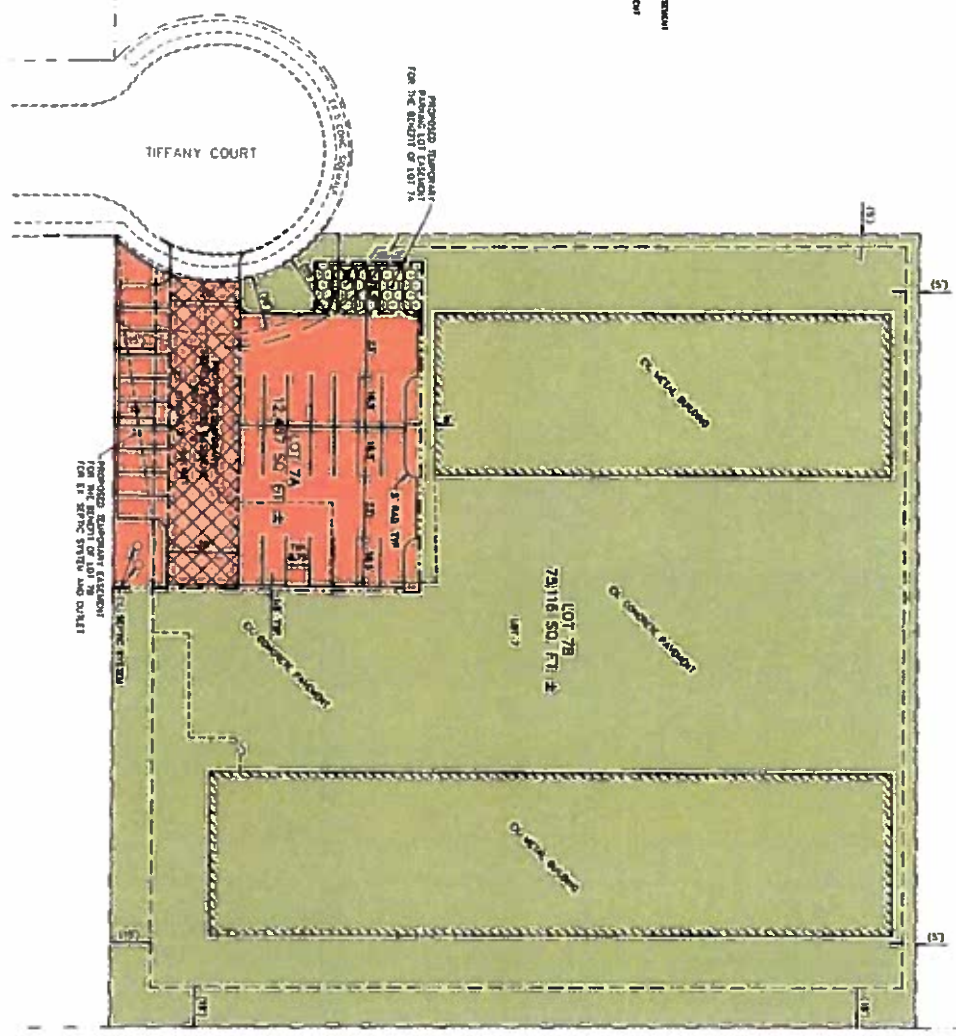
Mr. Frazier and Mr. Hewitt,

Could you please let me know where you're at with the site plan and other items the ZBA has requested? I have attached the letter we sent on September 10, 2015 which lists the required items. The professionally prepared site plan, floor plan, and information on the other items must be turned in to the Department of Planning and Zoning by Monday, March 7, 2016.

Thanks,
Susan



- LEGEND**
- E1. REPT. 'D'-NEW LINE
 - E2. LOT LINE
 - - - E3. LABORER LINE (PUNTO)
 - E4. SERVICE LINE (PUNTO)
 - E5. LOT LINE
 - - - E6. LABORER LINE
 - - - E7. SERVICE LINE
 - E8. TYP. IMPROVEMENTS SYSTEM
 - E9. TYP. PAVED LOT LABORER



RECEIVED
 MAR 08 2016
 CHAMPAIGN CO. P & Z DEPARTMENT

PRELIMINARY

REVISIONS			
NO.	DATE	BY	DESCRIPTION

DRAWN BY: EDH DATE: 02/07/10	SITE PLAN LOT 7 OF REPLAT OF LOT 5 STAHLY SUBMISION CHAMPAIGN, ILLINOIS
DESIGN BY: EDH DATE: 02/08/10	
APPROV BY: JLD DATE: 02/08/10	
PROJECT NO. ISSUR050	

Phoenix Consulting Engineers, Ltd.
 Professional Design Firm No. 184.005835
 421 E. Main Street • Mahomet, IL 61853
 Ph 217-586-1803 • Fax 217-586-6757

Susan Chavarria

From: Eric Hewitt <ehewitt@phoenix-ce.com>
Sent: Tuesday, March 08, 2016 1:27 PM
To: Susan Chavarria
Cc: tovermyer@phoenix-ce.com
Subject: FW: Minor Subdivision

Susan,

Here is another email where Jeff asked the same question about "temporary" and my response.

Eric

From: Eric Hewitt [mailto:ehewitt@phoenix-ce.com]
Sent: Tuesday, February 09, 2016 3:22 PM
To: 'Marino, Jeff'
Cc: tovermyer@phoenix-ce.com
Subject: RE: Minor Subdivision

Jeff,

Yes a long term temporary. Meaning if and when Lot 7B is leveled and completely redeveloped the easements would no longer be available. Maybe "temporary" is not the best word to describe this but would want the plat as well as the legal documents to explain the situation. Maybe an attorney can give some guidance on the wording if we get to that point or if you think of a better term to use please let me know. I will gladly take your advice. In the meantime, I am going to present this plan to the client and landowner to get their comments. I appreciate all of your help.

Eric

From: Marino, Jeff [mailto:jeff.marino@ci.champaign.il.us]
Sent: Tuesday, February 09, 2016 1:18 PM
To: Eric Hewitt
Subject: Re: Minor Subdivision

Eric,

This looks good. This is in compliance with the codes. One quick question, when you say "temporary", are you talking long term, or are you thinking something shorter?

Thanks,
Jeff

Jeff Marino, AICP
Senior Planner
Planning and Development Department
City of Champaign
217-403-8800

*Please be aware any emails to or from this account are subject to the Freedom of Information Act

On Tue, Feb 9, 2016 at 11:32 AM, Eric Hewitt <ehewitt@phoenix-ce.com> wrote:

Jeff,

We have reworked the plan for these lots so Lot 7B has direct "future" access to the ROW. Lot 7B is proposed to "temporarily" be accessed via the 26' wide ingress/egress easement across Lot 7A. We are also proposing to use a portion of the Lot 7B 30' ROW connection as a parking for Lot 7A via a "temporary" parking easement.

Will you please confirm we now have an acceptable plan and provide informal approval so we can provide to the parties involved.

Thanks.

*Eric E. Hewitt, PLS
Phoenix Consulting Engineers, LTD
421 E Main St., PO Box 1187
Mahomet, IL 61853
217-586-1803*

217-840-9129 (cell)

From: Marino, Jeff [<mailto:jeff.marino@ci.champaign.il.us>]
Sent: Monday, February 08, 2016 2:26 PM
To: Eric Hewitt
Cc: tovermyer@phoenix-ce.com
Subject: Re: Minor Subdivision

Eric,

I have attached two possible scenario, where Lot 7B is essentially a flag lot with access to the cul-de-sac, and the shared access easement crosses the flag portion. This would help meet the 30 feet requirement for frontage on a public right-of-way. The design of the parking lot could/would remain the same, but the lots lines and the easements would be adjusted so both lots would have 30 feet of frontage.

I understand that from a functionality standpoint, they are essentially the same thing; however, from a long term use, and future redevelopment of the site standpoint, there are some slight nuances that can have a big impact in the future.

One other note, it looks like you have left enough room for landscaping. So it is really some just to keep in mind, the City of Champaign requires all new parking lots to meet the landscaping requirements, which requires a tree at the ends of all rows of parking and a buffer from the public right-of-way.

Let me know if you have any questions,

Jeff Marino, AICP

Senior Planner

Planning and Development Department

City of Champaign

217-403-8800

*Please be aware any emails to or from this account are subject to the Freedom of Information Act

On Mon, Feb 8, 2016 at 9:03 AM, Eric Hewitt <ehewitt@phoenix-cc.com> wrote:

Jeff,

Sorry for the confusion. The access to Lot 7B is via a proposed 26' wide ingress/egress easement now hatched for clarification.

Eric

From: Marino, Jeff [mailto:jeff.marino@ci.champaign.il.us]
Sent: Friday, February 05, 2016 1:35 PM
To: Eric Hewitt
Cc: tovermyer@phoenix-ce.com
Subject: Re: Minor Subdivision

Eric,

It looks like Lot 7B only has 15 feet of frontage on the cul-de-sac. Our ordinance requires 30 feet of frontage on a public right-of-way for every lot. Can you increase this to 30 feet?

Jeff

Jeff Marino, AICP

Senior Planner

Planning and Development Department

City of Champaign

217-403-8800

*Please be aware any emails to or from this account are subject to the Freedom of Information Act

On Thu, Feb 4, 2016 at 12:33 PM, Eric Hewitt <ehewitt@phoenix-ce.com> wrote:

Jeff,

Attached is the site plan. Will you please provide comment on the replat as well as the schematic design of the parking lot.

We appreciate your help and time.

*Eric E. Hewitt, PLS
Phoenix Consulting Engineers, LTD
421 E Main St., PO Box 1187
Mahomet, IL 61853
217-586-1803*

217-840-9129 (cell)

From: Marino, Jeff [mailto:jeff.marino@ci.champaign.il.us]
Sent: Wednesday, February 03, 2016 10:56 AM
To: Eric Hewitt
Subject: Re: Minor Subdivision

Eric,

Yes, that can work as a stand alone lot. The minimum lot size in the I-1, Light Industrial Zoning District is 10,000 square feet.

We also have a requirement that each lot has frontage on a public right-of-way. I would think it would be a good idea to have 30 feet of frontage for both lots, the existing lot 7 and the newly proposed parking lot. However, if you can design both lots with frontage, we typically support shared access points. So having a common access easement would not be a problem.

If the existing lot 7 didn't have frontage on a public right-of-way, that would require a waiver, which would kick it out of the minor plat category and into the replat category, which would need to go to City Council.

One other note, a stand along parking lot is not a permitted use in the I-1, Light Industrial Zoning District. However, once the lot is replatted it can be joined with the lot in the county, to make one lot for zoning purposes, through a Zoning Lot designation.

If you get a draft pdf, feel free to email it to me, and we can make sure we are on the same page.

Jeff

Jeff Marino, AICP

Senior Planner

Planning and Development Department

City of Champaign

217-403-8800

*Please be aware any emails to or from this account are subject to the Freedom of Information Act

On Wed, Feb 3, 2016 at 9:23 AM, Eric Hewitt <ehewitt@phoenix-cc.com> wrote:

Jeff,

Thanks for the info.

Instead of replatting his lot and the lot to the north and making the area of the lot to the north a part of his property, Mr. Frazier is proposing to replat just the lot to the north. See the attached GIS map. The blue box depicts the lot for Mr. Frazier to purchase for his additional parking associated with his lot to the south. The lot would contain an ingress/egress easement for access to the remainder of lot 7. I would like your comment on going this route. Hopefully this can be done as a non-buildable outlot and now that we are not replatting a property with a County zoning issue.

I look forward to hearing your thoughts.

Thanks.

*Eric E. Hewitt, PLS
Phoenix Consulting Engineers, LTD*

421 E Main St., PO Box 1187
Mahomet, IL 61853
217-586-1803

217-840-9129 (cell)

From: Marino, Jeff [mailto:jeff.marino@ci.champaign.il.us]
Sent: Tuesday, February 02, 2016 11:24 AM
To: Eric Hewitt
Subject: Re: Minor Subdivision

Eric,

Below are the code requirements for each individual section of the ordinance:

Landscaping:

https://www.municode.com/library/il/champaign/codes/code_of_ordinances?nodeId=MUCO_CH37ZO_ARTX_LASC

Parking:

https://www.municode.com/library/il/champaign/codes/code_of_ordinances?nodeId=MUCO_CH37ZO_ARTVI_IPALOACDR

I think that is a good idea to go ahead and design the parking to the City's standards, which will make it in-compliance, if the property is annexed.

Let me know if you have any specific questions about either of the sections.

Jeff Marino, AICP

Senior Planner

Planning and Development Department

City of Champaign

217-403-8800

On Tue, Feb 2, 2016 at 11:07 AM, Eric Hewitt <ehewitt@phoenix-ce.com> wrote:

Hi Jeff.

We are meeting with Mr. Frazier today to now discuss preparing a site plan for the County's review. The site plan will show the proposed property line adjustment to be accomplished through a replat with the City in the future. The reason for the property line adjustment is to include a portion of the land to the north with his existing lot for parking purposes. The site plan will show the proposed parking plan for this area. Since the property is proposed to be part of the City in the future, I am thinking the parking should be designed to the City requirements. Could you point me to information on City parking lot design, specifically setback and landscape requirements? Thank you for your assistance.

Eric

From: Marino, Jeff [<mailto:jeff.marino@ci.champaign.il.us>]
Sent: Tuesday, November 10, 2015 4:50 PM
To: Eric Hewitt
Cc: lexillini@gmail.com
Subject: Re: Minor Subdivision

Eric,

You are right a replat will go through the City of Champaign, since this property is clearly within the City's mile and a half ETJ. Unfortunately, this particular subdivision wouldn't qualify for a minor plat because in order to meet the requirements for a minor plat, all of the infrastructure needs to be constructed and in place. This lot does not currently have sanitary sewer.

Additionally, it is my understanding that part of the reason for this plat was to help address a zoning issue with the County Planning and Zoning Department. The City of Champaign Subdivision Regulations state under

section 31-503 (b) a minor subdivision is a division of land "which is in conformity with the Comprehensive Plan and Zoning Ordinance of the City or County of Champaign, whichever is applicable."

Since this is not in compliance with the Champaign County Zoning regulations, it needs to be brought into compliance with their codes before we can review and approve the plat. It is my understanding that this needs a variance to be brought into compliance with their codes and that there is a County ZBA meeting scheduled for the end of January to address these issues. After these issues have been addressed, we can revisit the plat.

Additionally, as part of the plat, if there are any outstanding zoning issues, we can possibly address them through an Annexation Agreement. The Annexation Agreement can serve as a contract between the City and the property owner, which allows some flexibility to be addressed, while setting expectations and a timeline for any existing issues.

Let me know if you have any questions,

Jeff Marino

Senior Planner

Planning and Development Department

City of Champaign

Jeff Marino, AICP

Senior Planner

Planning and Development Department

City of Champaign

217-403-8800

On Tue, Nov 10, 2015 at 8:18 AM, Eric Hewitt <ehewitt@phoenix-ce.com> wrote:

Dear Jeff,

We have been retained by Mr. Robert Frazier to prepare a replat-minor subdivision which will require your departments approval. I believe Mr. Frazier has brought the proposed project to your attention previously and we wanted to get your unofficial blessing at this time as we begin the surveying.

Attached is the GIS map with the 2 lots being replated boxed in red. The blue figure represent the reconfigured lot of Mr. Frazier.

What special circumstances exist in order to get the proposed minor subdivision approved? I am aware of the street tree requirement.

*Eric E. Hewitt, PLS
Phoenix Consulting Engineers, LTD
421 E Main St., PO Box 1187
Mahomet, IL 61853
217-586-1803*

217-840-9129 (cell)

Susan Chavarria

From: R Frazier <lexillini@gmail.com>
Sent: Tuesday, March 08, 2016 11:05 AM
To: Susan Chavarria
Subject: Re: Frasier Site Plan

RECEIVED

MAR 08 2016

CHAMPAIGN CO. P & Z DEPARTMENT

Susan

I want to keep garage and move buds tree service inside garage, which is big enough to hold his vehicles
We have not done this , we await your approval

Sent from my iPhone

On Mar 8, 2016, at 6:07 PM, Susan Chavarria <schavarr@co.champaign.il.us> wrote:

Here are the items that we have identified so far – I don't think there will be more.

1. The plans do not indicate the hoped for additional land on the north side – please make some sort of annotation, proposed lot lines, and also how many parking spaces can be created in that new lot.
2. The drawings need to be specific regarding what is existing and what is proposed for all elements.
3. Do the light arrows around the building indicate water flow?
4. The east side of the property shows parking spaces 1 through 14. Currently, there is a big slope on the east end, a narrow concrete lane just west of that, then a number of self-storage units. Head-in parking there is not feasible (nor is parallel parking) unless either the hill or the storage units are removed. Please review and revise to indicate both the existing condition and a feasible proposed condition.
5. A previous site plan showed handicap parking on the east side of the western office building. It is not shown here. I'm sure an accessibility check would require another accessible parking space close to the ramp to the office area (the existing ramp needs to be added).
6. Needs to show the width of the access drive adjacent to the parallel parking on the west side.
7. Needs to show dimension of space between west property line and west side of access drive adjacent to the parallel parking.
8. The ramp going to the northernmost office space (the one with the big garage door that is advertised for rent) has a ramp in front of it that is not indicated. It looks like parallel parking space #40 may be proposed there. Please revise to show existing and proposed.
9. Please add a note if it is the proposed intent to remove the existing bus garage (where parking spaces 31 through 39 are drawn).
10. Is the location of parking spaces 31-39 even feasible with only 12 feet on the west side of the spaces? Please verify and revise.
11. The dimension on the south side of the middle building is inaccurate and also does not indicate the exterior stairway (it indicates an interior stair- is there an interior stairway as well as the existing exterior stairway?)

12. All interior spaces need to be shown, including dimensions and uses, like that shown for the 2nd floor of the middle building.
13. Need to show restrooms with dimensions, including doorway width and any handicap accessible elements.
14. Looks like the 2nd floor middle building detail has 11 units, 10x10 each, with a 32+ inch wide access corridor. This would add another 4 parking spaces to the 58 currently required. Are these units existing or proposed?
15. Please indicate all outside elements (i.e. the barrels of used oil) and distinguish between gravel, concrete, grass or other surface.
16. Please show and annotate where the curbing that Mr. Frazier removed is to be replaced on Tiffany Court.
17. The driveway openings on the west end do not seem to align with actual parking areas; is that is proposed or actual? Please revise if necessary and annotate.
18. The "sewer system" area needs to be noted as "septic system".
19. At this point there is a total of 62 parking spaces needed, with at least 3 of them needing to be accessible according to the Illinois Accessibility Code. This does not include the parking area for Bud's Trees trucks that at this point make parking spaces 16-30 infeasible. The site plan needs to show as many feasible parking spaces on the existing property and the proposed lot acquisition on the north end – from that we can determine what variance will be necessary for number of off-street parking spaces.

I know it's a long and complex list, but the ZBA will not move forward without these revisions. Mr. Fell, could you please give me an approximation of how long this will take?

Thanks,
Susan

From: Susan Chavarria
Sent: Monday, March 07, 2016 12:25 PM
To: 'andrewfell@comcast.net'; 'R Frazier'
Cc: John Hall
Subject: RE: Frasier Site Plan

Mr. Fell,

Thank you for providing me a PDF of the proposed site plan. It is a definite improvement over what we were working with before. However, many small details have come to light over the 18 months+ course of this zoning case that will need to be added to the site plan in order for it to be sufficient for the Zoning Board of Appeals to consider. With Mr. Frazier's permission, we would like to provide you with what revisions are needed either via email or in a meeting.

Mr. Frazier, would you agree to additional work being done by Mr. Fell and company to get the site plan where it needs to be? If so, could you please let me know if a meeting would be preferred or an email list?

AS APPROVED OCTOBER 15, 2015

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

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

DATE:	September 10, 2015	PLACE:	Lyle Shield's Meeting Room 1776 East Washington Street Urbana, IL 61802
TIME:	7:00 p.m.		

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

MEMBERS ABSENT : Eric Thorsland

STAFF PRESENT : Lori Busboom, John Hall, Susan Chavarria

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

1. Call to Order

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

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

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

2. Roll Call and Declaration of Quorum

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

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

3. Correspondence

None

4. Approval of Minutes

None

5. Continued Public Hearings

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1
2 None

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4 **6. New Public Hearings**

5
6 **Case 792-V-14 (REACTIVATED) Petitioner: Robert Frazier Request to authorize the following**
7 **Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District:**
8 **Part A. Variance for 48 on-site parking spaces in lieu of the minimum required 67 parking spaces as**
9 **required by Section 7.4 of the Zoning Ordinance; and Part B. Variance for a setback of 50 feet and a**
10 **front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum**
11 **required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3**
12 **of the Zoning Ordinance; and Part C. Variance for parking 0 feet from the front property line in lieu**
13 **of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the**
14 **Zoning Ordinance; and Part D. Variance for allowing at least 19 off-street parking spaces on an**
15 **adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of**
16 **land as the use served, as required by Section 7.4.1 of the Zoning Ordinance. Location: Lot 4 of the**
17 **Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly**
18 **known as the former LEX building located at 310 Tiffany Court, Champaign.**

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

28
29 Ms. Lee asked if Ms. Capel should have referred to this case as a reactivated case and not a continued case.

30
31 Mr. Hall stated that the status of the case is a minor technicality.

32
33 Ms. Capel stated that the case is a continued and reactivated case.

34
35 Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of his request.

36
37 Mr. Robert Frazier stated that he had no statement at this time.

38
39 Ms. Capel asked if staff had any questions for the petitioner or new information for the Board regarding this
40 case.

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1 Mr. John Hall, Zoning Administrator, stated that staff does have questions for the petitioner regarding the
2 floor plan but currently he would like to discuss some of the larger issues related to this case. He said that
3 the Board is in a difficult position tonight because this case was continued from May and continued to July
4 and that meeting was cancelled which was a very critical time for this case. He said that the May 6, 2015,
5 Supplemental Memorandum reviewed parking concerns and included the revised site plan that was received
6 on March 30, 2015, which he realized that the site plan at this point is not simply the site plan received on
7 March 30th but also includes the email which was received on March 18th from Robert Frazier with
8 attachments. Mr. Hall stated that the key attachments to that March 18th email were a very rough indication
9 of the extra parking spaces that he has leased.

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

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

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

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1 He said that if the Board decides to deny the case, the Board could deny it on the basis of the March 30th site
2 plan or the Board could approve it, taking the time to tailor the Summary of Evidence so that the Board's
3 thinking is documented. He said there is a special condition indicating that staff must always have a lease on
4 file for the parking spaces. He said that this special condition is the only way for staff to track that there is in
5 fact the correct number of parking spaces under lease for this project. From a staff perspective, that is
6 probably better than what we have in an "as-of-right" case because it specifies the number of parking spaces
7 that have to be available which is why that is such a piece of key evidence and why it needs to be included
8 on the site plan. He said that this is just a quick review of the really significant issues that the Board needs to
9 review in this case and he apologized for the conditions that lead to the cancellation of the July 16th meeting
10 but it was out of staff's control. He said that he wonders if the Board has everything that it needs to take
11 final action on this case tonight, as much as he would hate to see it continued again, these are some
12 significant issues, at least from a staff level, which must be considered.

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

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

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

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

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

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

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1 Ms. Griest asked Mr. Hall if the remodel is the 2004 stamp on the drawing.
2

3 Mr. Hall stated that he does not remember the specifics but apparently that plan was not submitted until
4 November 30, 2004. He said that at that point staff was approving permits based on a condition that we
5 would receive the required documents prior to compliance. He said that the permit was received or approved
6 in 2002. He said that the stamp on the drawing does not relate to anything in red on that plan.
7

8 Ms. Griest asked if all of the modifications indicated in red are changes since 2002 that the petitioner has
9 chosen to share with us but there may be others that we don't know about.
10

11 Mr. Hall stated that including the floor plan indicated on page 2 of Attachment C indicates the office for
12 Frazier Properties, six other offices off of a hallway, two spaces labeled BH1 and BH2. He said that BH2 is
13 available to all of the other offices but BH1 is not, which is why Mr. Hall questioned the restrooms. He said
14 that originally the plan indicated that the restrooms were located on the west side of the building but the
15 spaces indicated as BH1 and BH2 are on the east side of that building wing. He said that the Silverback
16 Barrel Club was previously a storage area but is now a gymnasium. He said that he would have to go back
17 through the drawings but he does believe that the Board did receive the Joseph Coble floor plan indicated as
18 Sheet 1. He said that the area that was subdivided into all of the separate offices was originally indicated as
19 new offices and sales room for Bright Ideas and there were two restrooms which appeared to meet the
20 accessibility standards and, as required by law, the licensed architect signed off on the plans. He said that
21 the changes that are indicated in red may be acceptable but they don't appear acceptable and more
22 importantly there is no licensed professional signing off on the revised plan which is a key thing for him. He
23 said that as the Zoning Administrator he is personally liable for any plan that is approved and he can be fined
24 up to \$1,000 if something gets built that does not meet the Illinois Accessibility Code therefore it is his goal
25 to never let that happen. He said that as staff there is only so much that we can force the petitioner to do
26 outside of a public hearing therefore the Board may want to give more detail in its directions to the
27 petitioner.
28

29 Ms. Capel asked the Board if there were any questions for Mr. Frazier.
30

31 Mr. Passalacqua stated yes.
32

33 Mr. Hall suggested that the Board take comments from witnesses prior to calling the petitioner to the witness
34 microphone.
35

36 Ms. Capel called Lloyd Allen to testify.
37

38 Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, asked Ms. Capel if anything can be
39 brought up that was discussed at the prior meetings.
40

41 Ms. Capel stated yes.

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Mr. Allen stated that he has been involved in construction and has served on many committees throughout his career. He noted that the Board does have the right to get an architect involved to verify that the non-permitted additions and remodeling was done to comply with the code.

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

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

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

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

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

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

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

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

Mr. Allen stated that Part B. indicates a 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. Mr. Allen asked Mr. Hall to indicate how long the minimum required setback of 55 feet and the minimum required front yard of 25 feet have been in effect.

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

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

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

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

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

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

38
39 Mr. Hall stated that in regards to the variance for off-site parking, a variance from the off-site parking
40 requirement is not a prohibited variance so the Board has the authority to grant that variance if they believe
41 they can make the necessary findings. He said that he would like to see a site plan of the off-street parking

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1 because it is on an adjacent lot. He said that even if we went with what is before the Board tonight, we know
2 that the parking is adjacent and as long as that is leased for the use of the subject property, the Board still
3 needs to grant the variance because the off-street parking is not on-site and there is good justification for
4 granting it. He said that whether or not the Board will grant the variance or not is up to the Board but they
5 do have that authority.

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

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

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

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

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

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

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

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

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

40
41 Ms. Griest stated that the language in the condition needs to be much stronger and contain filing

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1 requirements for the Zoning Administrator to be notified of any lapse. She said that she is not sure that she
2 can support the current condition because it makes the whole concept too vulnerable.

