MINUTES OF REGULAR MEETING **DRAFT**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
1776 East Washington Street
Urbana, IL 61802

DATE:	**September 26, 2024**	**PLACE:**	**Shields-Carter Meeting Room** **1776 East Washington Street**
TIME:	**6:30 p.m.**		**Urbana, IL 61802**

MEMBERS PRESENT: Brian Andersen, Chris Flesner, Cindy Cunningham, Thaddeus Bates, Lee Roberts

MEMBERS ABSENT: Jim Randol

STAFF PRESENT: John, Hall, Charlie Campo, Jacob Hagman

OTHERS PRESENT: Abby Skube, Damon Skube, Jerry Hay, Diamond Hay, Loren Hill, Rodney Osterbur, William Scott

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1. Call to Order

The meeting was called to order at 6:35 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum was declared present.

Mr. Hall said a temporary chair was needed due to Mr. Elwell's absence. Mr. Andersen nominated Ms. Cunningham, seconded by Mr. Flesner. The vote was carried by voice vote.

Ms. Cunningham informed the audience that anyone wishing to testify for any public hearing tonight must sign the Witness Register.

3. Approval of Minutes – April 25th, 2024

The motion was made by Mr. Roberts and seconded by Mr. Anderson to approve the minutes. Motion passed via voice vote.

4. Correspondence – None

5. Audience participation concerning matters other than cases pending before the Board - None

6. Continued Public Hearings

Case 130-AT-24

Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows regarding Battery Energy Storage Systems (BESS):**

1. **Add the following definitions to Section 3.0 Definitions: BATTERY ENERGY STORAGE MANAGEMENT SYSTEM (BESMS), BATTERY ENERGY STORAGE SYSTEM (BESS), TIER-1 BATTERY ENERGY STORAGE SYSTEMS, TIER-2 BATTERY ENERGY STORAGE SYSTEMS.**

2. **Add new paragraph 4.2.1 C.8. to provide that a BATTERY ENERGY STORAGE SYSTEM may be authorized as a SPECIAL USE Permit in the AG-1 and AG-2 Agriculture Districts as a second PRINCIPAL USE on a LOT with another PRINCIPAL USE.**

3. **Amend Section 5.2 as follows:**
   a. **Add "BATTERY ENERGY STORAGE SYSTEM" to be allowed by Special Use Permit in the AG-1 Agriculture, AG-2 Agriculture, B-1 Rural Trade Center, B-4 General Business, I-1 Light Industry and I-2 Heavy Industry Zoning Districts.**
   b. **Add Footnotes 32 and 33 regarding TIER-1 and TIER-2 requirements.**

4. **Add new Section 6.1.8 TIER-2 BATTERY ENERGY STORAGE SYSTEMS to establish regulations including but not limited to:**
   a. **General standard conditions**
   b. **Minimum lot standards**
   c. **Minimum separations**
   d. **Standard conditions for design and installation**
   e. **Standard conditions to mitigate damage to farmland**
   f. **Standard conditions for use of public streets**
   g. **Standard conditions for coordination with local fire protection district**
   h. **Standard conditions for allowable noise level**
   i. **Standard conditions for endangered species consultation**
   j. **Standard conditions for historic and archaeological resources review**
   k. **Standard conditions for acceptable wildlife impacts**
   l. **Screening and fencing**
   m. **Standard condition for liability insurance**
   n. **Operational standard conditions**
   o. **Standard conditions for Decommissioning and Site Reclamation Plan**
   p. **Complaint hotline**
   q. **Standard conditions for expiration of Special Use Permit**
   r. **Application requirements**

5. **Regarding BATTERY ENERGY STORAGE SYSTEMS fees, revise Section 9 as follows:**
   a. **Add new paragraph 9.3.1 K. to add application fees for a BATTERY ENERGY STORAGE SYSTEMS Zoning Use Permit.**
   b. **Add new subparagraph 9.3.3 B.(9) to add application fees for a BATTERY ENERGY STORAGE SYSTEMS SPECIAL USE permit.**

Mr. Hall said there is no new memo for the case, but progress has been made in researching BESS. Mr. Hall said the County purchased a copy of the NFPA 855 standard for BESS, and it was eye-opening to go through the book. Mr. Hall continued that he has received comments from developers based on what has been read in the document. Mr. Hall requests that the case be continued to December 12, 2024.