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

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

12
13 Mr. Allen stated that this is why the Board should not approve it because the Board and staff have no control
14 over it and they can't monitor it. He said that Mr. Frazier could be in default right now. He said that if the
15 Board approves this case and Mr. Frazier lost the lease for non-payment how will the Board make up those
16 19 parking spaces.

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

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

29
30 Ms. Capel stated yes.

31
32 Mr. Allen asked if he would be out of order in asking Mr. Frazier if he still has a lease on that property.

33
34 Mr. Hall stated that the Board would not be out of order in asking the petitioner that question.

35
36 Mr. Allen suggested that the Board ask Mr. Frazier that question.

37
38 Ms. Capel asked Mr. Hall to indicate what the consequences are if the lease lapses.

39
40 Mr. Hall stated that then it becomes an enforcement case but right now there is no provision for that.

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1 Mr. Passalacqua asked Mr. Hall if part of this property is already an enforcement case because there
2 were structures built without a permit and the parking spaces are a needed result of all of the after-the-
3 fact stuff has already been done. He asked Mr. Allen if he submitted the photos of the subject property
4 for review tonight.

5
6 Mr. Allen stated yes.

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

11
12 Mr. Allen agreed.

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

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

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

25
26 Mr. Hall stated that the north route is located on this property.

27
28 Mr. Allen stated that the access to the area is impossible because the septic is torn up.

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

33
34 Ms. Capel asked Mr. Hall if the Board could send someone out to inspect the property.

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

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

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

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

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

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

17
18 Mr. Passalacqua asked Mr. Allen if the photographs are a clear indication of what goes on daily.

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

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

30
31 Ms. Capel called Keith Padgett to testify.

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

38
39 Ms. Capel asked the Board if there were any questions for Mr. Padgett.

40
41 Ms. Lee asked Mr. Padgett if he has tried to get Mr. Frazier to replace the curbs that he removed.

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1
2 Mr. Padgett stated that he has not had contact with Mr. Frazier other than seeing him at these meetings. He
3 said that the curb has been cut and people drive across it all day long. He said that he does wonder what
4 damages are being done to utilities in this area that do not have a concrete surface over the top for protection.
5 He said that no damage may be occurring, but if there is damage, who will be held responsible for that
6 damage.

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

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

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

14
15 Mr. Padgett stated that he agrees.

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

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

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

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

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

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

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

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Mr. Hall stated that before the curb can be replaced the remaining portion of the old curb must be removed which is no small task.

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

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

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

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

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

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

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

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

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

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

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

Ms. Capel called Steve Koester to testify.

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

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

10
11 Ms. Capel asked the Board if there were any questions for Mr. Koester.

12
13 Ms. Lee asked Mr. Koester when he had his conversation with Mr. Isaacs.

14
15 Mr. Koester stated that two weeks ago he had his discussion with Mr. Isaacs, owner of 306 Tiffany Court.

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

19
20 Ms. Capel asked the audience if anyone desired to cross examine Mr. Koester and there was no one.

21
22 Ms. Capel called Caleb Burton to testify.

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

29
30 Ms. Capel asked the Board if there were any questions for Mr. Burton and there were none.

31
32 Ms. Capel asked staff if there were any questions for Mr. Burton.

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

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

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1 to enter in such a lease agreement.
2

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

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

13
14 Mr. Hall stated that sometimes the Board uses no available land as a justification for a variance.
15

16 Mr. Burton stated that the Board has spent hours discussing parking but there are significant other safety
17 issues with this property and parking is probably the smallest thing that we are dealing with here. He said
18 that for whatever reason, every time he attends these meetings the Boards tends to focus on parking and he
19 believes that the parking is the least important thing that the Board needs to talk about. He said this situation
20 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.
21 Frazier continues to operate out there and he does not want to deal with it. He said that he is not interested
22 in leasing any space to Mr. Frazier and he would like the Board to concentrate on the unauthorized buildings
23 and uses on the property and violations regarding setbacks. He said that he isn't even sure if the area in front
24 of the porch will allow for parallel parking.
25

26 Mr. Hall stated that the area has been measured and it is adequate for parallel parking and no variance would
27 be required for the parking if it were parallel to the building and against the building but there is a variance
28 required for setback, which is not an unusual request for a variance, but in this case the variance for a
29 setback implicates all of these other issues. He asked Mr. Burton if he has any concerns regarding life safety
30 in regards to just the vehicles on Mr. Frazier's property.
31

32 Mr. Burton stated that the life safety issues would be that there are no handrails and the steps are constructed
33 from landscape blocks therefore he cannot see how it can be ADA compliant.
34

35 Mr. Hall stated that he has not indicated that it is ADA compliant.
36

37 Mr. Burton stated that he could bring the Board a set of plans that he has drawn all over and indicate that the
38 plans indicate what he is going to do although he can't imagine that anyone could accept such drawings.
39

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

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- 1
2 Ms. Capel asked the audience if anyone desired to cross examine Mr. Burton and there was no one.
3
4 Ms. Capel called Robert Frazier to testify.
5
6 Mr. Frazier declined to testify at this time.
7
8 Ms. Capel requested the Board's thoughts regarding this case.
9
10 Ms. Lee stated that the applicant should have informed staff that the lease was no longer in affect. She said
11 that if it was two weeks ago that it has been cancelled then Mr. Frazier is not acting in good faith.
12
13 Mr. Hall stated that at this point the discussion regarding the lease being cancelled is hearsay. He said that
14 the testimony regarding the cancelled lease has not been countered by the petitioner so maybe that means
15 something but it is still hearsay.
16
17 Ms. Lee asked if it would be appropriate to call the petitioner to the witness microphone so that the Board
18 can discuss this matter with him.
19
20 Mr. Hall stated that it is up to the Board.
21
22 Ms. Lee requested that Mr. Frazier be called to the witness microphone to address the Board.
23
24 Ms. Capel called Mr. Frazier to the witness microphone.
25
26 Mr. Robert Frazier stated that his business address is 310 Tiffany Court, Champaign.
27
28 Ms. Lee asked Mr. Frazier if the lease for the 19 parking spaces has been cancelled by the landlord due to
29 nonpayment.
30
31 Mr. Frazier stated no.
32
33 Ms. Lee asked Mr. Frazier if the lease has been cancelled by the landlord.
34
35 Mr. Frazier stated that the lease is good for six months and the check has already been approved and paid for
36 in cash therefore the lease is enforce for six months. He said that if after six months the landlord decides to
37 not renew the lease then that is his decision.
38
39 Ms. Lee asked Mr. Frazier when he made his last payment for the lease.
40
41 Mr. Frazier stated that the payments are made for six months as he has the option of a six month or yearly

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1 lease. He said that he paid for a six month lease in full and Mr. Hall probably has record of that.

2
3 Mr. Hall stated that staff has no record of when Mr. Frazier does or does not pay his bills.

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

7
8 Mr. Hall stated that the lease does not provide for a payment for only six months.

9
10 Mr. Frazier stated that it is a six month lease and it is paid for in full and he can provide a cancelled receipt.

11
12 Mr. Hall stated that the lease agreement states the following: "The Lessee agrees to pay as rent for said
13 premises the sum of \$1,500 per year beginning on the 1st day of March, 2015 to the 28th day of February,
14 2016." He asked Mr. Frazier if there is another agreement which allows him to pay for this lease in six
15 month terms.

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

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

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

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

28
29 Mr. Frazier stated that Ms. Griest is correct.

30
31 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier.

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

36
37 Mr. Frazier stated yes, and there has been no change since the original design.

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

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1
2 Mr. Frazier stated that page 2 of the plan indicates that there is a hallway leading to bathroom #2 and
3 bathroom #1 leads into the larger area called the Silverback Barrel Club.
4

5 Mr. Hall stated that there are not two public bathrooms available for all of the various office spaces.
6

7 Ms. Griest stated that each office has to have access to both restrooms to be compliant and the drawing
8 indicates that some of the offices have access to one restroom and the larger area has access to a restroom by
9 itself.
10

11 Mr. Frazier agreed.
12

13 Mr. Hall asked Mr. Frazier to indicate what "BH" means on the plans.
14

15 Mr. Frazier stated that "BH" stands for bathroom.
16

17 Mr. Hall stated that it may well be that given the way the Illinois Plumbing Code is enforced or not it may be
18 acceptable to have one restroom available for a portion of these office areas. He said that this would be
19 unusual but he can't rule it out right now which, in his view, is why it is so important to have an architect
20 certify that it meets the accessibility code.
21

22 Mr. Passalacqua stated that it appears that an architect needs to be involved in constructing plans for the curb
23 that needs replaced, accessible restrooms, access to the property, parking, adequate dimensions, etc. He
24 asked Mr. Frazier if he is willing to get an architect involved and do everything that is required to make this
25 work.
26

27 Mr. Frazier stated yes.
28

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

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1 has with his other tenants. He said that a lease normally will indicate to the tenants what is and is not
2 acceptable on the property. He said that a copy of those leases will assist the Board in making sure that the
3 tenants are aware of the appropriate parking areas and prevent them from parking on adjacent He said that
4 these required documents will add time to the case but if the Board has to decide on this case with the
5 testimony and Documents of Record that is currently in front of the Board then he is sure that the result will
6 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
7 that must be done.

8
9 Mr. Hall stated that he did not understand what Mr. Passalacqua meant by a throughway not being included.

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

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

17
18 Mr. Passalacqua stated then that is what he is asking for.

19
20 Ms. Capel asked Mr. Hall if the Board can ask Mr. Frazier to build a fence.

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

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

27
28 Ms. Griest stated that the directional arrows are not driveways but are indicating rain runoff.

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

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

35
36 Mr. Frazier stated that the buses can be moved and are not permanent.

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

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1 Mr. Frazier stated that there are cases when there have been vehicles parked there and as far as access
2 through the neighbor's property then the answer would be yes. He said that, as Mr. Hall stated, it is a legal
3 issue and if the neighbors have any problems, as far as he is concerned, they can file a lawsuit and settle it
4 through a court of law. He said that if the neighbors don't like it they can construct a fence.

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

11
12 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier and there were none.

13
14 Ms. Capel asked staff if there were any questions for Mr. Frazier.

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

23
24 Ms. Capel asked the audience if anyone desired to cross examine Mr. Frazier.

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

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

31
32 Mr. Allen asked Mr. Frazier if Mr. Isaacs notified him that the lease had been cancelled.

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

36
37 Ms. Capel asked the Board if they desired to proceed with this case.

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

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

3
4 **Ms. Lee withdrew her motion at this time.**

5
6 Mr. Passalacqua stated that he is not an architect however it appears that some of the square footage of the
7 building must be removed to get vehicles legally on the lot. He asked Mr. Frazier if this is an expense and
8 proposal that he can work with.

9
10 Mr. Frazier stated that he is willing to work with an architect to make sure that the property is in compliance
11 with the rules.

12
13 Mr. Passalacqua stated that there are vehicles which need to leave Tiffany Court and there are probably
14 lumber, shingles, concrete floors and stairways that need to leave Tiffany Court. He said that Mr. Frazier
15 will have to lose part of the building structure and some vehicles to make this property hold what he desires
16 it to hold. He said that the required reconstruction of the curb which the Champaign Township Highway
17 Commissioner discussed has to be replaced which will get the parallel parking in front of the building down
18 to four or five spots.

19
20 Mr. Frazier stated that he would go back to the original design.

21
22 Mr. Passalacqua asked Mr. Hall how much building area has to go away if we actually have a feasible count
23 on parking spots.

24
25 Mr. Hall asked Mr. Passalacqua if he is assuming that the leased parking is no longer part of the package.

26
27 Mr. Passalacqua stated that he has no confidence in the leased parking whatsoever.

28
29 Mr. Hall stated that this is a huge issue.

30
31 Ms. Chavarria stated that at one time she had calculated that it would take 3,000 square feet out of the
32 building although that was before the leased parking was ever an option. She said that staff will need to
33 recalculate the square footage based on the plan that has been presented to assure that it is in compliance
34 with the Zoning Ordinance.

35
36 Ms. Griest asked Mr. Hall if the impervious ratio has been calculated for this site.

37
38 Mr. Hall stated that this subdivision was approved by the City of Champaign with stormwater detention
39 provided so the whole lot is nearly all impervious area and is just fine in terms of detention. He said that one
40 thing that staff has learned from Tiffany Court is that detention is one thing but adequate stormwater
41 conveyance, so that stormwater can get to the basin, is another and our current way of doing developments

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1 like this does not provide for that. He said that the subdivision plat is what it is. He stressed that having
2 leased parking under a good lease, wherein staff gets notified when there are any changes, is so far so much
3 better than the normal parking analysis that is done and getting an adequate lease is no small thing but it is
4 no more difficult than hiring an architect to draw the plan.
5

6 Mr. Randol asked if the Board could request that the leaseholder appear before the Board.
7

8 Mr. Hall stated that the Board can request that anyone appear and the Board could go so far to make them
9 appear. He said that staff can send Mr. Isaacs a letter requesting his attendance at the next meeting regarding
10 this case.
11

12 Mr. Randol stated that it would be nice to have Mr. Isaacs appear before the Board to testify whether he
13 would or would not have a problem leasing the space for Mr. Frazier's parking. He said that currently Mr.
14 Frazier has a contract that is basically void.
15

16 Ms. Capel stated that not only is it a voided lease but it was paid in way that is not indicated in the lease.
17

18 Mr. Randol stated that Mr. Isaacs needs to tell the Board if he is going to do a six month lease with Mr.
19 Frazier because Mr. Randol would question as to what will happen at the end of six months more than he
20 would question what will happen at the end of one year.
21

22 Mr. Hall stated that as long as the Board can make sure that staff is notified when the parking is no longer
23 available then it would be very clear as to what staff needs to do. He said that it would be good to know if
24 both parties would be willing to revise the lease to include some conditions. He said that he would like to
25 talk to the State's Attorney's office to receive some guidance regarding those conditions and that would not
26 be an unusual request. He said that he would like the Board to try to meet some kind of a requirement like
27 that before they just deny the request.
28

29 Mr. Randol stated that the Board needs to review plans from an architect so that the Board as solid
30 information.
31

32 Mr. Hall stated that the Board needs to know what the payment terms are and everything has to be specified
33 in the lease. He said that if there are outside agreements that allow other things to happen then, in his
34 opinion that is the same as not meeting the condition.
35

36 Ms. Lee stated that she knows that Mr. Hall has great confidence in drafted leases but in her practical
37 experience it could appear that you have a good lease or any other legal document but you can't predict what
38 crazy things are going to happen if you don't have it in writing in that document.
39

40 Ms. Griest stated that the Board has a bigger problem than the 19 parking spaces because it could be that
41 there are substantially more than 19 parking spaces that are required. She said that until the Board sees an

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1 actual drawing by an architect, the Board will not know the number of spaces that are required.

2
3 Mr. Hall asked Ms. Griest if she is referring to the number of spaces that are needed.

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

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

22
23 Ms. Capel stated that Mr. Isaacs' property also has 32 parking spaces.

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

27
28 Mr. Hall stated that staff had assumed that and knew that the Board would not accept perpendicular spaces.

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

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

37
38 Mr. Passalacqua asked if the square footage of the "upstairs storage" requires more parking spots.

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

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

Ms. Chavarria stated that it was used as storage for the business.

Mr. Hall asked Ms. Chavarria if the upstairs storage is used for the business or storage as in “self-storage.”

Ms. Chavarria stated storage for the business.

Mr. Hall asked Mr. Frazier if the upstairs storage is used for his business or is it rented out.

Mr. Frazier stated both.

Mr. Hall stated that he does not know the percentage of the area that is used for the business.

Mr. Frazier stated that staff has made it perfectly clear that they do not understand the drawings and that they do not indicate what information is required. He said that at this point it has been recommended that he hire an architect to work directly with staff so that everyone understands what is on the property and what needs to be changed in order to be compliant with the Zoning Ordinance. He said that his recommendation would 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 hammered out. He asked the Board if they would be agreeable to that.

Mr. Randol informed Mr. Frazier that he is the one who needs an architect and not the Board.

Mr. Frazier stated that he understands who needs the architect.

Ms. Lee asked Mr. Frazier to define what he meant when he previously indicated “both.”

Mr. Frazier stated that the front portion of the building has a few mini-warehouses and the rest is his attic space.

Ms. Lee asked Mr. Frazier to indicate what portion of the 1,500 square feet is used for his business and what portion is used as rental space.

Mr. Frazier stated that he is not sure of the square footage.

Ms. Capel stated that the architectural plans will indicate the square footage if the “upstairs storage.”

Mr. Frazier stated that his rendition of the architect’s drawings from the original plans are not good enough therefore he will hire an architect to prepare a more accurate plan for the Board’s review.

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1 Mr. Passalacqua asked staff if the minutes can indicate the items that are required by the Board or should the
2 Board and staff begin a list of the things that are required for review.

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

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

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

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

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

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

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

38
39 Mr. Passalacqua stated that this process is not a personal attack. He said that the Board must consider how
40 not only the uses on the property affect Mr. Frazier but also how they affect Mr. Frazier's neighbors. Mr.
41 Passalacqua said that in order for Mr. Frazier to use his property as it is today he has to use more than his

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1 own property and from testimony the neighbors would like that to stop. Mr. Passalacqua stated that the
2 Board is in a tight spot because they do not want to inform Mr. Frazier that he can't do something on his
3 property as income or personal use but the Board also doesn't want those uses to affect Mr. Frazier's
4 neighbors. He said that all of the things that may be required will be expensive and time consuming but the
5 Board is trying to find a way to make it happen.

6
7 Mr. Frazier agreed that there has to be a way to make all of this work.

8
9 Mr. Hall asked the Board if they desire a plan that has no leased parking.

10
11 Ms. Griest stated that she would prefer a plan indicating no leased parking.

12
13 Ms. Lee agreed with Ms. Griest.

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

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

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

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

36
37 Ms. Lee stated that Mr. Frazier also sold off some of the land.

38
39 Mr. Hall stated that the main difference is the changing of what is now a gym that was previously just one
40 storage area. He said that this change was big because those spaces cannot be provided on this property. He
41 said that staff has gone back and verified that this property worked before but the uses were so much

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1 different. He said that the property did not have a gymnasium or upstairs storage area. He said that there has
2 been testimony about how the gymnasium clients desire parking close by but that is not going to happen.
3

4 Mr. Randol stated that off-site parking is not going to remedy the gymnasium clients' desire for close by
5 parking either.
6

7 Mr. Hall stated that the off-site parking is just across the property lot line to the north. He said that Mr.
8 Frazier leased property to the north for off-site parking and the gymnasium is in the chiropractic office on the
9 northwest corner and is in the perfect location for those customers.
10

11 Mr. Frazier stated that no one, other than the wood chipper, parked on the leased parking spaces during the
12 last six months.
13

14 Mr. Hall asked Mr. Frazier if everyone was able to park on his property.
15

16 Mr. Frazier stated yes, every day. He said that no one parked on the leased property and no one parked in the
17 street either. He said that this is not a normal gymnasium but is a specialized gym and only a handful of
18 people are present at any one time because it is more for dead lifters and not people on treadmills. He said
19 that he monitored the parking during the six month time period when he had the 32 parking spaces available
20 not one person parked on that area, not even the wood chipper. He said that his neighbors could also
21 probably testify that no one has parked on the leased area as well. He said that he is not trying to indicate
22 that he is not going to follow the regulations or rules but the actual rules do not correlate with the usage. He
23 said that the only thing that has changed since he built Bright Ideas and the mini-warehouse complex 20
24 years ago is that the garage area is now a gym and he did build a structure over where his buses were stored.
25 He said that the mini-warehouses have always remained as mini-warehouses and Bright Ideas and its parking
26 was approved by the Champaign County ZBA. He said that he admits that he did cut the curb and if the
27 rules indicate that the curbs must be replaced and the original parallel parking scheme has to be followed
28 then he will obviously do that. He said that perhaps a better alternative for parking would be if he purchased
29 that area rather than leasing it but he must know if purchasing that property is acceptable by the Board.
30

31 Mr. Randol stated that he still would like to have an architect submit a complete set of plans. He said that
32 once staff and the Board can review those plans we can provide a set of variables for parking that may or
33 may not be needed.
34

35 Ms. Capel stated that there is a possibility that a lease can be written indicating that staff and the Board must
36 be notified of any lapses.
37

38 Mr. Hall stated that if the Board had a choice between a lease and an outright purchase an outright purchase
39 would always be preferred. He said that in this location it would probably require some kind of subdivision
40 approval with the City of Champaign. He said that the purchase would be better if it could be done. He said
41 that staff can spend all of the time it takes to find out what can be done on this parcel, given what Mr. Frazier

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1 is willing to do. He said that Mr. Frazier stated that he is willing to remove the bus garage and build the
2 traffic path along the north and talk more about the upstairs storage so that staff knows what the required
3 parking loading is. He said that he is assuming that the Board desires to have something in the lease
4 regarding that a traffic aisle can never be blocked.

5
6 Mr. Passalacqua stated that if the traffic aisle is blocked then those parking spots do not count.

7
8 Ms. Capel stated that perhaps a condition could be constructed regarding the traffic aisle.

9
10 Mr. Hall agreed. He said that such a condition is something that Mr. Frazier must be prepared for.

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

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

20
21 Ms. Capel called Mr. Lloyd Allen to testify.

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

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

40
41 Mr. Allen stated that the Board is doing all of this for uses and structures that was not permitted by the

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1 County and are all after the fact.
2

3 Mr. Hall stated that all of these issues will be taken care of in the end. He noted that zoning does not exist to
4 penalize people but to make things conform to the Ordinance and that is what staff and the Board are here
5 for and both have put in a lot of time working on it.
6

7 Mr. Passalacqua stated that he has the same concerns but the ZBA is not a penalty Board. He said that he
8 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
9 those petitioners. He said that he cannot state that he agrees with everything 100% but the County has
10 Ordinances and other people which are more powerful than this Board to satisfy and it is frustrating to
11 everyone. He said that the Board has to try to make it work and not everything gets approved. He said that
12 he understands and appreciates Mr. Allen's frustration with this case.
13

14 Mr. Allen stated that he has attended every one of these meetings, unlike everyone else, but the Board has
15 policies as to how long these variance cases should take and one year is not one of those policies. He said
16 that the policy states that cases are to be finalized in a reasonable amount of time and being that this is the
17 same case number as when Mr. Frazier originally applied this case has taken more than one year to finalize.
18

19 Ms. Capel asked the audience if anyone desired to cross examine Mr. Allen and there was no one.
20

21 Ms. Capel asked the audience if anyone else desired to testify regarding this case and there was no one.
22

23 Ms. Capel closed the witness register.
24

25 Ms. Capel entertained a motion to continue Case 792-V-14.
26

27 Ms. Lee asked Mr. Hall if the Board should have a motion regarding the requirement of the services of an
28 architect.
29

30 Mr. Hall stated that the Board has made that requirement very clear and Mr. Frazier has agreed to the
31 Board's request. He said that there is a lot that needs to be done and the Board could revisit this case within
32 the 100 day limit on November 12th.
33

34 Mr. Passalacqua asked Mr. Hall if it is feasible that staff would have time to review any newly submitted
35 plans and information to see if it is in Mr. Frazier's best interest financially and then allow him to decide if
36 he wants to proceed further. He said that it may be possible that there will not be another meeting regarding
37 this request.
38

39 Mr. Hall stated that Mr. Passalacqua is correct in that there may not be another meeting regarding this
40 request but staff does have to get some information from Mr. Frazier before he puts an architect to work.
41

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1 Mr. Passalacqua stated that he does not want Mr. Frazier to hire an architect tomorrow and spend over
2 \$6,000 and then find out that it is not financially feasible.

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

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

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

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

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

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

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

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

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

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

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1 Ms. Chavarria stated that staff is trying to ensure that Mr. Frazier has an architect to prepare plans but how is
2 staff to know how long this will take. She asked Mr. Hall what happens if Mr. Frazier does not get back to
3 staff before October 29th.

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

8
9 **7. Staff Report**

10
11 None

12
13 **8. Other Business**

14 A. Review of Docket

15
16 None

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

19
20 None

21
22 **10. Adjournment**

23
24 Ms. Capel entertained a motion to adjourn the meeting.

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

28
29 The meeting adjourned at 9:09 p.m.

30
31
32 Respectfully submitted

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36 Secretary of Zoning Board of Appeals
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AS APPROVED DECEMBER 10, 2015

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

DATE: October 29, 2015

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

TIME: 7:00 p.m.

Urbana, IL 61802

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

MEMBERS ABSENT : None

STAFF PRESENT : Connie Berry, John Hall, Susan Chavarria

OTHERS PRESENT : Lloyd Allen, Roger Huddleston, Keith Padgett, Steve Koester, Mark Kesler

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

3. Correspondence

None

4. Approval of Minutes (September 10, 2015)

Mr. Thorsland entertained a motion to approve the September 10, 2015, minutes as amended.

Ms. Lee moved, seconded by Mr. Passalacqua to approve the September 10, 2015, minutes as amended. The motion carried by voice vote.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing.

5. Continued Public Hearing

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

1 setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in
2 lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as
3 required by Section 5.3 of the Zoning Ordinance; and Part C. Variance for parking 0 feet from
4 the front property line in lieu of the minimum required 10 feet from the front property line as
5 required by Section 7.4.1 of the Zoning Ordinance; and Part D. Variance for allowing at least 19
6 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be
7 located on the same lot or tract of land as the use served, as required by Section 7.4.1 of the
8 Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section
9 8 of Champaign Township and commonly known as the former LEX building located at 310
10 Tiffany Court, Champaign.

11
12 Mr. Thorsland informed the audience that Cases 806-S-15 and 807-V-15 are Administrative Cases and
13 as such the County allows anyone the opportunity to cross examine any witness. He said that at the
14 proper time he will ask for a show of hands for those who would like to cross examine and each person
15 will be called upon. He requested that anyone called to cross examine go to the cross examination
16 microphone to ask any questions. He said that those who desire to cross examine are not required to
17 sign the witness register but are requested to clearly state their name before asking any questions. He
18 noted that no new testimony is to be given during the cross examination. He said that attorneys who
19 have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

24
25 Mr. Thorsland stated that, for the record, the Petitioner is not at the meeting. He said that staff has not
26 received any new information, including the complete site plan which was requested by the Board at the
27 last public hearing. He said that staff has recommended that the Board move this case to the second
28 meeting in January in deference to the absent Petitioner. He informed the Board that we h four people
29 who have come for this case and asked the Board how they would like to proceed with witness
30 testimony.

31
32 Mr. Passalaqua asked staff if they had received any information by the close of business today from Mr.
33 Frazier indicating that he would not be able to attend.

34
35 Mr. Hall responded none that he knew of.

36
37 Mr. Passalaqua stated that since we have a history of the Petitioner's absence and the fact that we also
38 have had no response from the Petitioner prior to this meeting, he would move that the case be
39 dismissed.

40

1 Mr. Thorsland stated that the Board dismissed the case once and the case was reactivated. He asked Mr.
2 Hall what happens when a case is reactivated, does one have to pay again.

3
4 Mr. Hall stated that the petitioner must pay a \$100 re-advertisement, a very minor cost. He said that he
5 anticipates that the case would be re-advertised if it were dismissed tonight.

6
7 Mr. Thorsland stated that as far as we know, no indication was made to the Petitioner that he had to
8 attend the meeting tonight and the mailing suggested that we were going to move it anyway. He stated
9 that the only reason he wouldn't just want to kick it entirely is because the Petitioner may have
10 misinterpreted the suggestion by staff, which was to move the case to January. He said that for this
11 reason Mr. Frazier may have thought that the meeting did not require his attendance and that the Board
12 would just take care of the issue. He stated that if the Board wants to take a motion to that effect, we can
13 vote on it.

14
15 Mr. Passalacqua asked for verification that the Board had been waiting for a response from the letter
16 since October 20th.

17
18 Mr. Thorsland confirmed that was correct.

19
20 **Mr. Passalacqua moved to dismiss Case 792-V-14.**

21
22 Mr. Randol asked Mr. Hall if the Board were to dismiss the case, where would that leave us with the
23 violations that exist.

24
25 Mr. Hall stated the minute we received a reactivation, we would have to bring that case back before the
26 Board because there is no time limit. He added that the ZBA Bylaws do not allow the ZBA to at any
27 time reject an application.

28
29 Ms. Lee asked where staff's recommendation to continue the case to January is located within the
30 Supplemental Memorandum.

31
32 Mr. Thorsland stated that the text is indicated on page 2 of the October 22, 2015, Supplemental
33 Memorandum.

34
35 Mr. Hall stated that with that language staff was trying to send a message to the 4 or 5 neighbors and the
36 Highway Commissioner that took time out to come tonight. He said that staff did not expect any
37 practical discussion tonight because there really wasn't enough time for the Petitioner to get everything
38 done. He said he will speak on behalf of the Petitioner that when this Board continued the case, Ms.
39 Chavarria spoke up and indicated that she was concerned about timing of the next meeting for this case
40 but it was decided that if nothing else this meeting could be a status update. He stated that the Zoning

1 Department has worked a ridiculous amount time on this case and even at that, we didn't get to a point
2 where if we were the Petitioner, there would be a building plan drawn by an architect and a plat prepared
3 by an engineer because there was not that much time allowed.
4

5 Mr. Passalaqua stated that he sees no evidence of any diligence and that it is his understanding that the
6 Petitioner has not even made contact with a firm to do the work.
7

8 Mr. Hall clarified that the Petitioner has made contact with an engineer for the preparation of the plat.
9 He said that that engineering firm is Hartke Engineering & Surveying.
10

11 Mr. Thorsland stated that from what he read, the Petitioner thought that since he was being annexed to
12 the City of Champaign that he no longer needed a site plan for the County.
13

14 Mr. Passalaqua responded that the assumption was already corrected with the Petitioner and that he still
15 needs to be in compliance.
16

17 Ms. Lee asked if the Petitioner had made any attempt to contact an architect.
18

19 Mr. Hall stated that the last word staff had was that Mr. Frazier had not made contact with an architect,
20 only an engineer.
21

22 Ms. Lee asked Mr. Hall if the Board could take any testimony from the gentlemen who are here for this
23 case before doing any action.
24

25 Mr. Hall stated yes.
26

27 Mr. Thorsland stated that the problem he has with accepting testimony tonight is that the Petitioner is
28 not here and since this is an Administrative Case the Petitioner has the right to cross-examine any
29 witness. Mr. Thorsland stated that he really appreciates the fact that the witnesses for this case attended
30 tonight and he understands their frustration. Mr. Thorsland stated that this Petitioner has frustrated this
31 Board as well. Mr. Thorsland stated that he is very frustrated by the Petitioner's cavalier attitude and the
32 waste of time spent by a lot of other people, but this is a quasi-judicial hearing and if the Petitioner is not
33 here, and the case is Administrative, then they are allowed to cross-examine witnesses. He stated that is
34 something that cannot happen if we only convey to them what happened in the minutes. He opened the
35 floor for Board members to comment.
36

37 Mrs. Capel asked Mr. Thorsland if something needed to be done about the motion on the floor.
38

39 Mr. Thorsland confirmed that there is a motion without a second. He said that Board can suspend the
40 motion or if the motion receives a second the Board can vote on it.

1
2 Ms. Lee stated that the Board could turn the case over to the State’s Attorney.

3
4 Mr. Thorsland stated that he is not sure how the Board could compel the State’s Attorney. He stated that
5 right now we have a motion without a second. He asked the Board again if someone would like to
6 second Mr. Passalacqua’s motion to dismiss the case.

7
8 Mr. Passalacqua stated that he is willing to withdraw the motion but he is not willing to hear new
9 testimony because he believes that the Board is spinning its wheels and it is a waste of everyone’s time.

10
11 **Mr. Randol seconded the motion to dismiss the case.**

12
13 Mr. Thorsland requested a roll call vote.

14
15 The roll call vote was called as follows:

16			
17	Lee-yes	Passalacqua-yes	Randol-yes
18	Capel-no	Griest-no	Thorsland-no
19			

20 Mr. Thorsland stated that the motion failed due to a tie vote by the Board therefore the case is not
21 dismissed. Mr. Thorsland apologized again to the audience, and did so, on behalf of the Board. He
22 thanked the audience for taking the time to come out for this Petitioner but, as difficult as it is, the Board
23 is going to continue this case to the second meeting in January, date is tentatively January 28th.

24
25 Ms. Griest asked Mr. Hall if there was a court case that required the Board to go ahead and take
26 testimony. Ms. Griest asked if perhaps there was a regulation that required people to go ahead and
27 submit testimony when the Petitioner gave up his right to cross-examine by failing to appear.

28
29 Mr. Hall stated that he agrees with the last statement, but he is not aware of anything that would compel
30 the Board to take any testimony. He stated that if the Board takes any testimony, they need to take all
31 testimony. He added that the Board’s normal rules about redundant testimony and preference for
32 agreeing with things already said would apply, but the Board has to give everybody a chance to testify.

33
34 Mr. Thorsland asked the Board if there were any more questions for staff and there were none.

35
36 Mr. Thorsland entertained a motion to continue this case to the second meeting in January, tentatively
37 scheduled for January 28th.

38
39 Ms. Lee requested clarification on whether the Board would take testimony on this case tonight from the
40 three gentlemen who are here.

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Mr. Thorsland stated that the Board would not take testimony tonight.

Mr. Lloyd Allen, a member of the audience, stated that the Board should check their By-laws and indicated his disagreement with the Board's decision.

Mr. Thorsland apologized. He entertained a motion to continue Case 792-V-14 to the second meeting in January, tentatively scheduled for January 28, 2016.

Ms. Capel moved to continue Case 792-V-14 to the second meeting in January, tentatively scheduled for January 28, 2016, seconded by Mr. Randol. Motion carried by voice vote with one member opposed.

6. New Public Hearings

Case 814-V-15 Petitioner: Mark and Adam Kesler Request to 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 and 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.

Mr. Thorsland informed the audience that Case 814-V-15 is an Administrative Cases and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.

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1
2 Mark Kesler, 2328 CR 600 East, Dewey, thanked everyone for their time. He stated that his son's
3 business, No Limit Fitness, is currently located in the old D&D grocery store just right around the corner
4 from where their new building will be. He stated that on or about September 23rd of this year, his
5 contractor was getting ready to pour the concrete on the parking lot and the concrete company
6 discovered that the building was 6.5 feet away from the property line on the west side of the building,
7 leaving 13.5 feet to the east of the property line and the requirements are for 10 feet on each side of the
8 building. He stated that Noah Kaufman, co-owner of Graber Buildings, the contractor, happened to be
9 on site that day and admitted their mistake on marking the foundation, and unfortunately Graber had
10 already dug the foundation, which is a special foundation as per IBC regulations, pouring 252 feet of 18
11 inch by 36 inch foundation with 2 inches of insulation. He said that they had installed the entire
12 infrastructure for the plumbing and Graber had already poured nearly 4,000 square feet of 5-inch thick
13 concrete pad. He said that after realizing what the situation was, he immediately contacted the architect,
14 Brett Stillwell from Champaign and their attorney to discuss the matter, then immediately filed a
15 variance to hopefully remedy the situation. He said that the 6.5 feet to the west of the building is next to
16 an empty lot, approximately 51 feet wide, which is owned by Midland Corporation for access to their
17 main property located on Prairieview Road. He stated that he honestly did not think that this mistake of
18 3.5 feet would cause any damages to the adjacent lot and damage the potential use of that access to
19 Midland's main property. He added that the access has not been used for quite some time and the empty
20 lot sits approximately 3 feet lower than the main Midland property that is currently for sale. Mr. Kesler
21 stated that he did not identify any cracks in the access drive to indicate its recent use. He stated that not
22 until he received a letter from Mr. Huddleston's attorney a week ago did he believe there was a concern
23 for our requested variance. Mr. Kesler said that the letter stated the objection to the variance was due to
24 the fact that the variance may affect the value of Midland's property, which is currently for sale.
25 Mr. Kesler stated that he agrees wholeheartedly with this statement – it will enhance the property value,
26 not hinder it, and will provide a greater opportunity for Midland to sell it now that there is a \$300,000
27 building with a thriving business to open soon, compared to an empty lot just two months ago. Mr.
28 Kesler stated that he is asking for a variance for the 3.5 feet on the west side of their building, and that it
29 will not cause lower property values or problems in regard to the sale of the Midlands property or access
30 to their main property. He concluded by saying the only mistake he made in this entire matter was not
31 contacting the owners to inform them that he would need to place foundation dirt on their property until
32 he could get their concrete parking lot poured. He added that he did not know who originally owned the
33 lot; unfortunately due to job constraints and recent weather, some dirt still remains on the property. He
34 has asked his contractor to remove the dirt and grade the lot as soon as possible. He stated that he has
35 contacted Jean Huddleston several times to apologize and to tell her they will remove the dirt, will grade
36 it so that it is no longer a vacant lot but a true access to Midland's main property. He added that his
37 concrete contractor had mentioned before they poured the parking lot that the Midlands culvert along
38 Tin Cup Road was in bad shape and would need replaced; at the time that was the only entry to his lot as
39 his entry way had not been built. He asked the Village of Mahomet to replace the culvert, which they
40 did, and he graded the entryway to serve as an access lane. He stated that this repair was necessary to

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1 eliminate rainwater and puddling and creating an even flow through P&P Heating, No Limit Fitness,
2 Midland and Casey's property, all along Tin Cup Road. Mr. Kesler stated that he would like to purchase
3 the lot to the west in the future as No Limit continues to grow, but he has discussed this with Jean
4 Huddleston and her Realtor and they both indicated that Midland should remain owners until the main
5 property sells, and he respects their decision.

6

7 Mr. Thorsland asked if staff could keep his paper copy of his introduction.

8

9 Mr. Kesler stated yes.

10

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

12

13 Ms. Griest asked Mr. Kesler if she understood correctly that they are pouring concrete on the entire
14 width of the property.

15

16 Mr. Kesler stated that Ms. Griest is correct He said that they did not want any maintenance, and they
17 needed all the space for the 21 spaces required for the building.

18

19 Ms. Griest asked Mr. Hall about impervious area.

20

21 Mr. Hall stated that when Mr. Kesler first inquired about building on the property, they talked about
22 stormwater management. Mr. Hall said that when staff received the plan, staff assumed that they
23 understood the plan but he admits that the amount of impervious area was not clear. Mr. Hall stated that
24 even with the Site Plan that went out with the memo, if you look on the west side of the building, you'll
25 see a sidewalk indicated which to Mr. Hall indicates that the sidewalk side of that line must be concrete
26 and the other side must not be concrete and staff assumed it was grass. He said that the plan does not
27 really show where impervious area is and where it is not, and this is the first time he has seen a
28 landowner willing to pour concrete in areas where there is no discernible benefit to having concrete. He
29 stated that there is also 10 feet of concrete on the east side of the building even though he does not know
30 what purpose the 10 feet of concrete serves. He said that even though this project could be constructed
31 with less impervious area than what would require detention, because of this error in review, it is
32 actually over the threshold for detention and now needs detention. It is not far over the threshold, and for
33 such a small amount he does not know how stormwater detention could be constructed for as little as
34 1,000 square feet of paving; as far as he knows it cannot be done. Mr. Hall determined that it is a *de*
35 *minimis* exceedance of the Stormwater Management and Erosion Control Ordinance and he will not
36 require detention for this. He added that if the lot to the west were added to the subject lot, stormwater
37 detention would be required for the whole resulting property. He said that staff looked back on the
38 review of this plan and staff missed the impervious area and missed the jog in the rear lot line and staff
39 usually does a better job of reviewing that. He said that regarding the jog in the rear lot line, Mr. Hall
40 referred to Footnote 7 in Section 5.3 of the Zoning Ordinance that has to do with irregular yards on lots

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1 that are not rectangular. He stated that this lot is an irregular lot, and in fact the rear yard that is provided
2 exceeds what is required in Footnote 7 in Section 5.3, so the variance for the rear yard is not required.
3 He said that it is only the west yard that requires the variance. He said that one could argue that a
4 variance from the Stormwater Management and Erosion Control Ordinance is required, but the amount
5 of detention is so small that it is insignificant; even if concrete were removed, there still would not be
6 enough room to construct detention on the property.
7

8 Mr. Passalaqua stated that the front of the property has ditches.
9

10 Mr. Kesler stated that from the front of the building to the ditch, there is a natural 12 inch flow to the
11 ditch. He said that if he ran a hose outside of the building the water would run to the ditch.
12

13 Mr. Passalaqua added that it is a positive for him that it is water going into that ditch rather than eroded
14 dirt or gravel.
15

16 Mr. Hall stated that even with the twelve inches of ditch it is still difficult to do a detention basin there.
17 He said that he is not proud of the way staff reviewed this project but it is what it is.
18

19 Ms. Lee asked about the difference between the 3,944 square feet building shown in the Site Plan and
20 the 104 feet by 40 feet typed next to the drawing.
21

22 Mr. Hall clarified that this is the second site plan submitted for the building and the original site plan did
23 indicate a 104 feet by 40 feet building. He said that the 3,944 square feet is correct and for some reason
24 the architect simply missed updating the text to the side of the drawing.
25

26 Ms. Griest asked Mr. Kesler if his concrete is contoured toward the center of the property and then
27 toward the ditch, as opposed to running off onto the adjacent parcels.
28

29 Mr. Kesler responded that the contour goes from south to north, directly to the ditch.
30

31 Ms. Griest clarified that it goes to the ditch except where it goes off the sides. She said that her point
32 being he is allowing water to runoff to his neighbors by not providing any sort of space around the
33 impervious area.
34

35 Mr. Thorsland stated that the adjacent properties are the vacant lot to the west and P&P to the east. He
36 commented that we recently had a decent rain, and asked Mr. Kesler if he noted how the stormwater
37 flowed off the property.
38

39 Mr. Kesler stated that he observed the stormwater after the rain and noted that it ran off the concrete into
40 the ditch like it was supposed to and if there was any spill, it was not significant.

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- 1
2 Ms. Lee asked Mr. Kesler if he was referring to the road ditch.
3
4 Mr. Kesler confirmed he was referring to the road ditch.
5
6 Mr. Thorsland asked Mr. Kesler where the P&P driveway was in reference to the subject property.
7
8 Mr. Kesler responded that he thinks the P&P driveway is about 100 feet off his property line. He stated
9 that the separation between their buildings was around 50 feet.
10
11 Ms. Lee asked Mr. Kesler to explain the lay of the properties. She asked Mr. Kesler if the vacant lot to
12 the west was lower than Mr. Kesler's property and if the property to the east is higher, or are they all
13 pretty much equal.
14
15 Mr. Kesler responded that the properties are all pretty much equal. He added that Midland's main
16 property is about 3 feet higher than his property; there is a definite elevation there. He said that as far as
17 east and west they are about the same elevation.
18
19 Ms. Lee asked Mr. Hall how much did the impervious area miss in requiring stormwater detention.
20
21 Mr. Thorsland said that Mr. Hall had mentioned a 1,000 square foot stormwater detention area would be
22 difficult to come up with.
23
24 Mr. Hall stated that if detention had been required, it would have been required for much less than 1,000
25 square feet as we are only talking about a few hundred square feet.
26
27 Mr. Kesler said that had detention been required, they would have done it, but since it was not required,
28 they didn't.
29 Mr. Hall stated that the point was that Mr. Kesler constructed more concrete than he was supposed to,
30 and again, that is the first time he has seen someone willing to do that, and he will need to be more
31 careful reviewing in the future but staff did not know that this was going to happen.
32
33 Mr. Thorsland referred to the pictures on page 2 in the images packet, noting the upright brackets that
34 are the building and how they abut the edge of the concrete on the south side of the building. Mr.
35 Thorsland requested clarification from Mr. Kesler on whether the building goes pin to pin, or the
36 concrete.
37
38 Mr. Kesler responded that the building ends and then to the west there is 6.5 feet until the property line.
39
40 Mr. Thorsland stated that on the back, Mr. Kesler talked about a regular line with 20 feet, but Mr. Kesler

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1 said that the concrete went all the way to the end of the property.

2
3 Mr. Kesler stated no.

4
5 Mr. Thorsland confirmed that there is 20 feet of dirt in the back.

6
7 Mr. Kesler stated that there is no concrete behind the building.

8
9 Mr. Passalaqua asked if that means there is 20 feet by 88 feet of grass behind the building and if so does
10 that alleviate the drainage concern.

11
12 Mr. Hall stated that even with the grass area behind the building, the impervious area still exceeded the
13 threshold for requiring stormwater management. He stated that under the Stormwater Management and
14 Erosion Control Ordinance, with the amount of concrete on the site right now, there should be some
15 detention. He said that the drainage ditch in the front is 180 feet away from the grassed area in the back
16 of the building; he does not know how one would design stormwater management in that situation. It is
17 a real engineering issue to design stormwater management for less than 1,000 square feet.

18
19 Ms. Lee asked Mr. Kesler if they had encountered any agricultural drainage tile when they did the
20 construction.

21
22 Mr. Kesler responded none that he was aware of, and their concentration was the gravity flow into the
23 ditch along Tin Cup Road and he also is not aware of P&P having anything either next to them on the
24 east. He stated that he has been out to the site for quite some time now and has yet to see a problem.

25
26 Mr. Thorsland pointed out that we haven't really had rain until this week.

27
28 Ms. Griest added that it wasn't really that much rain. She asked Mr. Kesler about one-way directional
29 traffic arrows on the engineering plans. She noted the arrows pointing toward the back of the building,
30 where there is no concrete. She asked if she was correct in assuming that no vehicles would drive along
31 the west side and directly behind the building.

32
33 Mr. Kesler confirmed that is correct. He stated that originally they had 10 feet of concrete on each side,
34 but ended up with 6.5 feet on one side and 13.5 on the other. He said that as the owner, he must take
35 some responsibility for that, but this is why he hired a contractor to do it and the contractor actually had
36 the flags out where it was supposed to go but the contractor was not there, nor was Mr. Kesler, the day
37 they dug the foundation. He added that only when they went to start pouring concrete did he note that it
38 was off-center at 13.5 feet and 6.5 feet and if it had been centered he wouldn't be here tonight

39
40 Mr. Passalaqua asked Mr. Kesler if he had put in any downspouts, or if the building's runoff was going

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1 to discharge to ground.
2
3 Mr. Kesler said he was not sure but he believes that there are downspouts for that.
4
5 Mr. Thorsland referred to a note on the plan that states the contractor is responsible for all building and
6 site drainage.
7
8 Mr. Kesler said that since the building is not up, he has not seen how the drainage will be done, but he
9 assumes that it will run to ground.
10
11 Mr. Thorsland asked if there were further questions for Mr. Kesler and there were none.
12
13 Mr. Thorsland noted that there are no new memos tonight. He referred to the witness register and called
14 Roger Huddleston to the witness microphone.
15
16 Mr. Roger Huddleston, 170 Union Street, Mahomet, asked Mr. Hall if a variance is needed for the south
17 border, or if it is in compliance.
18
19 Mr. Hall stated that it is in compliance, staff just determined that today.
20
21 Mr. Huddleston asked Mr. Hall how it is in compliance.
22
23 Mr. Hall stated that the Ordinance provides for a lesser rear yard when a lot is not rectangular and this
24 lot is not rectangular and the rear yard does meet the requirement for those kinds of lots.
25
26 Mr. Huddleston asked Mr. Hall to indicate the requirement for when the lot is less than rectangular.
27
28 Mr. Hall read Footnote 6 in Section 5.3 of the Zoning Ordinance as follows: Required REAR YARD
29 where LOTS are of irregular shape: In the case of an irregularly shaped LOT (not rectangular) the
30 required minimum depth of a REAR YARD shall not be less than the required minimum SIDE YARD,
31 as required by this Section 5.3; and in the aggregate, the square footage of the REAR YARD must equal
32 that required for a rectangular LOT of minimum zoning DISTRICT dimensions. Mr. Hall added that the
33 rear yard is 13 feet deep; the required yard in this DISTRICT is 10 feet, so the 13 feet depth exceeds the
34 minimum. The square footage of this rear yard is 1,413.43 square feet and the minimum area is 1,300
35 square feet, so the 1,413 square feet exceeds the minimum. So the alternative minimums established in
36 Footnote 6 are exceeded.
37
38 Mr. Ms. Lee asked Mr. Hall if that means that Part B of this case is not necessary.
39
40 Mr. Hall replied that is correct.

1
2 Mr. Huddleston asked Mr. Hall what area is not being counted as impervious area.

3
4 Mr. Hall stated that in the development as built, it is his understanding that everything from the building
5 line to the south would be grass which is considered pervious and anything from the south line of the
6 building to the north is impervious. He reiterated that when he approved the permit, he thought there
7 were going to be pervious areas on the east side of the building and also on the west side outside of the
8 sidewalk. He stated that is where he erred; it is not what the plan showed.

9
10 Mr. Thorsland stated there is a grass area by the road ditches that is also part of the pervious area
11 calculation.

12
13 Mr. Hall agreed.

14
15 Mr. Huddleston stated that the plan shows 20 feet setback on the rear of the property, which is not true.

16
17 Mr. Hall said that is correct.

18
19 Mr. Huddleston asked how much is the rear yard at its minimum and at its maximum.

20
21 Mr. Hall responded that at its minimum it is 13.6 feet and at its maximum it is 20 feet.

22
23 Mr. Huddleston stated that he assumes that the concrete parking area on the north was made larger.

24
25 Mr. Hall clarified that the concrete was extended on the sides, not to the north. He added that there is as
26 much concrete to the north as he expected there would be.

27
28 Mr. Thorsland stated that he thinks the building is, north to south, where it was planned, but east to west,
29 it went west.

30
31 Mr. Huddleston stated that if in fact the drainage was designed to go south to north as Mr. Kesler said,
32 why would the 20 feet to the rear of the property be counted as pervious ground.

33
34 Mr. Passalaqua stated that it is not counted as impervious because it does not contribute to runoff, it
35 takes water.

36
37 Mr. Hall stated that you would not have to provide detention for a grassed area and ideally where you
38 would want the grass would maybe be on the north. He stated that no ordinance specifies how a site
39 must be developed because we would be dictating everything to do with your property if it was like that,
40 and people just would not tolerate it because there is no way we should be getting to that level of detail.

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1
2 Mr. Huddleston asked who issues the building permit in Champaign County.
3
4 Mr. Hall replied that he does.
5
6 Mr. Huddleston asked if Mr. Hall had issued a building permit based on this site plan.
7
8 Mr. Hall replied yes.
9
10 Mr. Huddleston asked when that permit was issued.
11
12 Ms. Chavarria replied that it was issued July 8, 2015.
13
14 Mr. Huddleston asked if the permit was issued prior to or after approval of the site plan.
15
16 Mr. Hall stated that it was issued prior to the current site plan. He said that the building permit was
17 issued based on the building being 104 feet by 40 feet and shortly after that approval Mr. Kesler
18 submitted a revised Site Plan, which is the Site Plan the Board has before them. He stated that this Site
19 Plan shows somewhat less building area and is a different shaped building, but it still complied with our
20 ordinance.
21
22 Mr. Huddleston asked if Mr. Hall had to issue another building permit.
23
24 Mr. Hall stated that we just amended it by showing that the current site plan was the one that was
25 approved.
26
27 Ms. Chavarria stated that the revised Site Plan was approved on August 10, 2015.
28
29 Ms. Lee mentioned her previous question about how the site plan showed one building measurement but
30 indicated another in its text, and noted that the Board is working with the revised site plan with the
31 smaller building size. She said that the Board received the second site plan in the mailing packet.
32
33 Mr. Huddleston stated that his concern is not with Mr. Kesler because they have known each other a
34 long time and he thinks they will make excellent neighbors. He said his objection is some technical stuff
35 and just the concern of one error, then another error, then another and the fact that we were never
36 contacted. Mr. Huddleston stated that the error was discovered, then the building foundation was poured
37 before the variance was granted; the building should not be finished before the variance is completed.
38
39 Mr. Thorsland asked Mr. Huddleston to repeat what he said.
40

1 Mr. Huddleston stated that all the errors were known right after the concrete was poured, but before the
2 building was even initiated. He said that at this date, the building is complete, and that seems
3 presumptuous to him. He added that it seems they are always brought in as late comers, and that his
4 sister was particularly outraged that they used their property as a staging area for dirt and equipment
5 although it didn't bother him. He does not have an issue with that at all because he knows Mr. Kesler
6 will take care of that and restore it all. Mr. Huddleston said that his issue is that he believes Mr. Kesler's
7 building to the property line will affect the value of their property when they are trying to sell it. He
8 stated that he thinks that is a problem, but it is not a known problem – it is something his family did not
9 have a say in, it is something that was taken from them, and something he has a concern about. Mr.
10 Huddleston said that Mr. Kesler gained 3 feet of building without any consequence or consideration of
11 them.

12
13 Mr. Thorsland clarified that Mr. Kesler did not gain more building; rather, he has the building in the
14 wrong place.

15
16 Mr. Huddleston stated that in essence Mr. Kesler did gain more building because he could not, by-right,
17 place the building on the right-of-way until the variance was approved therefore that placement has an
18 effect on any current or future sale of the Huddleston's property and it gives them a 3.5 foot
19 disadvantage. Mr. Huddleston stated that he does not believe that anything was done in malice but there
20 appears to have been a comedy of errors between zoning and Mr. Kesler's contractors and construction
21 should have come to a halt until everything was resolved. Mr. Huddleston asked if everything, as it
22 stands currently with Mr. Kesler's building is in compliance with Zoning.