Mr. Roberts made the motion to continue the case to December 12, 2024, which was seconded by Mr. Andersen. The motion was passed by voice vote.

7. New Public Hearings

Case 147-V-24

Petitioner: **Jerry & Diamond Hay**

Request: **Authorize a variance for a proposed single-family dwelling with a rear yard of 10 feet in lieu of the minimum required 20 feet in the R-1 Single Family Residence Zoning District per Section 5.3 of the Champaign County Zoning Ordinance.**

Location: **The East 67 feet of Lots 1, 2 and 3 of B.R. Hammer's Addition to the Town of Dewey, in the Northwest Quarter of Section 34, in East Bend Township, with an address of 301 Independence Ave., Dewey.**

Ms. Cunningham informed the audience that anyone wishing to testify in this case must sign the witness register. She reminded the audience that when they sign the witness register, they are signing an oath.

Ms. Cunningham informed the audience that these cases are administrative cases, and as such, the county allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she would ask for a show of hands from those who would like to cross-examine, and each person would be called upon. She said that those who merely cross-examine are not required to sign the witness register but will be asked to clearly state their name before asking any questions. She noted that no new testimony was to be given during the cross-examination. She said that attorneys who have complied with article 7.6 of the ZBA by-laws are exempt from cross-examination.

Diamond Hay of 301 Independence Ave in Dewey, Illinois, approached the microphone. Ms. Hay stated that she was seeking a variance for a single-family dwelling. Ms. Hay said the paperwork stated they were looking for a variance for the rear of the property instead of the front of the property. Ms. Hay said they wanted a continuance to the next available hearing date to get the paperwork sorted out.

Ms. Cunningham entertained the motion to continue the case until October 17th, 2024. The motion was made by Mr. Flesner and seconded by Mr. Roberts. The motion passed via voice vote.

Case 148-V-24

Petitioner: **Damon & Abby Skube**

Request: **Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.**

Location: **Lot 89 of Windsor Park Third Subdivision, in Section 25 of Champaign Township and commonly known as the property with an address of 4 Bloomfield Court, Champaign**

Ms. Cunningham informed the audience that these cases are administrative cases, and as such, the county allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she would ask for a show of hands from those who would like to cross-examine, and each person would be called

upon. She said that those who merely cross-examine are not required to sign the witness register but will be asked to clearly state their name before asking any questions. She noted that no new testimony was to be given during the cross-examination. She said that attorneys who have complied with article 7.6 of the ZBA by-laws are exempt from cross-examination.

Damon and Abby Skube of 4 Bloomfield Court in Champaign, Illinois, approached the microphone. Mr. Skube said they are putting in an in-ground pool and have an existing shed that doesn't meet setback requirements, so they are requesting the variance for the shed. Ms. Cunningham asked if they had any additional information for the Board. Mr. Skube stated they had documentation from the neighbors, and they don't have a problem with the shed's location.

Ms. Cunningham asked if the Board or staff had any questions, and neither had questions for Mr. Skube. Ms. Cunningham entertained a motion to close the witness registry. Mr. Andersen made the motion, which Mr. Roberts seconded. The motion passed by voice vote.

FINDINGS OF FACT for case 148-V-24.

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **148-V-24** held on **September 26, 2024**, 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:

Mr. Andersen said special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the current location of the shed is the most reasonable location to make use of an irregularly shaped lot and avoid being damaged by the natural drainage of the lot, according to the petitioner.

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:

Mr. Bates said that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because without the approval of the proposed variance, the petitioner would have to remove the shed or relocate it at considerable expense, to a less desirable location on the property with a higher risk of water damage.

3. The special conditions, circumstances, hardships, or practical difficulties *{DO/DO NOT}* result from actions of the applicant because:

Mr. Bates said the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the current location of the shed is the most reasonable location to make use of an irregular shaped lot and avoid being damaged by the natural drainage of the lot.

4. The requested variance *{IS/IS NOT}* in harmony with the general purpose and intent of the Ordinance because:

Mr. Anderson said the requested variance IS in harmony with the general purpose and intent of the Ordinance because the requested variance is 20% of the minimum required for a variance of 80%, there is adequate separation to the nearest home, and there is separation to adjacent properties and structures to prevent conflagration and the Windsor Park Fire Protection District has been notified of the requested variance and no comments have been received.