23
24 Mr. Hall said that the side yard variance still needs to be approved.

25
26 Mr. Huddleston asked if that was all.

27
28 Mr. Hall stated that the side yard variance is the only thing that he is aware of.

29
30 Ms. Chavarria responded that staff would not do the compliance inspection until the building is
31 complete, so at this point, it is only the side yard variance.

32
33 Ms. Griest suggested that Mr. Hall talk about what is often discussed, which is the risk a petitioner takes
34 when they build something knowing they need a variance but have not gotten that approval yet; or that
35 they need a permit that they are seeking and we do not stop them from proceeding and what kind of risks
36 they are taking in the event it wouldn't be approved.

37
38 Mr. Hall said that he believes that he and Mr. Kesler had a discussion where he told Mr. Kesler if he
39 proceeded with construction it is at his own risk. He said that staff hardly ever tells someone they have
40 to stop what they are doing because it does not match what our ordinance says what has to be done. Mr.

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1 Hall added that such an approach is generally not well accepted in Champaign County. He said that the
2 only time he does that is if there is a deliberate threat to public safety involved, and then he will bring
3 something to the attention of the Environment and Land Use Committee and get their direction. He said
4 that this has happened only a couple of times. He said that in this instance, Mr. Kesler has a problem, he
5 is trying to get his business into a new building, he needs a variance and he has to make a calculation on
6 whether or not to continue and if he continues, it may upset the ZBA and he may not get the variance,
7 but if he does not continue then he will lose money on a daily basis.

8
9 Mr. Huddleston asked Mr. Hall if there has ever been a time when the Board has gone ahead and
10 designated once a project has been completed that the variance was not issued.

11
12 Mr. Thorsland said yes, absolutely.

13
14 Mr. Huddleston asked what happened.

15
16 Mr. Thorsland stated that the petitioner had to make a building smaller.

17
18 Mr. Huddleston said they literally were required to make an existing building smaller.

19
20 Mr. Thorsland said yes.

21
22 Mr. Huddleston asked if the fact that this case could impact the value of his property have any weight
23 with the Board.

24
25 Mr. Thorsland stated that it depends on the Board and what they are looking at. He stated that Mr.
26 Huddleston has a piece of property that is 51 feet wide and in theory unbuildable without a variance.

27
28 Mr. Thorsland asked Mr. Hall if there is another zone this could be in, in the County, which would
29 reduce that side and rear yard. He said we've heard about the back yard, and how the jog in the back
30 allows a lower criterion. He asked what the zoning district would be that has a side yard of 5 feet.

31
32
33 Mr. Hall stated that there is no business district that has a side yard smaller than 10 feet. He said that he
34 needed to clarify that Mr. Huddleston's lot to the west is not a separate lot; it is technically part of the
35 property to the south. He said that if it were a separate lot, in our Zoning Ordinance it would have to be a
36 lot that is at least 65 feet wide.

37
38 Mr. Thorsland stated that his point is that the Board will look at the devaluation of this piece that is a
39 part of the larger lot, but it does not seem that the lot was ever meant to be anything but access to the
40 main property. Mr. Thorsland did not think that the access being diminished by 3.5 feet is in a

10/29/15

1 significant way that we could measure it as a Board. He added that the Board members are not
2 appraisers; our job is to grant variances and change zoning, not to put a cash value on a piece of property
3 or what happens next door to it. He stated that the reason variances are granted are because of things like
4 this and the reason we change a zoning map is for the things that are on it. He asked Mr. Huddleston if
5 he has a current appraisal for that strip of land.

6
7 Mr. Huddleston stated no, because it is not a separate piece.

8
9 Mr. Thorsland said it would be hard to determine what the 3.5 feet closer that the building is at now has
10 done to that because we don't know what we started with, or where we are now.

11
12 Mr. Huddleston asked the Board what questions he should have asked that he didn't.

13
14 Mr. Thorsland said that he doesn't think Mr. Huddleston failed to ask good questions of the Board. He
15 stated that one of the things he heard Mr. Huddleston ask that we didn't have a great answer for was
16 exactly when the original permit was applied for, but that can be looked up.

17
18 Mr. Huddleston said that he doesn't care when, as long as there is a current building permit that
19 considers everything there

20
21 Mr. Thorsland said there is a current permit.

22
23 Mr. Huddleston stated that as he understands it, there is yet to be a certificate of occupancy issued.

24
25 Mr. Thorsland said that is correct.

26
27 Mr. Passalaqua stated that from Mr. Kesler's testimony, Mr. Huddleston's 51 foot strip of land could
28 have value to him. He asked Mr. Huddleston if he was aware that Mr. Kesler would possibly be
29 interested in buying that land.

30
31 Mr. Huddleston responded that Mr. Kesler has made an offer on the front part of it, yes.

32
33 Mr. Passalaqua stated that in his mind, this project, albeit 3.5 feet closer, has at least increased the
34 demand for Mr. Huddleston's property.

35
36 Mr. Huddleston said that is the case if they want to sell it.

37
38 Mr. Passalaqua stated that if Mr. Huddleston did not want to sell it, he would want it to be worth less
39 anyway so he wouldn't have to pay so much in taxes.

40

1 Mr. Huddleston said he loves paying taxes. He said he wants to sell it as part of the property in total.
2
3 Mr. Passalacqua stated that as one Board member, he does not think that a 3.5 foot encroachment is going
4 to negatively affect that sale, but he could be wrong.
5
6 Mr. Huddleston said that it's unknown.
7
8 Mr. Thorsland concurred, stating that the Board would be remiss if it tried to set a value on the property
9 because it is unknown.
10
11 Mr. Passalacqua stated that we are only talking about the irregular 51 foot piece.
12
13 Mr. Huddleston stated that we are talking about the side yard and not the 51 foot piece.
14
15 Mr. Passalacqua stated that the 51 foot piece abuts the side yard that we are discussing.
16
17 Mr. Thorsland asked if he could summarize for Mr. Huddleston, that Mr. Huddleston finds what may be
18 a problem is that this building is 3.5 feet closer to his 51 foot wide piece of land that is part of his entire
19 lot and that Mr. Kesler's building has diminished the value or encroached upon Mr. Huddleston's
20 property by not allowing him the full 10 feet of the setback from the side.
21
22 Mr. Huddleston stated that it is not him who allowed it; he does not own that setback.
23
24 Mr. Thorsland asked Mr. Huddleston if he thinks that because the building is 3.5 feet closer that he has
25 lost something of use or value in the piece he has adjacent to it.
26
27 Mr. Huddleston stated that for sure, Mr. Kesler gained 3.5 feet of additional use of that property.
28
29 Mr. Thorsland stated that if Mr. Kesler had moved the other side of his building 3.5 feet out, then yes, he
30 would gain a larger building.
31
32 Mr. Huddleston stated that we could play what if all night, but at the end of it Mr. Kesler took 3.5 feet of
33 land that he was not supposed to take.
34
35 Ms. Griest stated that she challenges that statement in that Mr. Kesler owns that entire parcel so he is not
36 taking anything that he does not already own.
37
38 Mr. Huddleston disagreed; he stated that Mr. Kesler is taking use of that which is precluded by zoning
39 setbacks.
40

1 Ms. Griest stated let's agree to disagree, and thanked Mr. Huddleston for his comments.
2
3 Mr. Thorsland stated that one piece of evidence that the Board has to find is if this is Mr. Kesler's or his
4 son's fault, and testimony indicates to him that the contractor put the building in the wrong place. He
5 stated that in the evidence we have before us, it is not just a piece of concrete with some vertical
6 brackets to support the building because there is infrastructure in that and there is probably a different
7 thickness to the base that is under the building versus what is next to it and there is probably wire,
8 plumbing, and all kinds of other things that are in the concrete that if you push the building back at the
9 point they discovered it, it would be in a very wrong place for the entirety of the building. Mr. Thorsland
10 said that he does not think it is a matter of pushing the wall back.
11
12 Mr. Huddleston asked Mr. Thorsland what his point was.
13
14 Mr. Thorsland stated that his point is that the issue is not something that can be simply rectified and it
15 was not an action of the applicant that caused this problem.
16
17 Mr. Huddleston stated that it was Mr. Kesler's agent that caused the problem.
18
19 Mr. Thorsland stated that Mr. Kesler's agent could be at fault, but we are not here to parse through that.
20 He stated that we are here to discuss this variance; we have eliminated the back yard variance, and he
21 hopes that answers to that the property is irregular and it meets the requirements of the ordinance. He
22 stated that for the side, we could argue it is a taking of use or an additional use of Mr. Kesler but right
23 now what is before us is this 3.5 feet.
24
25 Mr. Huddleston said thank you.
26
27 Mr. Thorsland thanked Mr. Huddleston. He asked if there were any additional questions for the Board or
28 staff and there were none.
29
30 Mr. Thorsland asked Mr. Kesler if he would like to cross examine Mr. Huddleston.
31
32 Mr. Kesler declined to cross examine.
33
34 Mr. Thorsland asked Mr. Huddleston if he would like to cross examine Mr. Kesler.
35
36 Mr. Huddleston declined to cross examine.
37
38 Mr. Thorsland noted that there were no other witnesses. He said that the only lingering piece of
39 information that he has in mind is the date of the permit, but Mr. Huddleston is the only person who
40 asked about that and he seems satisfied with the fact that the permit exists.

1
2 Ms. Lee stated that she thinks there is another point of discussion going on, and referred to page 5 of 11
3 where it states "Petitioner has testified on the application: we would need to start all over. We already
4 have \$50,000 invested and would require twice this amount to tear down and rebuild. We cannot afford
5 to do this." She stated that she thinks that is sort of relevant to what we are discussing.

6
7 Mr. Thorsland concurred, stating that is why it is mentioned under practical difficulties or hardships. He
8 stated there are no special conditions suggested for this, but Mr. Hall may have something to add.

9
10 Mr. Hall stated that as he was listening to Mr. Huddleston, a possible special condition occurred to him;
11 he does not know if the Board would be interested. He said he is not certain he can see a lot of logic in
12 it, but then again he can see some logic to it too. He offered the following possible special condition:
13 "The side yard on the east side of the building shall not be less than 13.5 feet, to ensure that the variance
14 does not benefit the Petitioner more than necessary." Mr. Hall added that it seems unlikely that it would
15 be cost effective to add 3.5 feet along the east side of the building.

16
17 Mr. Passalacqua stated that he did not feel the special condition is necessary, as the building does not
18 have footings for expansion and it is not practical for them to add on 3.5 feet of building.

19
20 Mr. Thorsland suggested that they could ask the Petitioner that if they have this additional room, would
21 they even think of expanding the building. He added that Mr. Passalacqua brings up a good point in that
22 there appears to be a different amount of concrete under the building than what is under the paved area.

23
24 Ms. Griest stated that the testimony Mr. Kesler gave is that the concrete is a different depth and
25 thickness and there is insulation in it under the building but not under the parking or walkways.

26
27 Mr. Thorsland stated that Mr. Huddleston commented on the comedy of errors made but the site plan is
28 neither the best nor the worst he has seen. He stated that there has been development continuing since
29 the problem was discovered, and he agrees with Mr. Passalacqua's point that when we discuss the
30 property next door, there does not seem to have been any harm done in the main section of the lot. Mr.
31 Thorsland said that there was no evidence to indicate that the Petitioner was directly responsible.

32
33 Mr. Passalacqua stated that it should not be construed that he thinks it is okay for someone to stockpile on
34 someone else's property, because he does not think that is okay but he does think that the testimony has
35 shown that the property will be put back together better than it was.

36
37 Ms. Griest stated that she finds the use of someone else's property for stockpiling to be offensive and
38 inappropriate and she addresses that comment to Mr. Kesler and that's his responsibility to keep his
39 contractors within his own property, whether Mr. Huddleston or his sister Jean objects or not. Ms. Griest
40 stated that it is wrong to be making those kinds of assumptions and she knows that staff will hold Mr.

1 Kesler to the responsibility of restoring it to its previous condition or better.

2
3 Mr. Kesler stated that he has known Mr. Huddleston through Bible study for many years, and he knows
4 what Mr. Kesler is going to do. He concurred that it was an oversight and error on his part and he has
5 contacted Jean Huddleston several times. Mr. Kesler stated that in Ms. Huddleston's last email, she said
6 thank you to Mr. Kesler for his prompt response, said to contact her if he needs anything, and that she
7 appreciates Mr. Kesler's willingness to work on the road between Casey's and his property. Mr. Kesler
8 stated that it is not something he has overlooked; he has tried to have the stockpile cleaned up before and
9 has told the contractors this has got to be done. Mr. Kesler stated that he thinks Mr. Huddleston knows,
10 but Mr. Kesler has already put in a new culvert, he has already graded that area, and the access lot will
11 now become an access lane that will benefit his adjoining property.

12
13 Mr. Thorsland asked if those communications were in an email he has, and asked if Mr. Kesler would
14 like to submit a copy as evidence.

15
16 Mr. Kesler said yes, but hesitated to do so in case Jean Huddleston does not want it shared.

17
18 Mr. Thorsland stated that it could wait to be submitted, and would wait to see if Jean wants to share the
19 email. He added that what Mr. Kesler has shared from the email is entered in the record and that may be
20 sufficient. He brought back the topic of Mr. Hall's suggested special condition regarding the east side
21 yard.

22
23 Mr. Passalaqua said in his opinion, he would rather not add any more to it.

24
25 Mr. Thorsland agreed with Mr. Passalaqua that it is not a necessary condition, especially since the
26 property is all concrete now. He added that it would not be cost effective for anyone.

27
28 Mr. Kesler noted that the construction looks really nice; Graber Construction and Imperial Concrete
29 have done a phenomenal job and his expectations have been exceeded.

30
31 Mr. Thorsland asked if there was anything else from the Board or staff and there were none.

32
33 Mr. Thorsland stated there are no conditions to approve therefore the Board will move to the findings of
34 fact.

35
36 Ms. Griest mentioned Mr. Kesler's original testimony document as a new Document of Record to add.

37
38 Mr. Thorsland added Mr. Kesler's written statement to the Documents of Record as new Item 6 on the
39 Documents of Record.

40

1 **Finding of Fact for Case 814-V-15:**
2

3 From the documents of record and the testimony and exhibits received at the public hearing for zoning
4 case 814-V-15 held on October 29, 2015, the Zoning Board of Appeals of Champaign County finds that:
5

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

10 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or
11 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
12 the same district because the lot is a 0.377 acre tract in the B-4 General Business District, which is
13 particularly small.
14

15 Ms. Capel stated that the property next door is only 51 feet wide, which precludes building on that
16 property.
17

18 Mr. Thorsland asked Ms. Capel if she wanted to add that the side yard variance will have little or no
19 impact on the adjacent 51 foot wide strip.
20

21 Ms. Capel said yes.
22

23 Mr. Hall pointed out that there can still be construction on the 51 foot wide strip and it would have to be
24 part of the larger lot, but they can still build on it. He said that what they can't do is build on it
25 separately from the rest of the property. He asked the Board if they wanted to change their finding.
26

27 Ms. Capel agreed that the finding should be changed. She asked to strike the portion that says they
28 cannot build on it.
29

30 Ms. Chavarria read the amended statement: the lot is a 0.377 acre tract in the B-4 General Business
31 District, which is particularly small; the property next door is only 51 feet wide so the side yard variance
32 would not impact the adjacent 51 foot wide strip significantly.
33

34 Mr. Thorsland asked if the changes were adequate for the Board.
35

36 There were no objections.
37

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

1
2 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
3 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
4 structure or construction because the expense of moving the building 3.5 feet to conform to the
5 ordinance is prohibitive.

6
7 Mr. Thorsland asked Ms. Chavarria to review the statement.

8
9 Ms. Chavarria stated that practical difficulties or hardships created by carrying out the strict letter of the
10 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
11 structure or construction because the expense of moving the building 3.5 feet to conform to the
12 ordinance is cost prohibitive.

13
14 Mr. Thorsland asked if the changes were adequate for the Board.

15
16 There were no objections.

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

20
21 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
22 NOT result from actions of the applicant because there was an error in the field during construction.

23
24 **4. The requested variance IS in harmony with the general purpose and intent of the**
25 **Ordinance.**

26
27 Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of
28 the Ordinance because it minimizes impact and allows the use of the building in the location it is being
29 constructed.

30
31 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
32 **detrimental to the public health, safety, or welfare.**

33
34 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
35 detrimental to the public health, safety or welfare because there were no replies from the road district or
36 the fire department; had there been issues they would have responded.

37
38 Mr. Thorsland added that the Variance allows the use without additional hazards.

39
40 **6. The requested variance IS the minimum variation that will make possible the reasonable**

1 use of the land/structure.

2
3 Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible the
4 reasonable use of the land/structure.

5
6 **7. No special conditions are hereby imposed.**

7
8 Mr. Hall asked that before the Board moves on to approve the findings of fact, that they consider finding
9 3 regarding the actions of the applicant. He stated that technically what your agent does is your action.
10 He said that he knows the Board discussed that previously, so he knows by his being in attendance at the
11 meeting what the background is on the decision. He stated that if a court in the future read finding 3,
12 there is no indication of this greater understanding that technically it was the result of the applicant, but
13 this Board does not expect a land owner to be checking every action done by the contractor.

14
15 Mr. Passalaqua asked if the Board should add that setbacks on the plan were correct, and the intent of
16 the applicant was to put the building in such a location that it was in compliance.

17
18 Mr. Hall stated that it is all good evidence, but he does not know that it needs to be part of the findings.

19
20 Mr. Passalaqua stated that he was just saying that the contractor is an agent of the applicant and there is
21 a timeline issue there. He asked if Mr. Hall wanted more detail in the finding.

22
23 Mr. Hall stated no, he just wanted to know if the Board would like to put more evidence in the Summary
24 of Evidence because the Summary of Evidence is silent about that.

25
26 Mr. Thorsland stated that what we are talking about goes back to page 6 and making an addition to
27 whether or not the practical difficulties and hardships result from the actions of the applicant. He noted
28 that in there, he thinks the Board could add what Mr. Passalaqua just talked about.

29
30 Mr. Passalaqua stated that as reflected in the submitted site plan, the intent of the applicant was to be in
31 compliance.

32
33 Mr. Thorsland added, only after significant construction had already taken place.

34
35 Ms. Lee referred to the part in the Summary of Evidence about the petitioner already having invested
36 \$50,000 in the construction.

37
38 Mr. Thorsland stated that the statement she refers to is already in a different part of the summary, and
39 that we are looking to strengthen up the evidence under section 9 about things that do not result from the
40 actions of the applicant.

1
2 Mr. Hall stated that his point was that from a legal sense, they do result from the actions of the applicant
3 because they were the actions of his agent, but to establish that the Board appreciates that a landowner
4 cannot supervise the actions of a contractor you are still responsible for what he does, but you are not his
5 supervisor.

6
7 Mr. Thorsland stated that Mr. Kesler took action; he is here for a variance. When he discovered the
8 error, he came in promptly for the variance. Mr. Kesler also applied for the building permit before they
9 started that indicated they had every intention of having the proper side yard.

10
11 Mr. Hall stated that this is the problem he has with findings like this because this absolutely resulted
12 from the actions of the applicant.

13
14 Ms. Griest clarified that they were actions of the applicant's agent. She said that she does not agree with
15 everything that Mr. Hall said about supervising a contractor.

16
17 Ms. Capel stated that it is not common practice to micromanage contractors.

18
19 Ms. Griest stated that if she built a building with Graber that large or larger in size, she would definitely
20 know where her building was.

21
22 Mr. Hall stated that even that which was just proposed for 9.D. does not make clear the thing he was
23 getting at; but maybe what he was getting at the Board is not comfortable with. He added that is fine, but
24 he has voiced his concern.

25
26 Mr. Huddleston asked if he could say something.

27
28 Mr. Thorsland allowed him to speak, but requested that he keep it brief.

29
30 Mr. Huddleston stated that he agrees with the Zoning Administrator. He stated that the agent is his
31 person, period.

32
33 Mr. Thorsland stated that the Board has hashed through that idea and now is developing more evidence
34 to support why this was not entirely created simply because Mr. Kesler pushed his building over. He
35 added that he agrees with Mr. Hall on some points, but this is not the first variance that is from this sort
36 of area. He said that this is what this Board is comfortable with doing and that we have frankly done
37 many times as a Board.

38
39 Mr. Huddleston stated that he hopes the Board is giving the variance in spite of and not absolving the
40 responsibility of the owner for the mistake.

1
2 Mr. Thorsland stated that all the evidence here is pretty clear about how this happened. He thanked Mr.
3 Huddleston for his comments.
4
5 Ms. Griest referred to Mr. Hall's prior discussion about Item 3; she asked if Mr. Hall was questioning
6 the do, or do not of the Item 3 finding.
7
8 Mr. Hall stated no; he is just trying to deal with facts in the evidence.
9
10 Ms. Griest said that if she takes the hard stance, where the owner is responsible for every action of the
11 contractor, she would have to say the conditions DO result from the actions of the applicant.
12
13 Mr. Thorsland stated that he believes every one of the variances that has come before the Board has had
14 something to do with the actions of the applicant. He added that the Board would grant zero variances if
15 we really went that black and white.
16
17 Ms. Griest asked Mr. Hall if he is hoping to add a sentence in the evidence that says although we
18 understand it is the full responsibility of the land owner for all actions of his contractor, we do not
19 expect the land owner to watch every move of that contractor.
20
21 Mr. Hall stated no; this is the first time that he has had to wrestle with this in the 13 years that he has
22 taken cases to the ZBA. He said that this was a vacant lot and if they had come to the Board ahead of
23 time and said that they wanted to justify moving it 3.5 feet further to the west, there is no reason to do
24 that.
25
26 Mr. Thorsland stated that he gets the impression from all the testimony the Board has heard that no one
27 had a clue they had put this building in the wrong spot until way after and he can imagine the words
28 uttered by many people about that.
29
30 Mr. Passalaqua stated that the Board justifies all these actions with words about hardship. He asked what
31 the Board is going to do, not worry about hardship in Item 3 but not in Item 2.
32
33 Ms. Lee stated that her understanding of the testimony was that the contractor put the flags up, but when
34 his employees did it, they got it 3.5 feet off.
35
36 Mr. Passalaqua stated that they are still an agent of the owner.
37
38 Ms. Griest stated that the testimony reflects that when a second contractor came in and went to pouring
39 the parking concrete pin-to-pin was when they discovered it because he had actually found the pins
40 before he poured his concrete. She said that it was not until a third set of eyes came onto the scene that

1 the error was discovered. She stated that in all reality, the property not owned by the Petitioner was in
2 fact used as ground storage, and even if the Petitioner knew they had done it, he probably did not think it
3 was a big deal.

4
5 Mr. Thorsland stated that the Board could spend a very long time deciding when the third contractor
6 came in to pour concrete and maybe thought that the 51 feet was actually part of the Petitioner's
7 property, or thought it was the drainage area or pervious area and thought it would be fine to put stuff
8 down there. He stated that it is not readily apparent what land is part of what property and might not
9 immediately suspect that the 51 foot strip is part of the Huddleston main property. He added that it
10 makes sense, looking at it now, that the Huddlestons had a second entrance at some point planned. He
11 said the Board had heard a lot of talk about cleaning up the access to the property, and that will all be
12 straightened out now.

13
14 Mr. Passalaqua stated that he agrees for almost every variance, but this could be the Achilles' heel
15 because you could read it in favor or against in almost every variance.

16
17 Mr. Thorsland stated that where he thought Mr. Hall was going with this is like how we regularly take
18 the end off Item 6 finding because it is the minimum variance, that's why we're doing it. He stated that
19 he would argue at some point that Item 3 needs to be completely rewritten by the County Board or
20 whoever does these things so that it is reflective of the fact that an error was made, that too much money
21 was put into the hole in the ground, it is hard to backtrack, it was not a malicious error, it was not a
22 taking, it was just that somebody messed up and we're granting a variance because it is the logical,
23 humane thing to do. He added that Mr. Hall attempted to make it even more humane by adding the
24 condition about expanding the building on the east side, but that he does not feel that is necessary.

25 Ms. Lee asked Mr. Hall what bothers him so much about this variance request that has not bothered him
26 with other variance requests.

27
28 Mr. Hall stated that there was no reason to justify this variance *a priori*, and that he has no quibbles with
29 the part about this resulting from the actions of the applicant, but he thinks the Board should make it
30 clear that the owner is responsible for the actions of his agent and that they are not going to hold him
31 responsible for this level of error. Our society doesn't do that because you would have to know more
32 than your contractor to supervise your contractor. He stated that is the problem with these findings and
33 that is why it is tough to do these things comprehensively and do them how they should be done every
34 time, but truly he has never seen anything like this case.

35
36 Mr. Passalaqua asked if the conditions in the summary and the minutes of this conversation adequately
37 support Mr. Hall's concerns.

38
39 Mr. Thorsland stated that we do not have to go with what the Zoning Administrator wants to do because
40 this is the Board deciding what to do here. Mr. Hall's comfort, while important to us, is not required. He

1 said that he understands Mr. Hall's point and Mr. Passalacqua's point, and he leans toward Mr.
2 Passalacqua's opinion. He stated that he often finds this part of the findings, along with the part about a
3 variance being necessary for the public convenience, to be two of the most difficult parts of the findings.
4 He said he still was curious about why this case stood out among others.

5
6 Mr. Passalacqua stated that he sees the concern being that this was an empty lot. The variance was not
7 being sought because of a drainage issue, or an historical preservation arrowhead and it is there because
8 of an accident. He said that this does not mean that we are varying it because it is an immovable object.
9 He stated that as a contractor he understands and agrees that the owner cannot go out and learn to be an
10 excavator and do it themselves because he is out earning money somewhere else to pay that contractor.
11 If it was creating a hazard or ruining the moral turpitude of the community, then he might see the 3.5
12 feet a little more harshly. He said that regarding impact, albeit it's not because it was not a fractured
13 archeological remnant that was there, he thinks the impact is low in this case.

14
15 Mr. Thorsland stated that personally, if the Board was giving this variance and the intent was to use the
16 narrower part to go as a drive around the building or doing something that would really affect safety or
17 quality of life or the fact that no car is really that small in this country, he would understand the
18 discomfort more.

19
20 Mr. Hall stated that his concerns have been adequately addressed by the minutes.

21
22 Ms. Lee stated that everybody makes mistakes; we're all human. She said that they had a plan that it
23 would be the right way. She said that even though the owner is responsible for his agents, it isn't
24 something that he would have likely foreseen because the drawings show it was to be 10 feet on each
25 side.

26
27 Mr. Thorsland added that there was some misunderstanding in the drawings about the permeable area.
28 He said that everyone had the best faith in the others and no one was trying to be duplicitous with the
29 others and it just got put in the wrong place. He asked if the Board was comfortable with moving on.

30
31 Ms. Lee asked if any changes were being made to Item 3.

32
33 Mr. Thorsland stated that they added to 9 in the Summary of Evidence, but not to Item 3 in the Findings
34 of Fact. He said that we also added the statements that the Board made, and that would become 9.D. on
35 page 6 of 11, where there are various pieces of evidence including buying the land and making this all
36 irrelevant through the agents of the adjacent land owner. He said that we also discussed the jog in the
37 back of the property in 9.C. He asked if the Board wanted to strike that, but he thinks it is fine to let it
38 stand to sort of build evidence that the whole lot was kind of confusing in the first place.

39
40 Mr. Hall stated that he anticipates that the Board would strike everything related to Part B of this

ZBA

AS APPROVED DECEMBER 10, 2015

10/29/15

1 variance because the final determination is not going to address Part B because there is no Part B.

2

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

5

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

8

9 Mr. Thorsland entertained a motion to move to the Final Determination for Case 814-V-15.

10

11 Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 814-V-15.
12 The motion carried by voice vote.

13

14 **Final Determination for Case 814-V-15:**

15

16 Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals
17 finds that, based upon the application, testimony, and other evidence received in this case, that the
18 requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority
19 granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of
20 Appeals of Champaign County determines that:

21

22 The Variance requested in Case 814-V-15 is hereby GRANTED to the petitioners Mark and Adam
23 Kesler d.b.a. No Limit Fitness LLC, to authorize the following variance in the B-4 General
24 Business Zoning District:

25

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

28

29 Mr. Thorsland requested a roll call vote.

30

31 The roll was called as follows:

32

33	Passalacqua – yes	Randol – yes	Capel – yes
34	Griest – yes	Lee - yes	Thorsland – yes

35

36 Mr. Hall informed the petitioner that he has received an approval for his request. He said that staff will
37 send out the appropriate paperwork as soon as possible.

38

39 **7. Staff Report**

40

1 None

2

3 **8. Other Business**

4 A. Review of Docket

5

6 Mr. Hall stated that the docket has the new ZBA meeting on December 3rd, and the docket has a case
7 819-AT-15 that is tentatively based on next Thursday's ELUC meeting.

8 Mr. Thorsland stated that he will be absent for the December meetings.

9

10 Mr. Passalacqua stated that he will be absent for the first meeting in January.

11

12 Mr. Thorsland stated that the time changes on Sunday, therefore the meeting time changes to 6:30 p.m.

13

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

15

16 None

17

18 **10. Adjournment**

19

20 Mr. Thorsland entertained a motion to adjourn the meeting.

21

22 **Ms. Griest moved to adjourn the meeting, seconded by Ms. Capel. The motion carried by voice**
23 **vote.**

24

25 The meeting adjourned at 8:48 p.m.

26

27

28

29 Respectfully submitted

30

31

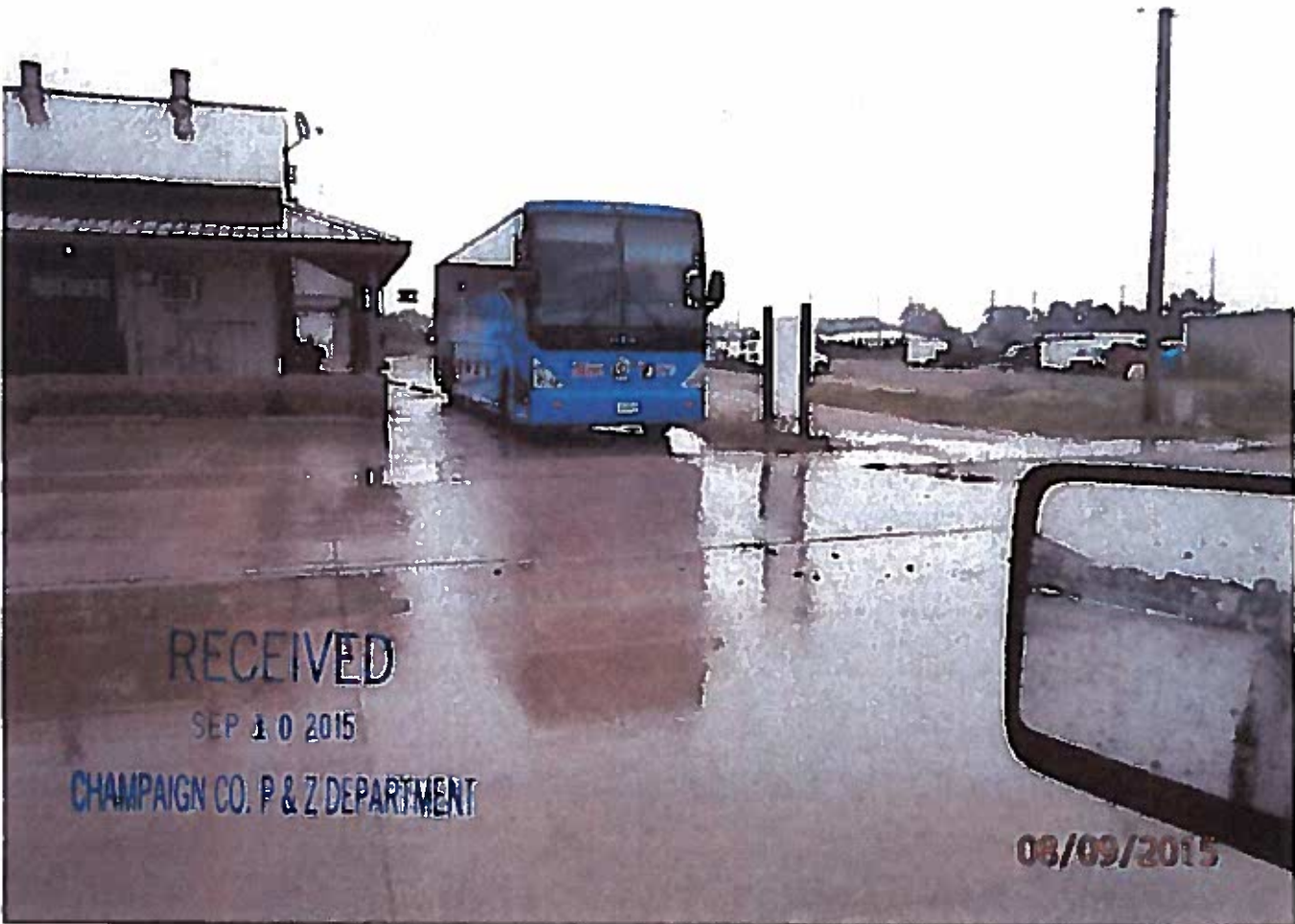
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33 Secretary of Zoning Board of Appeals

34

35

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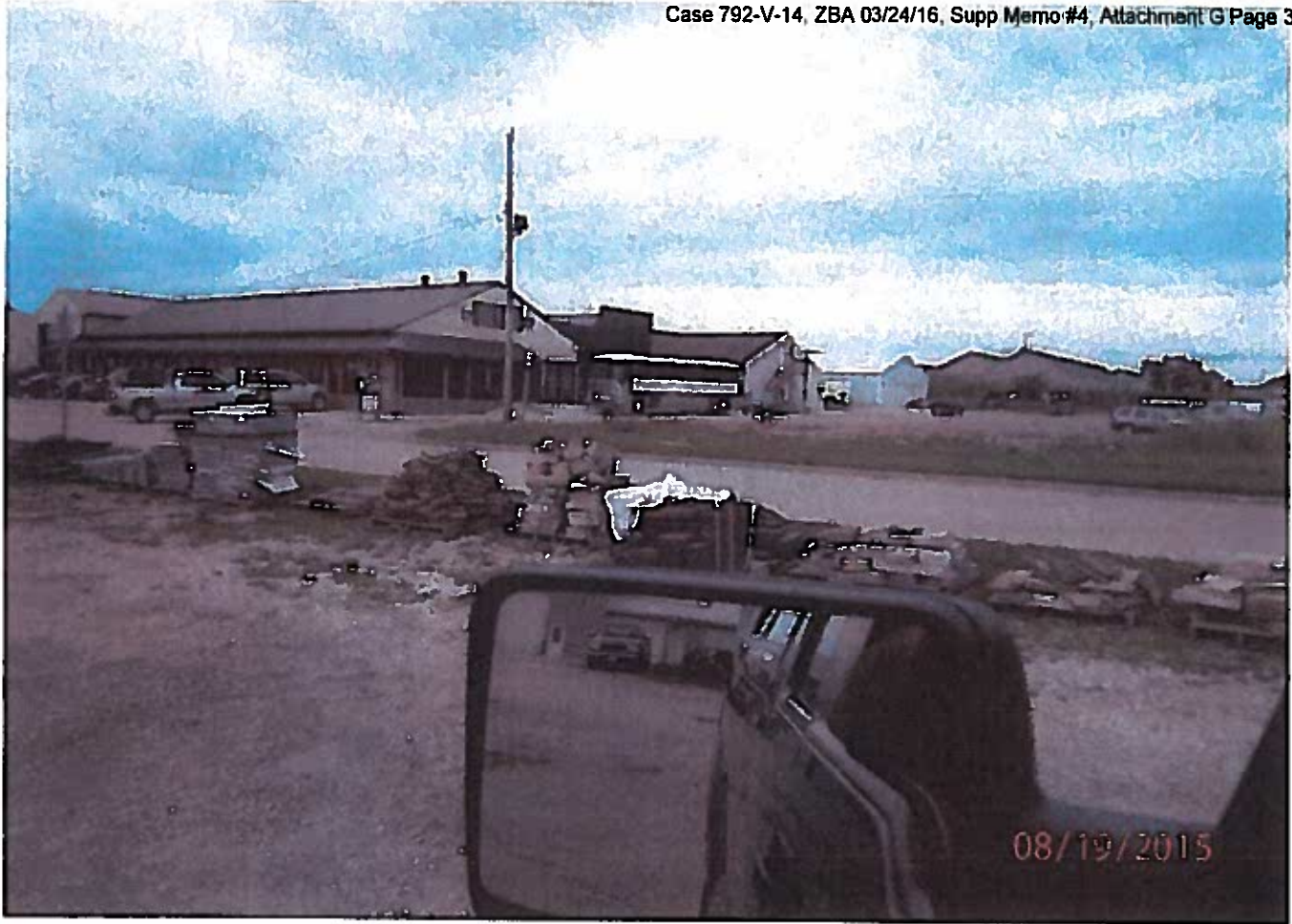
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08/19/2015



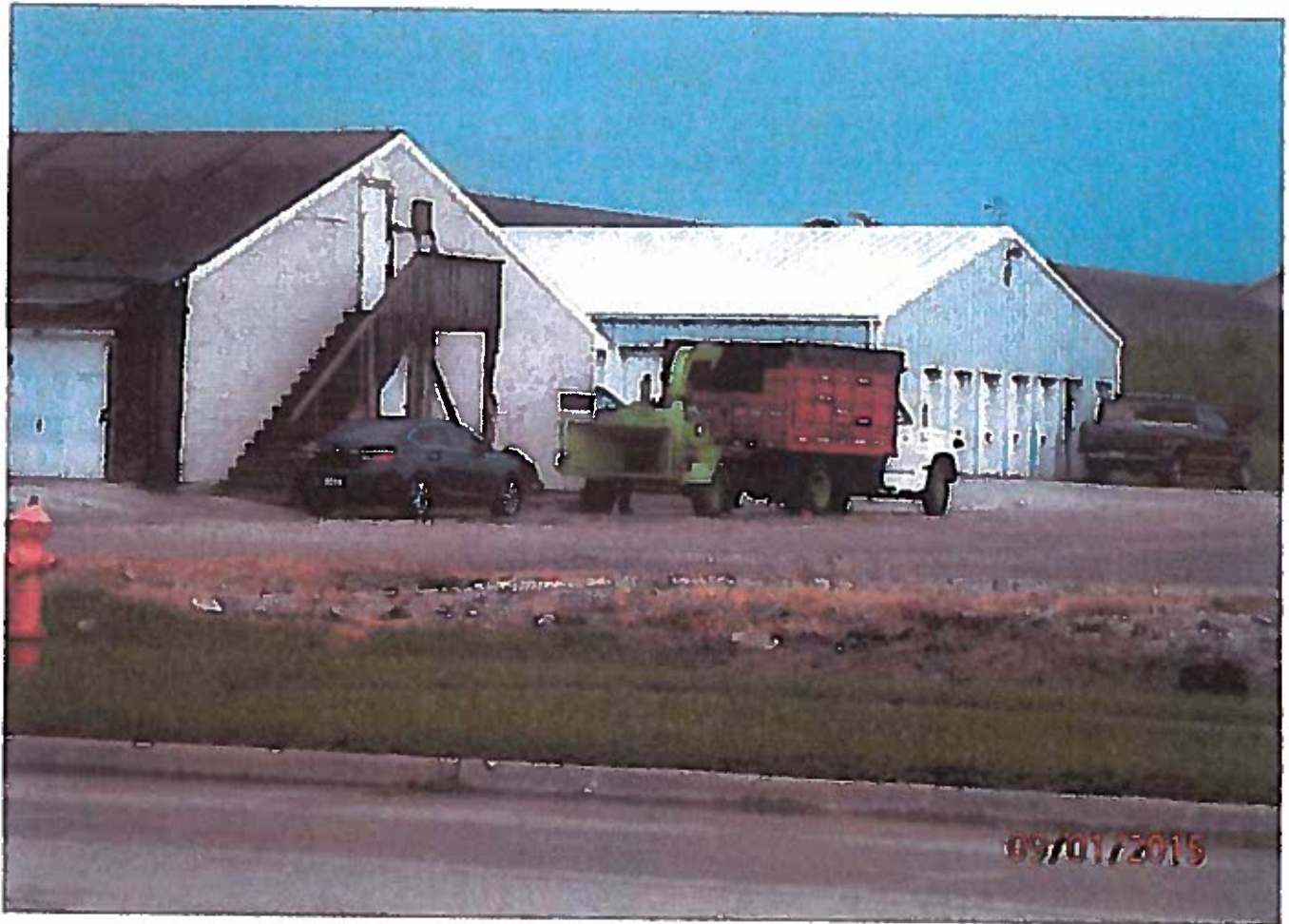
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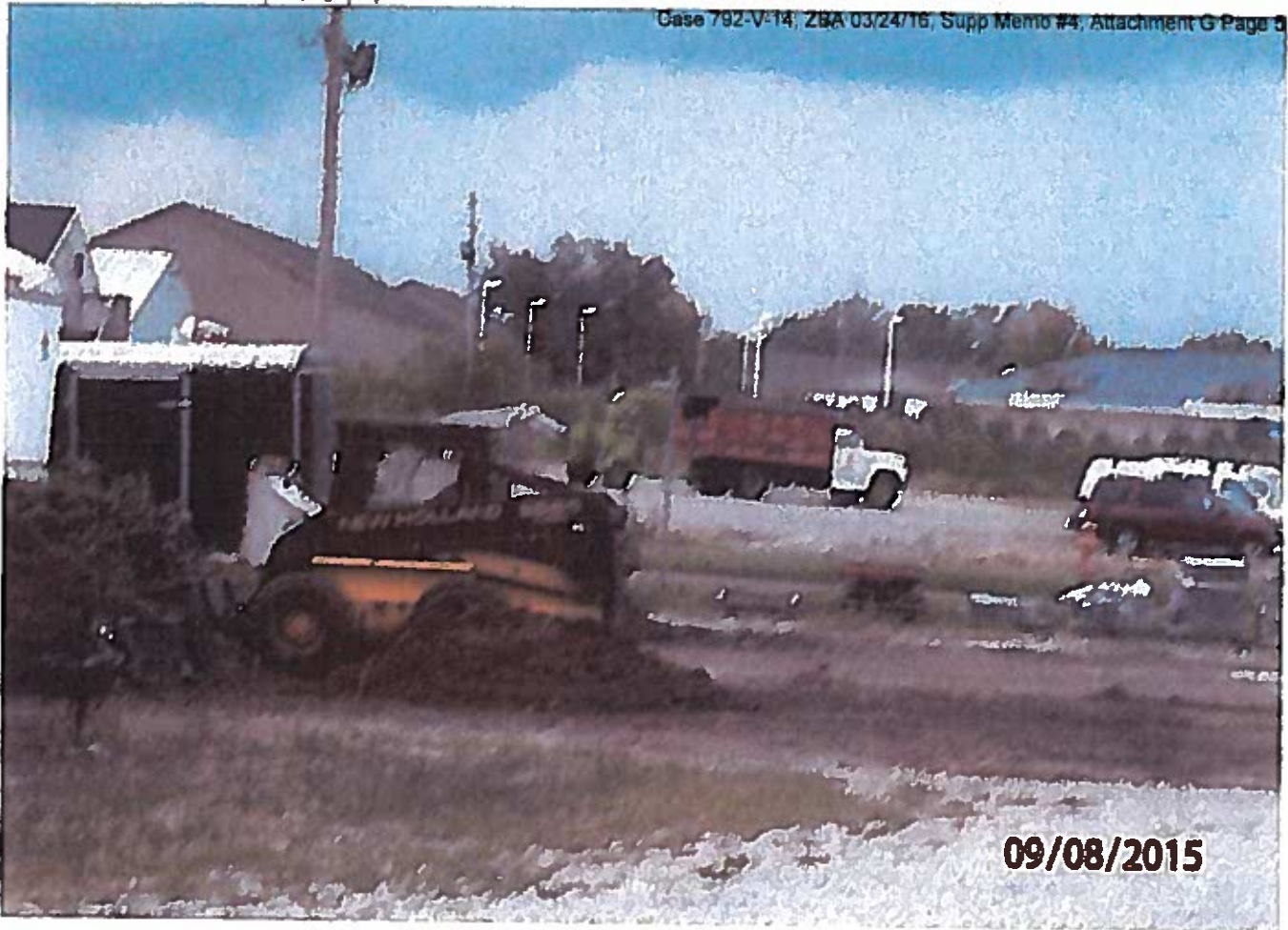
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09/08/2015



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FILE COPY

September 17, 2015

Champaign
County
Department of

**PLANNING &
ZONING**

Mr. Robert Frazier
310 Tiffany Court
Champaign, IL 61822

RE: Requested items for continued public hearing for Case 792-V-14

Mr. Frazier:

Thank you for attending the September 10, 2015 ZBA meeting. I wanted to follow up with you to provide a list of items the ZBA requested so they can fully consider your application for your case's next hearing, to be held **October 29, 2015**. Submitting these documents at least two weeks before your hearing date would be appreciated.

1. **A new, professionally prepared Site Plan of the full property, drawn to scale, showing at minimum:**
 - existing buildings and their measurements, including all stories;
 - the location of the property's septic system components;
 - location and wording of all signs on the property;
 - any handicap accessibility features you have (ramps, hard surface parking, signs, etc.);
 - any proposed demolition (of the buildings and of the remainder of the curb removed previously);
 - any new proposed paving (i.e. if you plan on adding pavement to north side);
 - address how you propose to provide enough parking (and/or what additional building area do you propose to remove) to bring the parking requirements in line with the amount of parking provided;
 - a note about removal of the remainder of the curb and replacement with all new curb meeting the dimensions and specifications of the original curb;
 - confirmation from the architect on whether or not the parking and the "accessible path" from the accessible parking to the office areas complies with the Illinois Accessibility Code and Americans with Disabilities Act and if not, include with the site plan the necessary changes to make them comply; and
 - proposed location of the garbage dumpster and explanation of how a garbage truck is going to service this property without driving on the neighboring properties.

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

(217) 384-3708

2. **A detailed floor plan for all floors of each building, showing at minimum:**
 - room measurements;
 - current uses for each room;
 - detail of restrooms, and have a Registered Illinois Architect confirm in writing whether the restrooms comply with Illinois Accessibility Code and Americans with Disabilities Act and if they do not comply then propose the necessary modifications to make them comply;
 - size and number of self-storage units on the 2nd floor of the middle building; and
 - any handicap accessibility features.

3. **A written statement which indicates whether the replacement value (the fair market cost of the remodeling of the west building and gym) is less than \$50,000. The Illinois Accessibility Code (71 Illinois Administrative Code 400) implements the Illinois Environmental Barriers Act (410 ILCS 25) that requires a “statement of compliance” by an Illinois Registered Architect or an Illinois Licensed Professional Engineer when construction costs \$50,000 or more. Improvements you have made to your property seem likely to have exceeded \$50,000 in value.**

4. **Miscellaneous documentation:**
 - copies of permits from the State/EPA regarding storage of used cooking oil;
 - an up-to-date list of businesses operating on the property with: type of business, number of employees, number of employee vehicles, number of company vehicles, and their hours of operation; and
 - any other documents that you think would support your case.

PARKING REQUIREMENTS AND CONCERNS

I have enclosed a **mark-up of your most recent (received March 30, 2015) proposed parking layout** which outlines the issues this layout has; it will be included as part of the next case memo to the ZBA. The issue of “usable” parking spaces is not a factor in day to day permitting; however, the ZBA made it clear that they are only interested in parking that is actually usable. I want to reiterate the ZBA’s lack of support for an off-site parking lease.

Revised Minimum Parking Requirements

Staff revised its analysis of minimum parking requirements for your property; the number of spaces that will be communicated to ZBA for the next hearing is 58, as per the following:

1. **Required parking spaces for 4,950 square feet of office space in the west wing (less 153 square feet for two restrooms as per ZUPA #351-02-03) at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.e.) equals 24 spaces.**

2. **Required parking spaces for 53 self-storage units (all on ground floor) if required at one parking space per 3 self-storage units equals 18 spaces.**

3. **Required parking spaces for company storage and garage spaces if required at one per each 3 employees (as per Zoning Ordinance 7.4.1D.1.) equals 1 space.**

Case 792-V-14
Robert Frazier
Page 3

4. Required parking spaces for visitors and company vehicles are assumed to be included in the parking for the office space.
5. Required parking spaces for the 15' x 30' (450 square feet) upstairs Frazier properties executive office lounge at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.e.) equals 3 spaces.
6. Required parking spaces for the 25' x 95' (2,375 square feet) Silver Back Barrel Club (strength conditioning and rehabilitation space) at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.b.i.) equals 12 spaces.

In addition to the 58 spaces described above, parking spaces will also be required for:

1. any self-storage units in the unauthorized upstairs storage space in the middle wing at one parking space per 3 self-storage units. It is recommended that this space not be used for self-storage but simply storage for Frazier properties in which case no parking will be required for this space.
2. the arborist tenant's work related vehicles; these are not included in the office space calculation for parking and will clearly need parking spaces that are larger than 9' x 20'.

Required versus useable parking spaces

Staff has calculated 36 usable parking spaces on the subject property. Your land uses thus require 22 additional on-site parking spaces, plus spaces for the arborist's vehicles, and more if you rent the middle building's upstairs as self-storage spaces.

Parking Recommendations

Mr. Hall suggests that you need to do the following to demonstrate your commitment to resolving several significant regulatory issues:

1. In order to reduce the amount of variance for parking spaces, propose to demolish the bus garage and not rent the second floor storage areas in the middle building. Regarding those second floor storage areas, propose to remove the current stairway since it adds to traffic congestion on the south side.
2. Permanently remove the buses from the property by the next public hearing, as you indicated you would at the January 29, 2015 public hearing. If you do not remove the buses, you need to provide a firm date by which they will be removed from the property and that date will be made a condition of the variance.
3. Investigate purchase of adjacent land, and if purchase is feasible, include that extra land in the revised site plan. Please consider purchasing more than the minimum required to give you some flexibility. If neither purchase of adjacent land nor reducing the building footprint are feasible, you can propose the lease option (at the risk of the ZBA not accepting it) but

there needs to be an improved lease that will guarantee that the Zoning Department will know immediately if the lease is in dispute.

Please feel free to contact me at 384-3708 or schavarr@co.champaign.il.us.

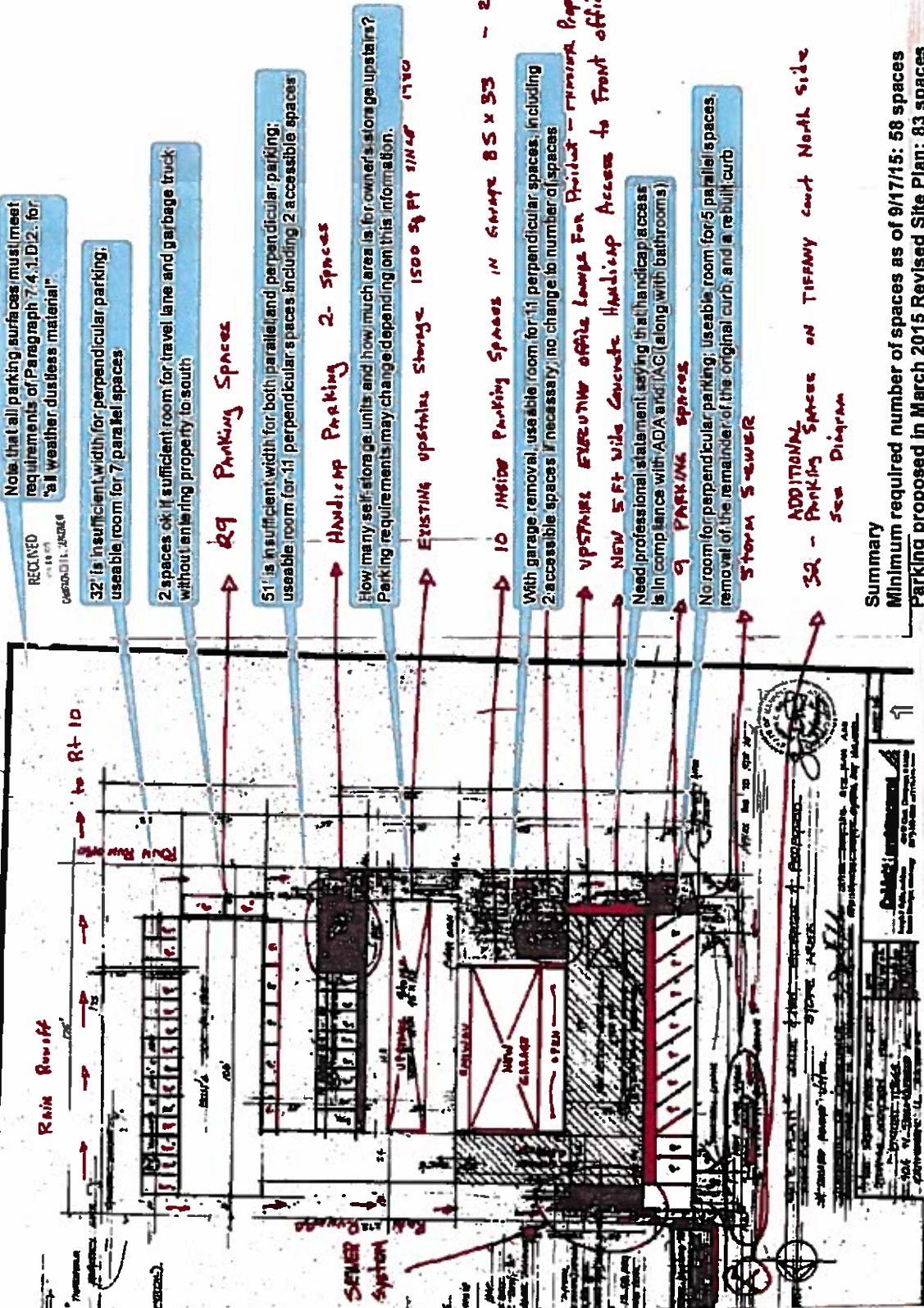
Sincerely,

A handwritten signature in cursive script that reads "Susan Chavarria".

Susan Chavarria
Senior Planner

Parking Issues

Case 792-V-14
Robert Frazier
Created 09/17/15



RECEIVED
09/18/15
09/18/15
Note that all parking surfaces must meet requirements of Paragraph 7.4.1.D.2. for "all weather, dustless material"

32 is insufficient width for perpendicular parking; useable room for 7 parallel spaces

2 spaces ok if sufficient room for travel lane and garbage truck without entering property to south

29 Parking Spaces

51 is insufficient width for both parallel and perpendicular parking; useable room for 11 perpendicular spaces including 2 accessible spaces

Handicap Parking 2 Spaces

How many self-storage units and how much area is for owners storage upstairs? Parking requirements may change depending on this information.

EXISTING upstairs Storage 1500 sq ft 11x48 1780

10 INSIDE Parking Spaces IN GARAGE 85 x 33 - 2805 sq ft

With garage removal, useable room for 11 perpendicular spaces, including 2 accessible spaces if necessary; no change to number of spaces

UPSTAIRS EXECUTIVE OFFICE LOUPE FOR PROVIDENT - REMOVED REPAIRS - 300 sq ft

NEW 5 ft wide Concrete Handicap Access to Front Offices

9 PARKING SPACES

No room for perpendicular parking; useable room for 5 parallel spaces, removal of the remainder of the original curb, and a rebuilt curb

STORM SEWER

32 - ADDITIONAL SPACES ON TIFFANY COURT NORTH SIDE
See Diagram

Summary

Minimum required number of spaces as of 9/17/15: 58 spaces
Parking proposed in March 2015 Revised Site Plan: 83 spaces
Feasible on-site parking based on most recent review: 36 spaces

Professional Engineer
 State of Tennessee
 License No. 12345
 Robert Frazier
 101 W. Main Street
 Knoxville, TN 37902
 (615) 555-1234

Susan Chavarria

From: Susan Chavarria
Sent: Tuesday, October 13, 2015 3:01 PM
To: 'R Frazier'
Cc: John Hall
Subject: 310 Tiffany Court parking
Attachments: IsaacsParking101315.pdf

Mr. Frazier,

I have heard back from City of Champaign about your annexation question. Jeff Marino's response is below.

Attached you'll find a rough diagram of one option for the parking – this would clearly need some engineering background to check feasibility. Main points are:

- Room for 32 spaces, size 9' x 20' each, plus a 28 foot wide two-way aisle
- Includes required 10' setback from the R.O.W. for parking – City's requirement may be higher?
- The red irregular shaped area could be the purchase area; all of that would have to be constructed and paved to City standards because it would still be part of the city.
- The blue irregular shaped area (about 2,600 sq ft) is where a new access could be paved for the Isaacs to replace the one where your parking would be. This would of course require permission from the Township to add another access point to the cul-de-sac.
- The yellow irregular shaped area is the approximate parking area you used to rent.
- The red area is about 1,700 square feet less than the yellow rental area, with a simple configuration that uses space more efficiently
- Assumes that the southern 16 spaces will use some of your land and some of the purchase property – not sure if this is feasible due to topography, septic area, etc.
- You would still need 36 approved spaces on your existing lot in addition to the 32 shown.

At this point our recommendation is, if you purchase parking area, to make the purchase directly adjacent to your property for continuity purposes. Zoning staff is fairly certain that ZBA will require completion of all parking and curb improvements before it would be able to close your case. Your existing property would still remain under County Zoning, while the purchased property would be in the City.

If you could give me an inclination of how you intend to proceed before the 10/29 ZBA hearing, I will create an update memo to inform the board.

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

From: Marino, Jeff [<mailto:jeff.marino@ci.champaign.il.us>]
Sent: Tuesday, October 13, 2015 11:22 AM
To: Susan Chavarria
Subject: Re: 310 Tiffany Court

Susan,

We are not going to require any annexation as part of this plat. After reviewing the municipal code, annexation won't be required.

If Mr. Isaacs wants to submit a subdivision to split off a portion of his lot, in order to sell to his neighbor to the south for parking, we can process that plat as it comes in. If the lot meets all of the minimum size requirements, we should be able to process it, without a lot of complications.

Let me know if you have any questions, otherwise I'll just wait for Mr. Isaacs or Mr. Frazier to submit a plat for review.

RECEIVED

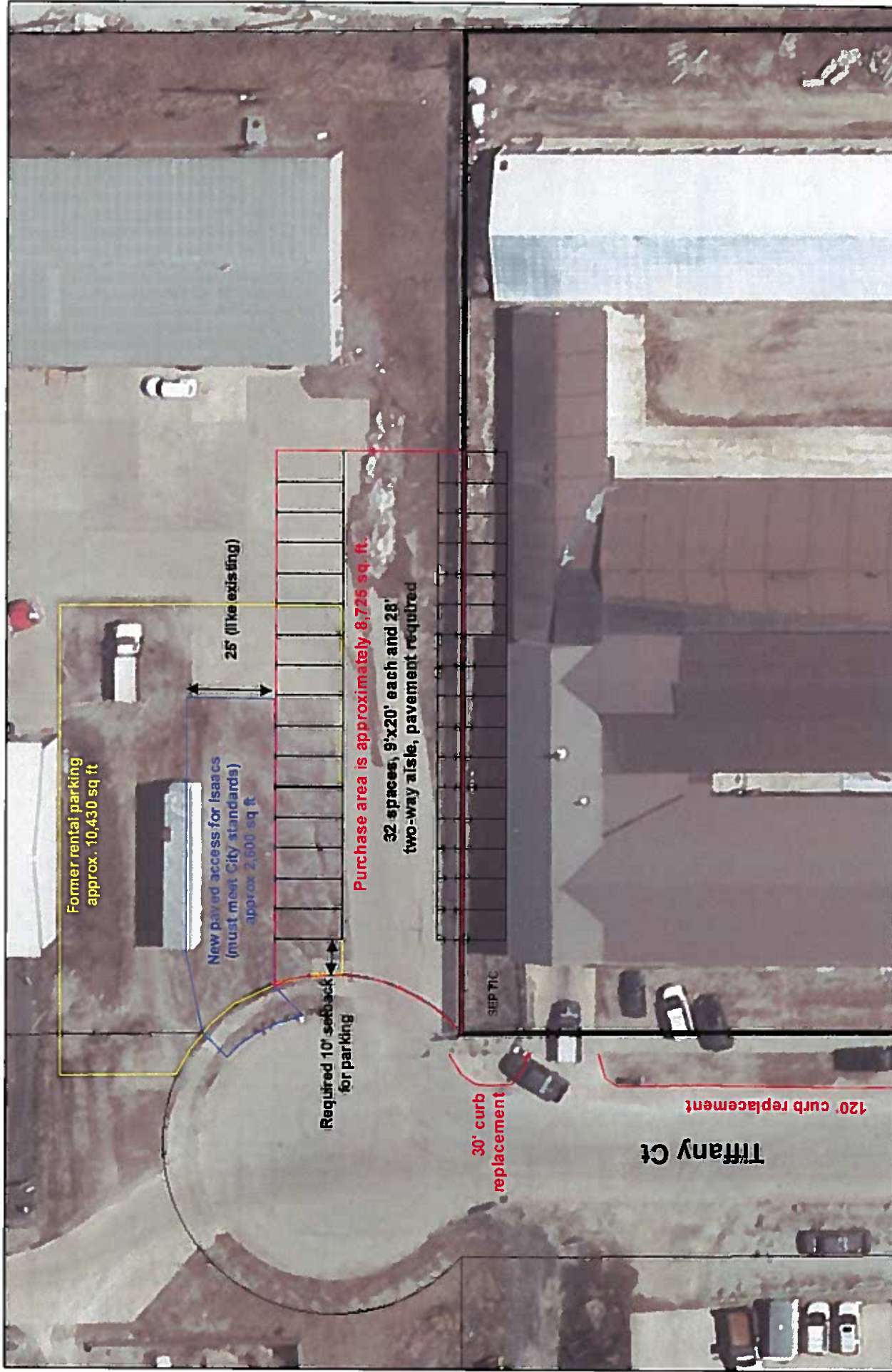
OCT 13 2015

CHAMPAIGN CO. P & Z DEPARTMENT

Jeff Marino, AICP
Senior Planner
Planning and Development Department
City of Champaign
217-403-8800

Isaacs Parking Option: Recommended Elements

Case 792-V-14
October 29, 2015



Legend

 Subject Property

 Feet
0 10 20 40



Orange and County
Department of
PLANNING &
ZONING

Susan Chavarria

From: Susan Chavarria
Sent: Tuesday, October 20, 2015 12:31 PM
To: 'R Frazier'
Cc: John Hall
Subject: 310 Tiffany Court - zoning case next steps

Tracking:	Recipient	Delivery
	'R Frazier'	
	John Hall	Delivered: 10/20/2015 12:31 PM

Mr. Frazier,

Thanks for updating us on your communications with the City and 310 Tiffany Court this morning. I consider what you have done in conversing with the City and working out parking options to be positive steps for your case. I have since spoken with Jeff Marino at the City and with John Hall. Here are the key points we agreed upon:

- The City has communicated that you are not required to annex your property at 310 Tiffany Court in order to purchase Mr. Isaac's land for required parking for the uses at 310 Tiffany Court. You are free to apply for annexation, but it is not necessary or guaranteed.
- The City requires that a property seeking annexation be compliant with the Champaign County Zoning Ordinance before they can bring it into the City. This signifies that your property still must obtain the variances in Zoning Case 792-V-14 in order to be able to annex, and all permits for previous construction on the property must be approved.

Next steps

Your variance case must proceed and be decided upon by the ZBA. At your last hearing on September 10, 2015, the ZBA required you to have a professional architect or engineer draw up the site plan/floor plan, and the Isaacs plat with parking design in order for them to be able to consider your case. You indicated this morning that you are in the process of hiring Hartke Engineering to do this task.

If you can have Hartke send me an email stating that you have contracted with them to do the drawings and in that email identify a date by which they will be submitted (no later than the end of 2015), we are able to continue your hearing to a date in early 2016. Our bylaws prohibit continuing a case beyond 100 days, so the absolute latest we can docket your hearing is the 2nd ZBA meeting in January (date not yet approved by the County Board).

Your case will still be on the October 29, 2015 agenda for the 7:00 pm ZBA meeting. We will request a continuance at that time and provide a memo with a status update. It is recommended that you still attend that meeting. The alternative to this status update/continuance is to hear your case on 10/29, during which it is likely that the ZBA will deny your variances due to lack of drawings. This in turn leaves your property out of compliance and unable to be annexed to the City.

Please let me know how you intend to proceed, ideally by close of business Wednesday, October 21, 2015.

Thanks,
Susan

Susan Chavarria, AICP, PCED
Senior Planner
Champaign County Planning and Zoning

Champaign County
Department of

**PLANNING &
ZONING**

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*).

03/16/16 REVISED DRAFT

792-V-14 REACTIVATED

**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: ***{ March 24, 2016 }***

Petitioner: Robert Frazier

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

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

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

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.

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Case 792-V-14 Final Determination.....29 - 30

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 12, 2015, May 14, 2015, September 10, 2015, October 29, 2015, and March 24, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Robert Frazier, owns the subject property.
2. The subject property is a 1.19 acre tract of land on Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign, a municipality with zoning.
 - (1) The Petitioner seeks to annex the subject property into the City of Champaign. The petitioner has been informed by the City and the County that the property must be in compliance with Champaign County ordinances before it can be annexed to the City.
 - B. The subject property is located within Champaign Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 1.19 acre tract and is currently zoned I-1 Light Industry. Land use is a combination of storage facilities and multi-tenant offices.
 - B. Land to the south and west of the subject property is zoned I-1 Light Industry and is industrial in use.
 - C. Land to the north is zoned I-1 Light Industry and is industrial in use.
 - D. Land to the east is zoned AG-2 Agriculture and B-4 General Business and is commercial in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

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

03/16/16 REVISED DRAFT**Case 792-V-14 REACTIVATED
Page 3 of 30**

- (3) Zoning Use Permit # 280-99-01 issued on 10/8/99 authorized placement of a wall sign on an existing building.
 - (4) Zoning Use Permit # 351-02-03 issued on 1/10/03 authorized construction of an office/sales area for Bright Ideas and warehouse addition to an existing mini-warehouse building.
 - (5) A Zoning Use Permit Application to authorize the construction of a bus garage, installation of new signs, and installation of new fuel tanks and fuel dispensing equipment for the LEX Lincolnland Express operations on the subject property and the adjacent lot to the south (a total area of approximately 73,300 square feet) was received on March 23, 2011. The Zoning Administrator replied with a letter dated 4/14/11 in which continued operation of LEX was allowed but additional information was required prior to issuance of a conditional Zoning Compliance Certificate. No additional information was received and LEX Lincolnland Express eventually went out of business by March 2013. A subsequent company, Illini Express, also closed in the summer of 2013.
- B. The Petitioner, without required Zoning Use Permits, has made the following changes to the property, as indicated in a letter from John Hall, Zoning Director, to the Petitioner dated June 26, 2014:
- (1) Modifying the existing office area that was formerly the offices of LEX by subdividing the interior space into at least four different spaces with their own exterior entrances; renting the new office spaces to various uses including a photographer, a musician, a painter, and a gymnasium (including converting storage area into the gymnasium);
 - (2) Adding a wrap-around covered porch to provide covering for the exterior entrances;
 - (3) Removing a portion of a bus maintenance garage.
 - (4) These changes are in addition to the change in lot area due to the fact that the adjacent lot (PIN 03-20-08-476-005) is no longer part of the property.
 - (5) It has also been reported that the Petitioner removed the curb along Tiffany Court without prior authorization from the Champaign Township Highway Commissioner.
- C. The Petitioner's Site Plan, received July 17, 2014, is a partial modification of the site (and building) plan from Zoning Use Permit #351-02-03 and therefore it does not accurately reflect the new uses on the subject property. An Annotated Site Plan has been prepared by staff to highlight relevant evidence and discrepancies on the Site Plan received July 17, 2014. The Annotated Site Plan indicates the following:
- (1) Regarding the building on the subject property:

03/16/16 REVISED DRAFT

- a. The building addition authorized in Zoning Use Permit #351-02-03 on 1/10/03 is indicated with hatching (diagonal lines) and labeled “NEW OFFICES- SALES ROOM” (totaling 4,950 square feet in area) that is still used as offices and “NEW STORAGE” (totaling 2,375 square feet in area) that has been converted to a gymnasium.
 - b. Note that a covered porch that is five feet deep has been added to the west and south sides of the building addition authorized in Zoning Use Permit #351-02-03. The addition of this covered porch was not authorized by Zoning Use Permit.
 - c. A portion of the building indicated as “warehouse” is attached to the east and south sides of the building addition authorized in Zoning Use Permit #351-02-03. The “warehouse” is a bus garage that was added for the former LEX use and it has never been authorized by Zoning Use Permit. The “warehouse” is 2,664 square feet in area. The “warehouse” occupies land area that was previously used for a loading berth and six parking spaces.
 - d. The middle portion of the building is indicated as “EXIST’G STOR” and was authorized in Zoning Use Permit # 166-96-01 on 6/17/96 and is 45 feet by 118 feet and totals 7,734 square feet in area. The original Zoning Use Permit application indicated 31 self-storage units in this portion of the building.
 - e. The eastern-most portion of the building was authorized in Zoning Use Permit # 219-86-02 on 8/7/86. This portion is 42 feet by 138 feet and totals 5,796 square feet and reportedly contains 22 self-storage units.
- (2) Regarding parking areas on the subject property:
- a. The site (and building) plan from Zoning Use Permit #351-02-03 included a total of 40 parking spaces but there are areas where an additional 15 parking spaces could have been located for a total of 55 possible parking spaces.
 - b. The Site Plan received July 17, 2014, indicates a proposed 15 new parking spaces and 5 relocated parking spaces in addition to 28 existing parking spaces for a total of 48 parking spaces and no additional parking spaces could be located on the subject property.
- D. A Revised Site Plan, received March 30, 2015, indicates the following uses and proposed parking spaces:
- (1) 29 parking spaces around the eastern “Existing Storage” area, including 2 handicap accessible spaces;
 - (2) Existing upstairs storage, 1,500 square feet, in middle existing storage building;
 - (3) 10 inside parking spaces in “New Garage”, 2,805 square feet;

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

E. Staff received a preliminary site plan from Andrew Fell Architecture on March 7, 2016. Upon review, staff identified approximately 20 items that would need to be verified, revised, and/or expanded upon in order for the site plan to meet the requirements established by the ZBA at the September 10, 2015 hearing. Staff provided the list of required revisions to Mr. Frazier and Mr. Fell via email on March 8, 2016. The revised Site Plan indicates the following uses and proposed parking spaces:

- (1) Existing west office building, no uses or interior measurements provided;
- (2) Upstairs executive office for President of Frazier Properties – approximately 300 square feet;
- (3) Existing middle building, no uses or interior measurements provided;
- (4) Existing upstairs storage in middle existing storage building – 1,500 square feet:
 - a. This revised site plan shows 11 ten feet by ten feet self-storage units connected by a 32 inch wide interior corridor on the west side. It is unclear if these units have been constructed or if they are proposed.
- (5) Existing east building, no uses or interior measurements provided;
- (6) 47 proposed parking spaces, including 2 handicap accessible spaces: note that this revised site plan includes many parking spaces that staff considers infeasible and staff requested that the consultant review and revise the site plan to show only feasible parking.
- (7) 9 parking spaces in the former bus garage, 2,805 square feet;

- (8) 2 handicap accessible parking spaces east of the middle building: note that 1 accessible parking space east of the office building was on the 3/30/15 site plan but is not shown on this revised site plan.
- (9) 6 parallel parking spaces on west side of the west offices building:
- (10) Existing 5 feet wide concrete access to front offices with one ramp (accessibility compliance not verified by petitioner):
- (11) "Sewer System" (septic) located on the north side of the west offices:
- (12) Storm Sewer near Tiffany Court entrance: and
- (13) Two access drives on west end of building. 20 feet wide each.
- (14) Because of the deficiencies with the revised Site Plan received March 7, 2016, staff cannot determine how many parking spaces the subject property can feasibly contain, and thus cannot determine if 34 additional parking spaces in the proposed north lot will be sufficient to comply with minimum parking requirements.
- (15) On March 8, 2016, Mr. Frazier responded to staff's list of Site Plan deficiencies via email with the following: "I want to keep garage and move Bud's Tree Service inside garage, which is big enough to hold his vehicles. We have not done this, we await your approval."

E. The proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers, received March 8, 2016, indicates the following:

- (1) Lot 7A (orange area) is 12,487 square feet and has 34 available parking spaces directly north of the subject property.
- (2) Lot 7A provides a 26 feet wide temporary easement for Lot 7B.
 - a. In an email from Eric Hewitt received March 8, 2016, Mr. Hewitt clarifies that a temporary easement means "if and when Lot 7B is leveled and completely redeveloped the easements would no longer be available."
- (3) Lot 7B contains a "temporary parking lot easement for the benefit of Lot 7A" which contains 3 of the 34 proposed parking spaces.
- (4) The proposed north lot is located within the City of Champaign. In expectation of annexing the subject property to become one lot with the north parking lot, the City of Champaign has reviewed this preliminary lot for conformance with their Ordinances and found that it meets their requirements as per the email received from Eric Hewitt on March 8, 2016.

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

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- (1) Part A: Variance for 48 parking spaces in lieu of the minimum required 58 parking spaces as required by Section 7.4 of the Zoning Ordinance.
- (2) Part B: Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance.
- (3) 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.
- (4) 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.

I. Regarding how the petitioner has carried out this variance case:

- (1) The original variance application was received on July 17, 2014, and the public hearing opened on February 12, 2015, and was continued to May 14, 2015. Several neighboring property owners attended the February 12, 2015. At that meeting Mr. Frazier stated there was a second floor in the building but John Hall, the Zoning Administrator, stated that none of the plans that had been submitted for the building indicated a second floor. The Zoning Board of Appeals advised Mr. Frazier to provide a very accurate site plan for all levels of the building at the next hearing and the Zoning Administrator suggested that the plan be prepared by an architect so that issues related to accessibility could be addressed.
- (2) Several neighboring property owners attended the May 14, 2015, public hearing but the petitioner failed to appear. The Zoning Board of Appeals dismissed the case in conformance with Section 7.14 of the Champaign County Zoning Board of Appeals Bylaws.
- (3) The Zoning Administrator mailed the petitioner a Notice of Dismissal on May 15, 2015, as required by the Bylaws.
- (4) The petitioner reactivated the variance case on May 30, 2015, in conformance with Section 7.14 of the Champaign County Zoning Board of Appeals Bylaws.
- (5) The reactivated case opened at the September 10, 2015, public hearing. Several neighboring property owners attended the September 10, 2015, meeting. Mr. Frazier stated during cross examination that a lease under which he had secured additional off-site parking on an adjacent property had been canceled. The canceling of the lease had not previously been disclosed by Mr. Frazier. The Zoning Board of Appeals also again advised Mr. Frazier to acquire the services of

an architect to prepare a very accurate site and floor plan for the property. The case was continued to October 29, 2015.

- (6) At the October 29, 2015 ZBA meeting, several neighboring property owners attended the meeting but the Petitioner did not attend and provided none of the information the ZBA had previously requested that he provide for this meeting. The ZBA members discussed dismissing the case, but instead continued the case to the January 28, 2016 meeting.
- a. Mr. Hall stated that the Petitioner has made contact with an engineer for the preparation of the plat. He said that that engineering firm is Hartke Engineering & Surveying.
- b. There were 4 people in attendance who desired to provide testimony; without the Petitioner, no testimony could be accepted and they were asked to provide comments to staff during office hours and/or attend the next hearing.
- (7) Following the October 29, 2015, public hearing staff contacted all parties in attendance at previous hearings for this case and it was determined that a hearing on January 28th would not work. Staff requested availability from the same parties, and all indicated that March 24, 2016 would be feasible.
- (8) A revised Site Plan was received from Andrew Fell Architecture on March 7, 2016. Because of the deficiencies with the revised Site Plan received March 7, 2016, staff cannot determine how many parking spaces the subject property can feasibly contain, and thus cannot determine if 34 additional parking spaces in the proposed north lot will be sufficient to comply with minimum parking requirements.
- (9) A proposed north parking lot site plan with 34 proposed parking spaces created by Eric Hewitt of Phoenix Consulting Engineers was received on March 8, 2016.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (2) "CANOPY" is a non-retractable roof-like STRUCTURE of either a permanent or non-permanent nature which projects from the wall of a STRUCTURE, is supported above the surface of the ground by poles, posts, columns, beams, girders, or other similar framework attached to the ground, and overhangs or covers the public way or adjacent YARD or COURT.

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- (3) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (4) "FRONTAGE" is that portion of a LOT abutting a STREET or ALLEY.
- (5) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (6) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (7) "LOT LINES" are the lines bounding a LOT.
- (8) "PARKING GARAGE or LOT" is a LOT, COURT, YARD, or portion thereof used for the parking of vehicles containing one or more PARKING SPACES together with means of ACCESS to a public way.
- (9) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (10) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT -OF -WAY line.
- (11) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (12) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (13) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (14) "WAREHOUSE" is a BUILDING within which raw materials, goods, or equipment including vehicles, are kept and wherein no manufacturing, assembly, construction, repair, sales or other activity is performed except for the packaging of goods and materials for shipment.
- (15) "WAREHOUSE, SELF-STORAGE" is a BUILDING or BUILDINGS containing multiple, independently accessible spaces where raw materials, goods or

equipment, or personal goods including personal vehicles, are kept and wherein no other commercial or industrial activity occurs.

- (16) "YARD" is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (17) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each but a STREET RIGHT-OF-WAY both such YARDS shall be classified as front YARDS.
- B. The I-1, Light Industry DISTRICT is established to provide for storage and manufacturing USES not normally creating a nuisance discernible beyond its PROPERTY lines.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
- a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9.D.2.
- D. Paragraph 7.4.1.C.2. requires that the number of PARKING SPACES for commercial establishments shall be the sum of the individual requirements of the various individual

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establishments computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.

- E. Paragraph 7.4.1.C.3.b.ii. requires for outdoor areas, including non-permanent STRUCTURES, used for exhibit, educational, entertainment, recreational, or other purpose involving assemblage of patrons, one PARKING SPACE per three patrons based on the estimated number of patrons during peak attendance on a given day during said USE is in operation.
- F. Paragraph 7.4.1.C.3.e. requires ESTABLISHMENTS other than specified above: one such PARKING SPACE for every 200 square feet of floor area or portion thereof.
- G. Regarding the parking requirements for a self-storage warehouse:
- (1) The Zoning Ordinance does not clearly establish parking requirements for self-storage warehouses. Parking requirements for “commercial ESTABLISHMENTS” are found in paragraph 7.4.1.C. of the Ordinance. Self-storage warehouse is not listed in subparagraph 7.4.1.C.3. and therefore a self-storage warehouse could be considered as an “ESTABLISHMENTS other than specified above” in subparagraph 7.4.1.C.3.e., in which case the requirement is one parking space for every 200 square feet of floor area.
 - (2) However, a self-storage warehouse is very similar to the warehouses found in modern office & light industry developments and previous Zoning Administrators have used the parking requirement for industrial uses that is found in paragraph 7.4.1.D. for those warehouses and also for self-storage warehouses. Paragraph 7.4.1.D. requires one parking space per each three employees based on the maximum number of employees during a work period. When applied to self-storage warehouses that standard that has been administered as “one space per three self-storage warehouse units” and that is the standard used to determine the required parking spaces for the self-storage warehouse portion of the subject property. The minimum required parking for the office portion is still 7.4.1.C.3.e., which is one parking space for every 200 square feet of floor area.
- H. Paragraph 7.4.1.D.1. requires for industrial uses that one space shall be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
- I. As per a letter sent by staff to Mr. Frazier on September 17, 2015, staff has calculated the following 58 minimum required parking spaces based on the Revised Site Plan received March 30, 2015, which is a decrease from the 67 spaces staff originally estimated:
- (1) Required parking spaces for 4,950 square feet of office space in the west wing (less 153 square feet for two restrooms as per ZUPA #351-02-03) at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.e.) equals 24 spaces.

- (2) Required parking spaces for 53 self-storage units (all on ground floor) if required at one parking space per 3 self-storage units equals 18 spaces.
- (3) Required parking spaces for company storage and garage spaces if required at one per each 3 employees (as per Zoning Ordinance 7.4.1D.1.) equals 1 space.
- (4) Required parking spaces for visitors and company vehicles are assumed to be included in the parking for the office space.
- (5) Required parking spaces for the 15' x 30' (450 square feet) upstairs Frazier properties executive office lounge at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.e.) equals 3 spaces.
- (6) Required parking spaces for the 25' x 95' (2,375 square feet) Silver Back Barrel Club (strength conditioning and rehabilitation space) at one parking space per 200 square feet (as per Zoning Ordinance 7.4.1 C.3.b.i.) equals 12 spaces.

J. Based on the revised Site Plan from Andrew Fell received March 7, 2016, there are 11 storage units upstairs in the middle building. It is not clear if these are existing or proposed, but this use will require 4 parking spaces in addition to the 58 calculated above.

K. Minimum FRONT SETBACK in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 55 feet.

L. Minimum FRONT YARD in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 25 feet.

M. Minimum parking from the front property line in the I-1 Light Industry District is established in section 7.4.1 of the Zoning Ordinance as 10 feet.

N. All required off-street parking spaces must be located on the same lot or tract of land as the use served according to section 7.4.1 of the Zoning Ordinance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

- 7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application, **“Original plans do not allow but two 5 foot by 10 foot slabs thus limiting HCP and general accessibility to various entry and exit points. Covered porch protects sidewalk and entry points from environmental elements that could cause them to be hazardous, while improving esthetic view of the neighborhood.”**
 - B. Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces:

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- (1) There appears to be no additional area on the subject property for more parking spaces. The area surrounding the existing buildings is not adequate to accommodate any significant parking because of the minimum separation requirement between the property line and a parking space. A Variance from the minimum separation could be requested, but it would still not add enough parking on-site.
- (2) The 2,664 square feet “warehouse” shown in the Site Plan dated July 17, 2014 is a bus garage that was added for the former LEX use and it has never been authorized by Zoning Use Permit. The “warehouse” occupies land area that was previously used for a loading berth and six parking spaces. The Revised Site Plan received on March 30, 2015 indicates this area as a “garage” that totals 2,805 square feet. The revised Site Plan received on March 8, 2016 indicates this area as 9 parking spaces with 12 feet of clearance to access those spaces. On March 8, 2016, Mr. Frazier responded via email with the following: “I want to keep garage and move Bud’s Tree Service inside garage, which is big enough to hold his vehicles. We have not done this, we await your approval.”
- (3) Testimony by adjacent landowners and one business owner who rents space in the subject building indicates that not all parking spaces on the subject property are reliably available for parking due primarily to inadequate access that is quite often blocked (see Section 11.F. of this revised Summary of Evidence dated 3/16/16).
- (4) Adjacent landowners have testified that vehicles parking on the west side of the subject property quite often park over the public sidewalk (see Section 11.F. of this revised Summary of Evidence dated 3/16/16).
- (5) Mr. Frazier seeks to purchase approximately .3 acres from the property owner to the north in order to provide 34 additional parking spaces. That proposed lot is within the City of Champaign and the parking design has received preliminary approval from the City. He plans to annex the subject property to the City of Champaign.
 - a. Susan Chavarria sent Mr. Frazier an email on October 13, 2015 which specified recommendations regarding the purchase of the additional parking area (see Attachment H to Supplemental Memo #4).
 - b. Susan Chavarria sent Mr. Frazier an email on October 20, 2015 which specified next steps required before the purchase and possible annexation to the City could occur (see Attachment H to Supplemental Memo #4).
 - c. Supplemental Memo #3 dated October 22, 2015 was prepared for the October 29, 2015 ZBA meeting and provided a status update about parking requirements, the potential purchase of additional parking area north of the subject property, and next steps the petitioner would need to take (see Attachment I to Supplemental Memo #4)

(6) Because of the deficiencies with the revised Site Plan received March 7, 2016, staff cannot determine how many parking spaces the subject property can feasibly contain, and thus cannot determine if 34 additional parking spaces will be sufficient to comply with minimum parking requirements.

- C. Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet:
- (1) The Petitioner, without a Zoning Use Permit, constructed a five foot wide covered porch over a sidewalk on the west side of the existing offices and sales room. Without this covered porch, the front yard would be 25 feet and the setback from the street centerline would be 55 feet, both compliant with the Zoning Ordinance.
- D. Regarding Part C of the Variance, for parking 0 feet from the front property line in lieu of the minimum required 10 feet:
- (1) The existing parking lot on the west side of the offices was constructed in a manner different from the approved site plan from Zoning Use Permit #351-02-03. That approved site plan included five parallel spaces adjacent to the offices, with no 5 foot covered walkway between them. Had they been constructed as per the approved site plan and without the walkway, there would have been 15 feet of space between the parallel parking and the front property line, thus requiring no variance.
- (2) At the September 10, 2015 ZBA meeting:
- a. Regarding the curb on Tiffany Court that Mr. Frazier removed without permission:
- (a) Mr. Keith Padgett stated that Champaign Township needs the curb replaced and he hopes that this is involved in the Board's final decision. He said that the curb has been cut and people drive across it all day long. He said that he does wonder what damages are being done to utilities in this area that do not have a concrete surface over the top for protection. He said that no damage may be occurring, but if there is damage, who will be held responsible for that damage.
- (b) Mr. Frazier said that he admits that he did cut the curb and if the rules indicate that the curbs must be replaced and the original parallel parking scheme has to be followed then he will obviously do that. He said that a better alternative for parking would be if he purchased that area rather than leasing it but he must know if purchasing that property is acceptable by the Board.
- (3) The revised Site Plan received March 7, 2016 indicates six parallel parking spaces along the covered walkway, which would negate the need for Part C of the Variance.

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- E. Regarding Part D of the Variance, for allowing at least 32 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:
- (1) The subject property does not have sufficient area for the required minimum parking spaces.
 - (2) On March 1, 2015, Mr. Frazier leased parking space from Isaacs Properties on adjacent property 306 Tiffany Court. The gravel area on the southwest corner of the Isaacs property holds 32 vehicles according to Mr. Frazier. The contract ends on February 28, 2016, but can be extended at Mr. Frazier's option until February 28, 2018.
 - (3) The leased parking is within the City of Champaign corporate limits. Champaign Planning Department was consulted to see if a long-term parking lease on a property within the City of Champaign would require subdivision approval by the City in addition to any applicable County regulations. Rob Kowalski, Assistant Director of Planning and Development for the City of Champaign, responded in an email received May 1, 2015 that City subdivision approval would not be necessary if Mr. Frazier decides to lease spaces from his neighbor; however, the neighbor would still have to meet City regulations for parking (see Attachment F from Supplemental Memo 1 dated May 6, 2015). Rob Kowalski sent a follow-up email on June 2, 2015 (Attachment B of this memo) indicating that the owner to the north has sufficient parking for their own use in addition to what they are leasing to Mr. Frazier. He recommended adding a Special Condition that any required parking provided off-site and in the City shall be in compliance with the requirements of the City of Champaign Zoning Ordinance for off-street parking, including parking on an improved surface. Staff has added this proposed Special Condition to this revised Summary of Evidence.
 - (4) At the September 10, 2015 ZBA meeting:
 - a. Regarding parking spaces for the existing and proposed uses on the subject property:
 - (a) Mr. Steve Koester testified that his business address is located at the Stahly Industrial Park at 305 Tiffany Court and he jointly owns 314 Tiffany Court which is located on the south side of Mr. Frazier's property. He said that he did have a discussion with Mr. Isaacs who is the person who leased Mr. Frazier the 19 spaces that were previously discussed at the hearing and Mr. Isaacs indicated that he did cancel the lease on the 19 parking spaces.
 - (b) Mr. Frazier testified that the lease is good for six months and the check has already been approved and paid for in cash therefore the lease is enforced for six months. He said that if after six months the landlord decides to not renew the lease then that is his decision. He stated that the payments are made for six months as he has the

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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.

- (c) Mr. Hall stated that the lease agreement states the following: "The Lessee agrees to pay as rent for said premises the sum of \$1,500 per year beginning on the 1st day of March, 2015 to the 28th day of February, 2016." He asked Mr. Frazier if there is another agreement which allows him to pay for this lease in six month terms.
- (d) Ms. Griest stated that the lease does state that it begins on March 1, 2015 and today's date is September 10th therefore the lease is currently in default.
- (e) Mr. Frazier said that it is possible to make the north area accessible and he can talk to the architect about that possibility. Mr. Frazier stated that there are cases when there have been vehicles parked there and as far as access through the neighbor's property then the answer would be yes. Mr. Frazier stated that he is willing to work with an architect to make sure that the property is in compliance with the rules.
- (f) Regarding the unpermitted bus garage that may be removed in order to reduce required the parking minimum, Mr. Frazier stated that he had built a garage for LEX buses for when LEX was in business and that garage is currently vacant. He said that he has already taken half of the garage down and it is not closed in due to the pending decision that this Board will make. He said that he is comfortable taking the rest of the building down and going back to the original building that was granted over 20 years ago by Champaign County. He said that if we are talking about a simple wooden structure with some metal on the roof then he is willing to remove it.

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

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application, **"Adhering to strict letter of provision could limit gainful earnings of rental space, by limiting accessibility of patrons of Frazier Properties. Without upgrading and maintaining property could affect property value for entire subdivision."**
- B. Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces:

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- (1) Without the proposed Variance, the Petitioner would have to demolish at least 3,000 square feet of existing buildings and/or covered areas ~~and/or vacate all second floor (upstairs) areas~~ to meet the parking requirements.
- C. Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet:
- (1) Without the proposed Variance, the Petitioner would have to demolish the existing porch to meet the setback and front yard requirements, and that would not provide enough area for the required parking spaces.
- D. Regarding Part C of the Variance, for parking 0 feet from the front property line in lieu of the minimum required 10 feet:
- (1) Without the proposed Variance, the Petitioner would have to either provide no adjacent parking for the office tenants and their clients or reconfigure the parking to provide fewer spaces than what is currently available.
- E. Regarding Part D of the 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:
- (1) Without the proposed Variance, the property would have insufficient on-site parking for the current tenants and uses. Tenants and clients would be required to park illegally on Tiffany Court or park without permission on adjacent lots.
- F. The Zoning Ordinance does not clearly establish parking requirements for self-storage warehouses.

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

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

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“With the upgrades, I would say that I have not caused any difficulties or hardships to other properties or myself.”**
 - B. The nearest building on neighboring property is approximately 125 feet from the shared property line to the south.
 - C. At the October 29, 2015 ZBA meeting, the Petitioner did not attend and provided none of the information the ZBA had previously requested that he provide for this meeting. The ZBA members discussed dismissing the case, but instead continued the case to the January 28, 2016 meeting.
 - (1) Mr. Hall stated that the Petitioner has made contact with an engineer for the preparation of the plat. He said that that engineering firm is Hartke Engineering & Surveying.
 - (2) There were 4 people in attendance who desired to provide testimony; without the Petitioner, no testimony could be accepted and they were asked to provide comments to staff during office hours and/or attend the next hearing.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application, **“By granting this variance and permitting upgrades, it will be the final face of construction in the west yard. With the exception of preventive maintenance will be no more need to improve property in that area.”**
 - B. Regarding the requested Variance:
 - (1) Regarding Part A of the Variance, for 48 parking spaces in lieu of the minimum required 58 parking spaces: the requested variance provides 10 fewer parking spaces, equivalent to 82% of the minimum required, for a variance of 18%.
 - (2) Regarding Part B of the Variance, for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet: the requested variance for the setback is 5 feet less, or 91% of the minimum required, for a variance of 9%; the front yard is 5 feet less, or 80% of the minimum required, for a variance of 20%.
 - (3) Regarding Part C of the Variance, for parking 0 feet from the front property line in lieu of the minimum required 10 feet: the requested variance is 100%.

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- (4) Regarding Part D of the 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: the requested variance is for 48 of the 58 required spaces, or 82% of the required spaces, for a variance of 18%.
- C. Regarding Part A of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlie the parking requirements. Presumably the parking space requirements are intended to ensure that employees, customers, and deliverers of goods and services have ample room to park safely in consideration of pedestrians and other roadway users.
- (2) In a memo to the Petitioner dated December 15, 2014, John Hall indicated that “if there are more or less than 3 company vehicles, the number of required spaces will change and if any company vehicles are parked indoors the number of required spaces would be reduced accordingly.”
- (3) Eighteen of the 58 required parking spaces are for use by patrons of the self-storage units. One can reasonably assume that all patrons would rarely enter the property at the same time, which would result in less demand for the available parking spaces.
- D. Regarding Part B of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlie the front setback and front yard requirements. Presumably the front setback and front yard are intended to ensure the following:
- a. Adequate separation from roads.
 - b. Allow adequate area for road expansion and right-of-way acquisition.
 - c. Parking, where applicable.
- (2) The subject property is on a cul-de-sac with generally lower traffic volumes and speed limits than other minor roads. No further right-of-way acquisition is anticipated.
- E. Regarding Part C of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlie prohibiting parking within 10 feet of the front property line. Presumably the parking regulation is intended to ensure the following:
- a. Safer access to and from the property for both road users and clients;
 - b. Adequate room for infrastructure maintenance and expansion.
 - c. At the September 10, 2015 ZBA meeting, neighbor Lloyd Allen distributed photos showing how congested Tiffany Court and the subject property can be with clients, business vehicles, and other traffic (see Attachment F to Supplemental Memo #4). He stated that the buses were there for a good

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period of time and people are always parking in the driveway so anyone else has to use the entrance on the property to the south to travel to the back of the property. He said that the landscaper tenant parks in front of the one building every day and night and he literally has to drive into the drive from the parking lot to the south. He said that someone is always parked on the concrete.

F. Regarding Part D of the Variance:

(1) The Zoning Ordinance does not clearly state the considerations that underlie required on-site parking. Presumably the parking regulation is intended to ensure that there is a clear distinction for each property's parking requirements and available spaces on each property.

a. Because of the deficiencies with the revised Site Plan received March 7, 2016, staff cannot determine how many parking spaces the subject property can feasibly contain, and thus cannot determine if 34 additional parking spaces will be sufficient to comply with minimum parking requirements.

With the 32 spaces rented on the adjacent property, the total number of parking spaces would be 80, which exceeds.

b. If parking perpendicular to the existing building is prohibited, the number of parking spaces provided reduces to 76.

c. The "New Garage" is proposed to include 10 parking spaces but no parking layout has been provided and it seems unlikely that there could actually be 10 parking spaces in that garage and 6 outdoor parking spaces.

d. Testimony in the public hearing has also indicated that parking on the eastern part of the subject property is not always easy to access.

G. The requested variance is not prohibited by the *Zoning Ordinance*.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:

A. The Petitioner has testified on the application: **"Factors that tend to insure that variance will not be injurious to the neighborhood or otherwise to the public health safety or welfare are: 1) We will not be asking for parking spaces to change or impede into public roadway, just move them 5 feet to the west (that still maintains 300 sq. ft. as required and 10 foot setback requirement) and 2) 5 feet dedicated to covered porch will insure safe HCP, general public and patrons accessibility to Frazier Properties."**

B. The Township Highway Commissioner has been notified of this variance and had the following comments:

(1) At the February 12, 2015 public hearing, Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that from sidewalk to sidewalk is the jurisdiction of

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Champaign Township. He is concerned that there has been approximately 100 feet of the barrier curb removed without permission, notice of removal, or granting of permit therefore Champaign Township has lost about 100 feet of barrier curb.

- (2) In an email received April 30, 2015, Mr. Padgett indicated the following:
- a. Champaign Township Road District has no problem with parking spaces on Mr. Frazier's property as long as they do not extend over the pedestrian sidewalk.
 - b. The missing curb and the driving over unprotected utilities in the area between the sidewalk and the street is still an issue. He suggested that six inches of concrete poured in this area would be acceptable.
 - c. He would like to see the Township reimbursed for the replacement of the curb at some time since the Township Road District did not remove it nor did they approve its removal.

(3) At the September 10, 2015 public hearing, Mr. Padgett stated that the downfall has been cut off of the curb but the base and the flag are still there and in order to replace the curb everything has to be torn out so that one solid unit can exist so that when he plows snow the top of the curb isn't broken off.

- C. The Scott Fire Protection District has been notified of this variance but no comments have been received.
- D. City of Champaign Planning Department was consulted to see if a long-term parking lease on a property within the City of Champaign would require subdivision approval by the city in addition to any applicable County regulations. Rob Kowalski, Assistant Director of Planning and Development for the City of Champaign, responded in an email received May 1, 2015 that city subdivision approval would not be necessary if Mr. Frazier decides to lease spaces from his neighbor; however, the neighbor would still have to meet city regulations for parking (see Supplemental Memo 1, Attachment F).
- E. The nearest building on neighboring property is approximately 125 feet from the shared property line.
- F. Several adjacent business owners testified at the February 12, 2015 public hearing:
 - (1) Mr. Lloyd Allen owns the property at 4400 West Springfield Avenue, beside Mr. Frazier's property. He is opposed to approving the variances because of parking concerns, Mr. Frazier cutting sidewalk and curbs out, and removing "No Parking" signs. Mr. Allen submitted photos of parking issues at the hearing, which can be found in Attachment E.
 - (2) Mr. Steve Koester owns 305 Tiffany Court, north of Mr. Frazier's property, and also owns the property along the south side of Mr. Frazier's property with Mr. Caleb Burton. He stated concerns about access to his own property by emergency vehicles, delivery trucks and employees. He also stated that Mr. Frazier's

customers who park on the west side of the property cover the sidewalk and sometimes park in the cul-de-sac, which is a no parking zone. He stated that Mr. Frazier does not have enough land to support what he has going on there. Mr. Koester stated that he has had many cases of people parking on his south lot, south of Mr. Frazier's property, to go to the mini-warehouses and Mr. Frazier's garbage service parks on Mr. Koester's property to dump Mr. Frazier's dumpster. Mr. Koester stated that he just acquired the property to the south of Mr. Frazier's building and the property was really cheap. Mr. Koester stated that the reason why he was able to purchase the property at such a low price was due to the history of Mr. Frazier's property but the property was also available for Mr. Frazier's purchase so that he could expand. Mr. Koester stated that the closing price for the property was \$125,000 and Mr. Frazier's best move would have been to have purchased the property to the south so that he could run the kind of operation that Mr. Frazier proposes because it would have given him adequate area to meet the County's parking requirements and would not need the requested variances. Mr. Koester stated that he will not lease the property to Mr. Frazier.

- (3) Mr. Caleb Burton, whose business is located at 314 Tiffany Court, has concerns about the 10 foot drive Mr. Frazier has for his property. He stated that he has seen vehicles blocking the front yard, making Mr. Frazier's property inaccessible and that Mr. Frazier's clients use Mr. Burton's service entrance daily. Mr. Burton is also concerned about how Mr. Frazier poured concrete that drains south and nothing was done to taper the drainage or direct it to the street therefore it drains onto Mr. Burton's property.
- (4) Mr. Andrew Tunstall operates a chiropractic, exercise and rehabilitation facility in one of the offices at the west end of Mr. Frazier's property. He stated that his clients have complained about the parking. His clients cannot access the area Mr. Frazier identified as overflow parking back by the mini storage units.

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

a. Mr. Tunstall is no longer a tenant at 310 Tiffany Court; his former space is advertised for rent as of March 8, 2016. This will not impact the parking space requirement because the minimum is based on a calculation of office square footage that is not specific to his business type.

G. At the September 10, 2015 public hearing, Mr. Koester, owner of the property south of the subject property and co-owner of the property north of the subject property, stated that he has been frustrated by the use of his property as access for the tenants traveling to the rear of Mr. Frazier's property and he has had discussions with Mr. Frazier about this issue. He said that they have discussed the relocation of the buses and the last time that he knew there were still buses on the property, although Mr. Frazier testified at the previous

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meeting that the buses would be gone within two weeks. Mr. Koester stated he would like to build a fence but the property owner to the north built a very nice fence, which Mr. Koester constructed, and it has been destroyed by Mr. Frazier's tenants, therefore he is sure that any improvements that he makes on that side would suffer the same consequences.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
- A. The Petitioner has testified on the application: **“Upgrades and allowing of variance will provide strong and ensured growth to Stahly subdivision by providing a safe and inviting place for small business to grow and contribute to the local economy.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. **The Petitioner shall maintain the required 58 parking spaces ~~either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department and offsite parking spaces shall be continuously available at all times.~~ Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

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

- B. **The existing and proposed parking plan on the west side of the property results in parked vehicles backing onto Tiffany Court, which is a public safety hazard. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

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- E. Any required parking provided off-site and in the City shall be in compliance with the requirements of the City of Champaign Zoning Ordinance for off-street parking, including parking on an improved surface.

The special condition stated above is to ensure the following:

To ensure that the property is in compliance with both City and County Ordinances.

- F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the property until the petitioner has demonstrated that the property complies with the Illinois Accessibility Code.

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

That the proposed uses meet applicable state requirements for accessibility.

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

12. Photographs handed out by neighbor Lloyd Allen received at the September 10, 2015 hearing
13. Handout of the revised site plan received March 30, 2015
14. Approved minutes from September 10, 2015
15. September 17, 2015 letter to petitioner from Susan Chavarria
16. 10/13/15 and 10/20/15 emails to petitioner from Susan Chavarria
17. Supplemental Memo #3 dated October 22, 2015
18. Approved minutes from October 29, 2015
19. Revised site plan created by Andrew Fell Architecture and Design, received March 7, 2016
20. Email from Eric Hewitt with attachment:
Proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers received March 8, 2016
21. Second email from Eric Hewitt regarding proposed north parking lot received March 8, 2016
22. Email from Robert Frazier received March 8, 2016
23. Revised Summary of Evidence dated March 16, 2016
24. Supplemental Memo #4 dated March 16, 2016, with attachments:
 - A Revised site plan created by Andrew Fell Architecture and Design, received March 7, 2016
 - B Email from Eric Hewitt with attachment:
Proposed north parking lot site plan created by Eric Hewitt/Phoenix Consulting Engineers received March 8, 2016
 - C Second email from Eric Hewitt regarding proposed north parking lot received March 8, 2016
 - D Email from Robert Frazier received March 8, 2016
 - E Approved minutes from September 10, 2015
 - F Approved minutes from October 29, 2015
 - G Photographs handed out by neighbor Lloyd Allen received at the September 10, 2015 hearing
 - H September 17, 2015 letter to petitioner from Susan Chavarria
 - I 10/13/15 and 10/20/15 emails to petitioner from Susan Chavarria
 - J Supplemental memo #3 dated October 22, 2015
 - K Revised Summary of Evidence dated March 16, 2016

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 792-V-14 held on February 12, 2015, May 14, 2015, September 10, 2015, October 29, 2015, and March 24, 2016, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
 - A. The Petitioner shall maintain the required 58 parking spaces ~~either by lease or by~~ purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. ~~If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department and offsite parking spaces shall~~

~~be continuously available at all times.~~ Failure to comply with this special condition will result in enforcement action.

The special condition stated above is to ensure the following:

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

- B. The existing and proposed parking plan on the west side of the property results in parked vehicles backing onto Tiffany Court, which is a public safety hazard. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

- E. Any required parking provided off-site and in the City shall be in compliance with the requirements of the City of Champaign Zoning Ordinance for off-street parking, including parking on an improved surface.

The special condition stated above is to ensure the following:

To ensure that the property is in compliance with both City and County Ordinances.

- F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the property until the petitioner has demonstrated that the property complies with the Illinois Accessibility Code.

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

That the proposed uses meet applicable state requirements for accessibility.

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FINAL DETERMINATION

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

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

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

- A. The Petitioner shall maintain the required 58 parking spaces ~~either by lease or by purchase of adjacent land unless the Zoning Department determines that a different number of spaces are required. If parking spaces are leased, a copy of the signed lease must be provided annually to the Zoning Department and offsite parking spaces shall be continuously available at all times.~~ Failure to comply with this special condition will result in enforcement action.**

The special condition stated above is to ensure the following:

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

- B. The existing and proposed parking plan on the west side of the property results in parked vehicles backing onto Tiffany Court, which is a public safety hazard. No vehicles may park on the west side of the Frazier building that requires them to back onto Tiffany Court except as may be required in emergencies.**

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

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

The special condition stated above is to ensure the following:

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

- E. **Any required parking provided off-site and in the City shall be in compliance with the requirements of the City of Champaign Zoning Ordinance for off-street parking, including parking on an improved surface.**

The special condition stated above is to ensure the following:

To ensure that the property is in compliance with both City and County Ordinances.

- F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the property until the petitioner has demonstrated that the property complies with the Illinois Accessibility Code.**

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

That the proposed uses meet applicable state requirements for accessibility.

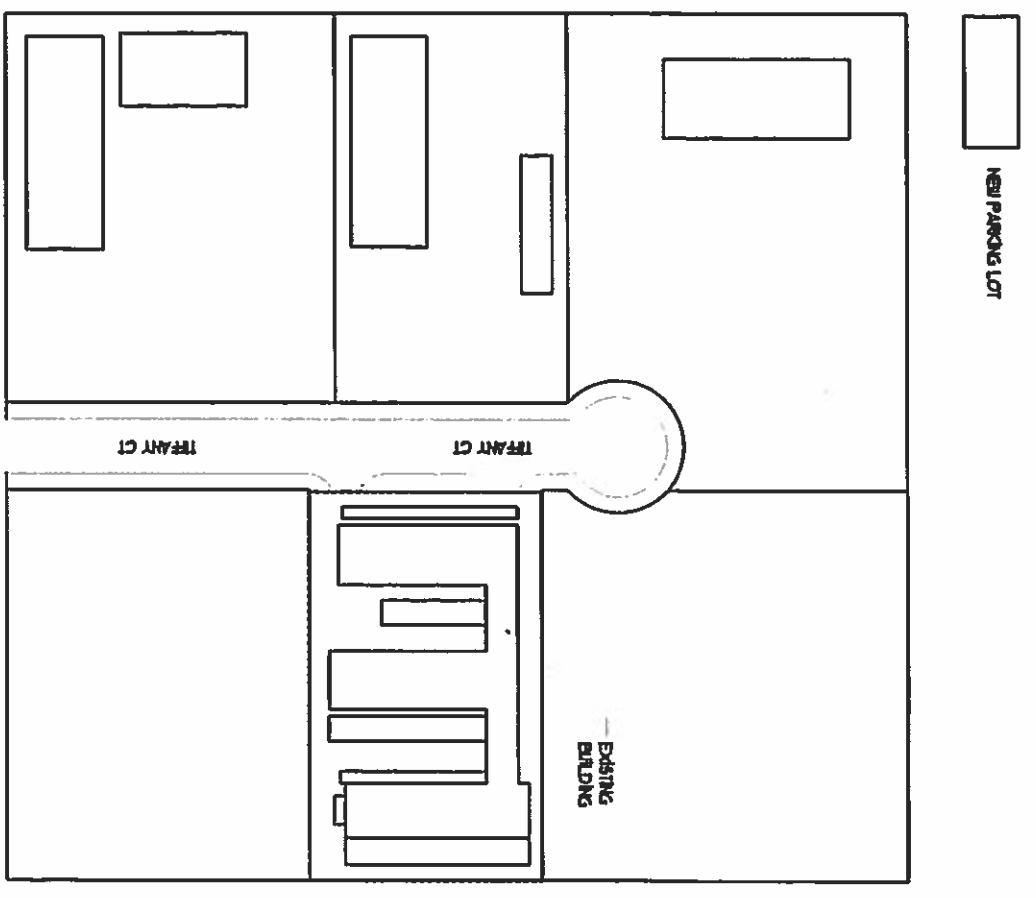
The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

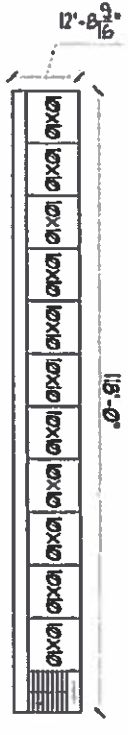
Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

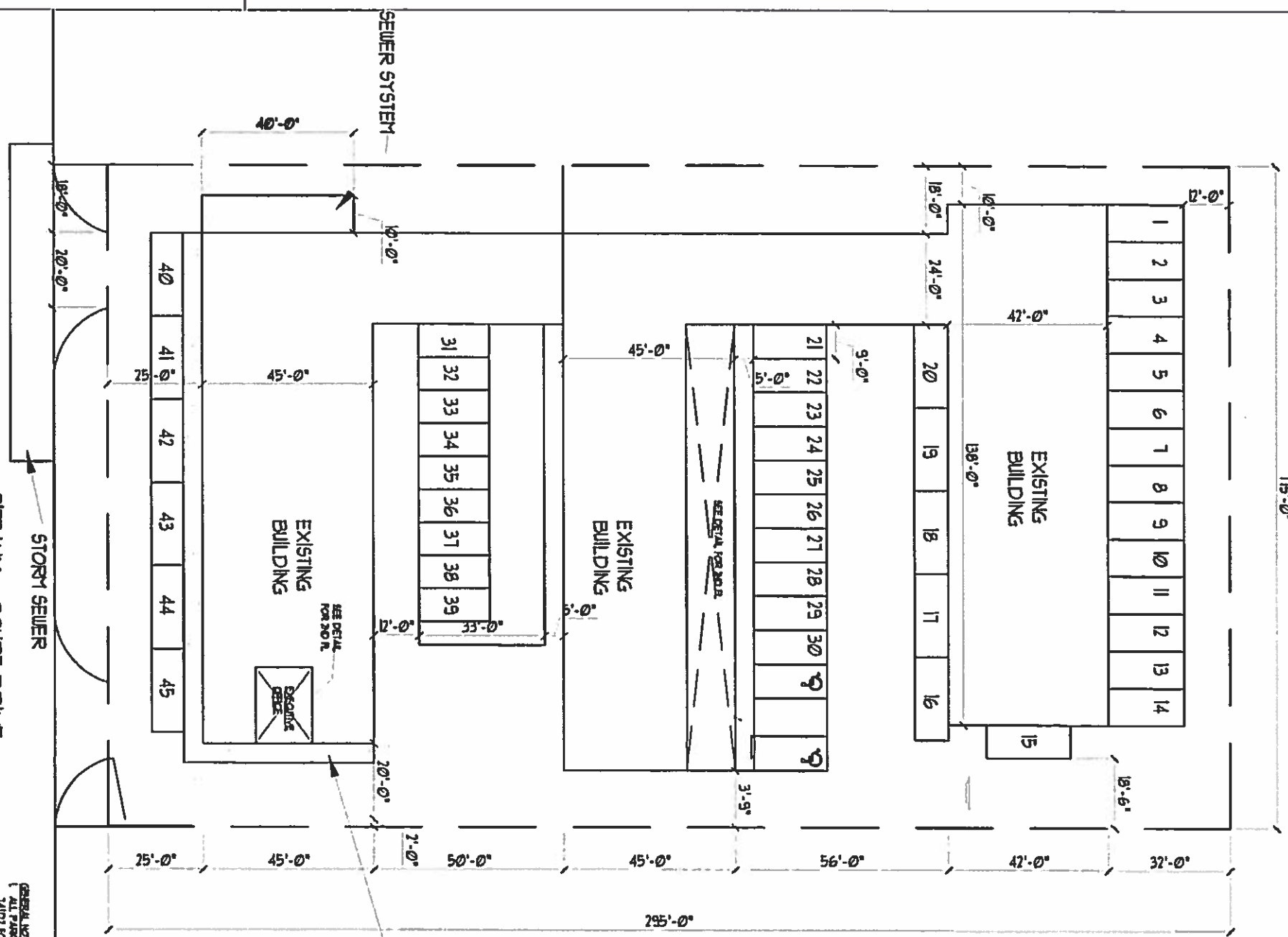
Secretary to the Zoning Board of Appeals
Date



2 LOCATION PLAN
SCALE: 1/4" = 1'-0"
NORTH



4 ADDITIONAL PARTIAL 2ND FLOOR PLAN
SCALE: 1/4" = 1'-0"
NORTH



3 SITE PLAN
SCALE: 1/4" = 1'-0"
NORTH

GENERAL NOTES:
1. ALL PARKING SURFACES MUST MEET REQUIREMENTS OF PARADIGM
VALID FOR ALL REBAR CURBLES MINERAL.

5' WIDE CONCRETE
HANDICAP ACCESS
TO FRONT OFFICE

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED
MAR 07 2016

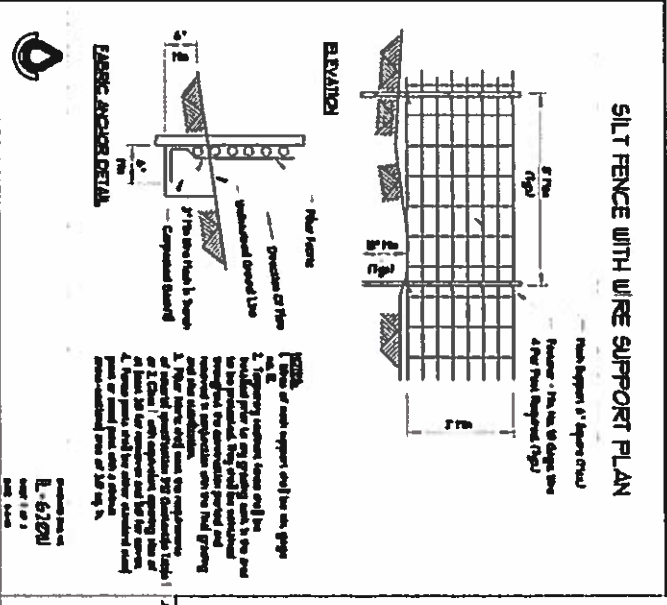
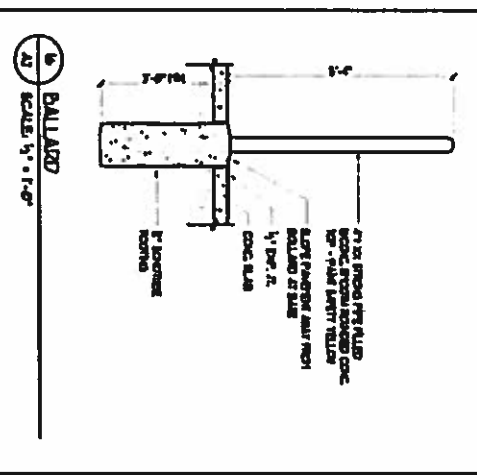
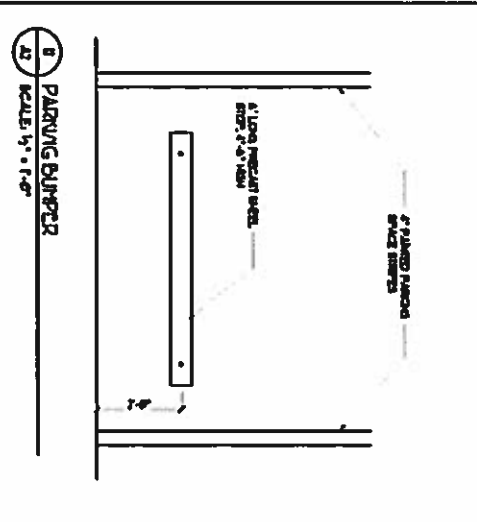
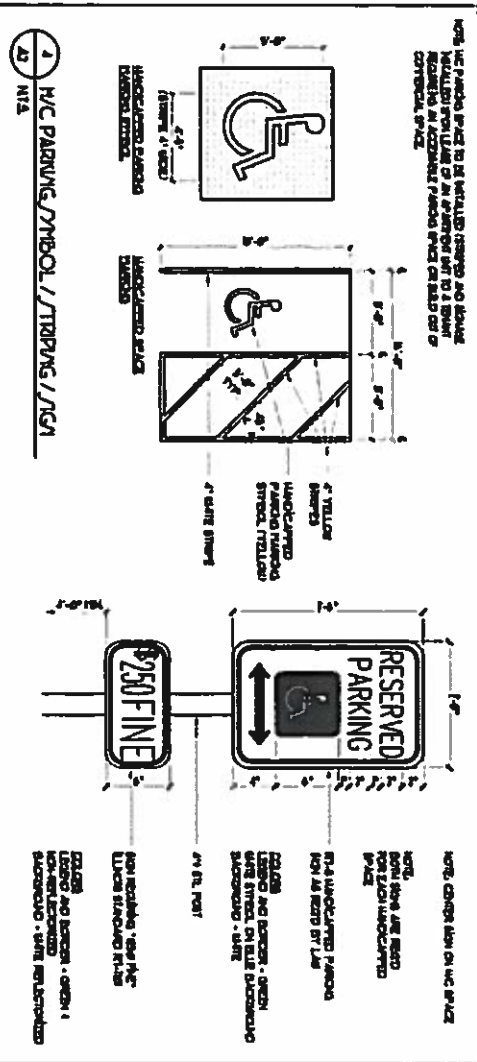
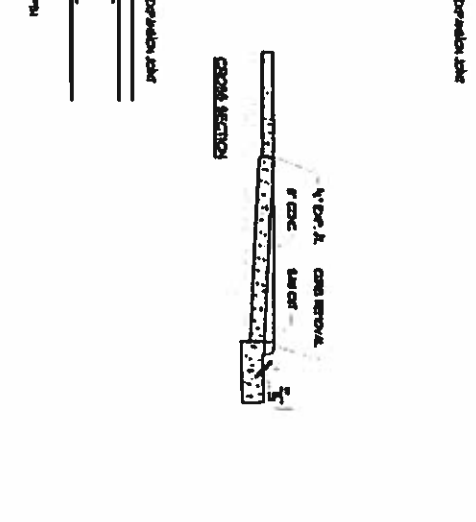
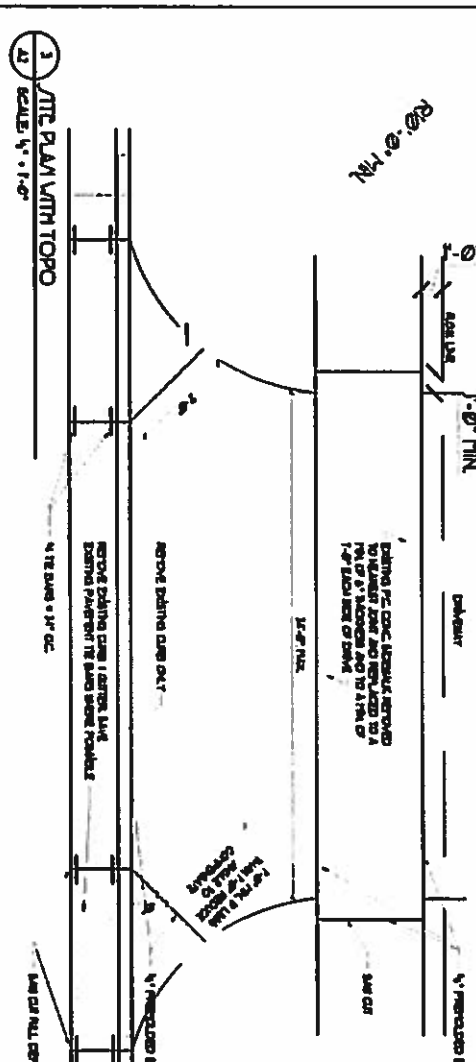
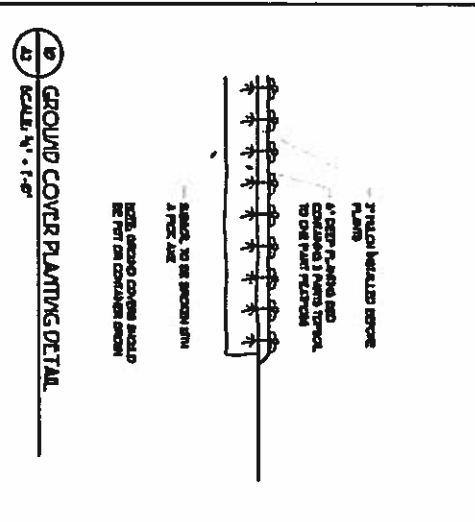
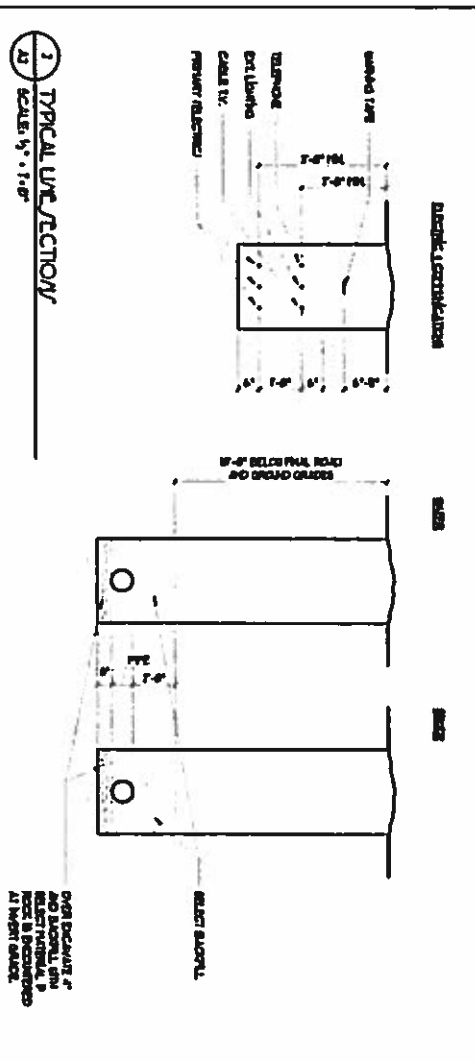
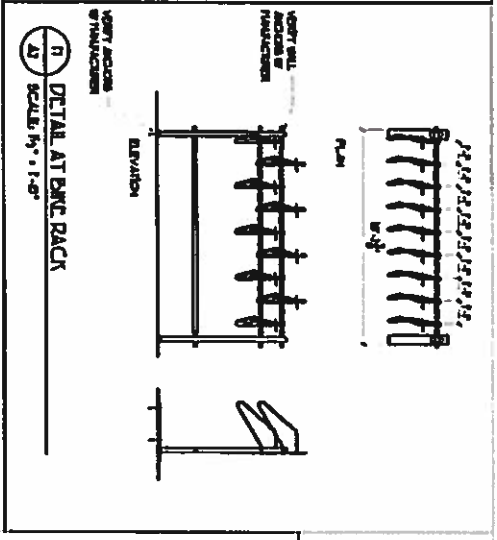
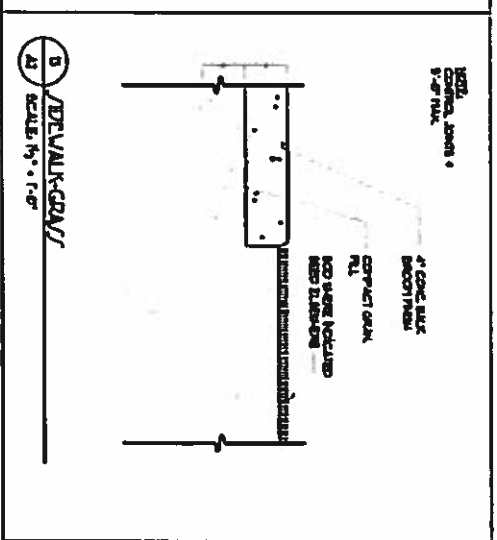
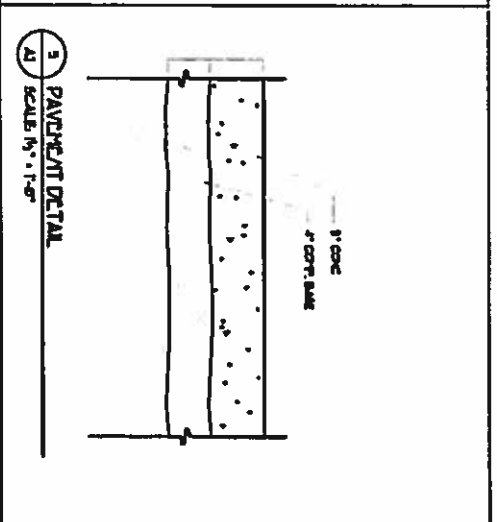
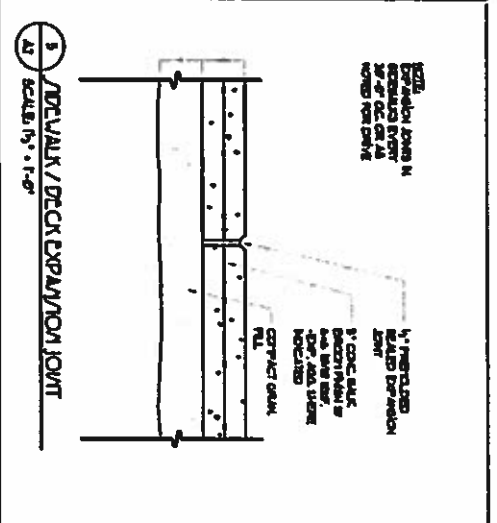
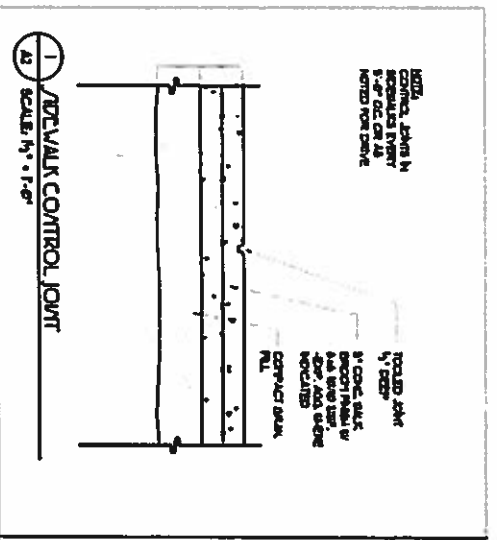
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PROJECT # 16078
DATE: 29JAN16
REVISION

310 TIFFANY COURT
ADDITION
310 TIFFANY COURT
CHAMPAIGN, ILLINOIS 61822

A1



310 TIFFANY COURT
ADDITION
310 TIFFANY COURT
CHAMPAIGN, ILLINOIS 61822

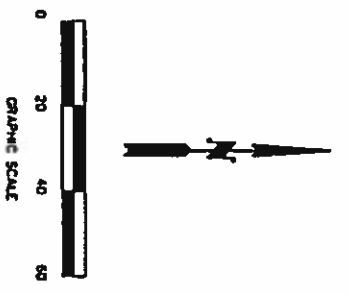
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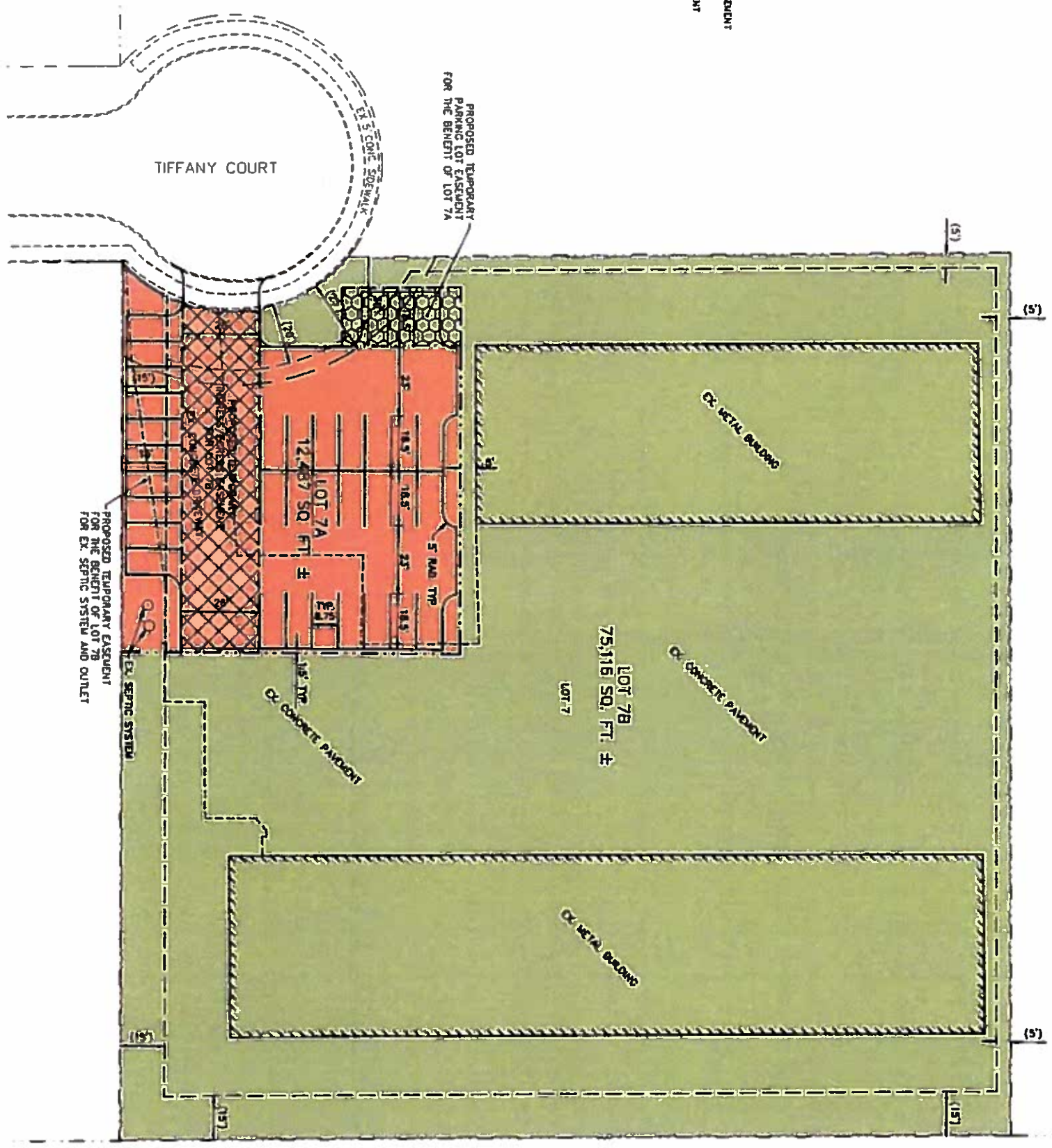
PROJECT # 16078
DATE: 2/24/16
REVISION

A2



LEGEND

	EX. RIGHT-OF-WAY LINE
	EX. LOT LINE
	EX. EASEMENT LINE (PLATTED)
	EX. SETBACK LINE (PLATTED)
	PL. LOT LINE
	PL. EASEMENT LINE
	PL. TEMP. WALKS/CORRES. EASEMENT
	PL. TEMP. PARKING LOT EASEMENT



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PRELIMINARY

<p>PROJECT NO. 155UR050</p> <p style="text-align: center;">1</p> <p>SHEET 1 OF 1</p>	<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	BY	DESCRIPTION													<p>DRAWN BY: EEH DATE: 02/09/16</p> <p>DESIGN BY: EEH DATE: 02/09/16</p> <p>APPROV BY: TLO DATE: 02/09/16</p>	<p>SITE PLAN</p> <p>LOT 7 OF REPLAT OF LOT 5 STAHLY SUBDIVISION CHAMPAIGN, ILLINOIS</p>	<p>Phoenix Consulting Engineers, Ltd. Professional Design Firm No. 184.005835 421 E. Main Street • Mahomet, IL 61853 Ph 217-586-1803 • Fnx 217-586-6757</p>
NO.	DATE	BY	DESCRIPTION																	

Parking Issues

Case 792-V-14
Robert Frazier
Created 09/17/15

RECEIVED
JUL 15 2015
COURT CLERK
Note that all parking surfaces must meet requirements of Paragraph 7.4.1.D.2. for "all weather dustless material".

32' is insufficient width for perpendicular parking; useable room for 7 parallel spaces

2 spaces ok if sufficient room for travel lane and garbage truck without entering property to south

89 Parking Spaces

51' is insufficient width for both parallel and perpendicular parking; useable room for 11 perpendicular spaces including 2 accessible spaces

Handicap Parking 2-Spaces

How many self-storage units and how much area is for owner's storage upstairs? Parking requirements may change depending on this information.

EXISTING upstairs storage 1500 sq ft since 1780

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

With garage removal, useable room for 11 perpendicular spaces, including 2 accessible spaces if necessary; no change to number of spaces

UPSPACE EXISTING OFFICE lounge FOR Product - Furniture Properties - 300 sq ft
NEW 5 ft wide concrete Handicap Access to Front offices

Need professional statement saying that handicap access is in compliance with ADA and IAC (along with bathrooms)

9 PARKING spaces

No room for perpendicular parking; useable room for 5 parallel spaces, removal of the remainder of the original curb, and a rebuilt curb

STORM SEWER

32 - ADDITIONAL PARKING spaces ON TIFFAWY court North side
See Diagram

Summary

Minimum required number of spaces as of 9/17/15: 58 spaces
Parking proposed in March 2015 Revised Site Plan: 83 spaces
Feasible on-site parking based on most recent review: 36 spaces