5. The requested variance *{WILL/WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:

Mr. Bates said the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because Relevant jurisdictions were notified of this case, no comments have been received, and the nearest building on adjacent properties is 6 feet away and the nearest dwelling is 20 feet away.

6. The requested variance *{IS/IS NOT}* the minimum variation that will make possible the reasonable use of the land/structures because:

Mr. Bates said the requested variance IS the minimum variance required to allow the shed to remain in the current location.

Ms. Cunningham entertained a motion to adopt the Findings of Facts. Mr. Bates made the motion, which was seconded by Mr. Roberts. The motion passed by voice vote.

Ms. Cunningham entertained a motion to proceed to the Final Determination. Mr. Flesner made the motion, which was seconded by Mr. Andersen. The motion passed by voice vote.

FINAL DETERMINATION for case 148-V-24

Mr. Anderson made the motion, seconded by Mr. Roberts, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C ***HAVE*** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **148-V-24** is hereby ***GRANTED*** to the petitioners, **Damon and Abby Skube**, to authorize the following:

Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.

Roll call vote was as follows:

Andersen – Yes	**Bates – Yes**	**Cunningham – Yes**	**Elwell – Absent**
Flesner – Yes	**Randol – Absent**	**Roberts – Yes**	

Ms. Cunningham congratulated the Petitioners and told them to reach out to the Department of Planning

and Zoning if they have any question.

Case 149-V-24

Petitioner: **Rodney Osterbur**

Request: **Authorize a variance for a proposed 5.026-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Location: **The Northeast 20 acres of the Northeast quarter of Section 7, Township 22 North, Range 14 West of the Second Principal Meridian, in Ogden Township, with an address of 2293 CR 2600E, Ogden**

Ms. Cunningham informed the audience that these cases are administrative cases, and as such, the county allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she would ask for a show of hands from those who would like to cross-examine, and each person would be called upon. She said that those who merely cross-examine are not required to sign the witness register but will be asked to clearly state their name before asking any questions. She noted that no new testimony was to be given during the cross-examination. She said that attorneys who have complied with article 7.6 of the ZBA by-laws are exempt from cross-examination.

William Scott of 123 N. Garrard St. Rantoul, Illinois, approached the microphone. Mr. Scott is the attorney for petitioner Rodney Osterbur. Mr. Scott said in paragraph (A) of their petition that the house and other buildings were built in the late 1970s before the ordinance limiting lot sizes to three acres or less was created. Mr. Scott said the improvements made to the area around the house is more than three acres, which is why they are requesting the variance to allow the sale of the rest of the property found in the survey.

Ms. Cunningham asked if the Board or staff had any questions, and neither had questions for Mr. Scott. Ms. Cunningham entertained a motion to close the witness registry. Mr. Flesner made the motion, which Mr. Roberts seconded. The motion passed by voice vote.

Ms. Cunningham asked for a motion to move to the Findings of Facts. Mr. Flesner made the motion, which Mr. Andersen seconded. The motion passed by voice vote.

FINDINGS OF FACT for case 149-V-24

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **149-V-24** held on **September 26, 2024,** 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:

Mr. Bates said that special conditions and circumstances DO exist that are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the petitioner wants to keep the dwelling and outbuildings separate from the

surrounding farmland. The proposed 5.026-acre lot will provide adequate setbacks for the existing structures as well as retain the existing grass areas and trees.

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:

Mr. Bates said that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because without the proposed variance, the petitioners would not be able to configure the lot lines in a way that keeps the dwelling, accessory buildings, grass area and trees on the lot.

3. The special conditions, circumstances, hardships, or practical difficulties *{DO/DO NOT}* result from actions of the applicant because:

Mr. Andersen said the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because a home and accessory buildings were constructed on the property prior to the adoption of the Champaign County Zoning Ordinance in 1973. The shape and dimensions of the proposed lot are the same as the grass area in 1973**.**

4. The requested variance *{IS/IS NOT}* in harmony with the general purpose and intent of the Ordinance because:

Mr. Andersen said the requested variance IS in harmony with the general purpose and intent of the Ordinance because the petitioner seeks to separate an existing farmstead from the surrounding farm ground and create straight property lines.

5. The requested variance *{WILL/WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:

Mr. Bates said the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the relevant jurisdictions have been notified of this case, and no comments have been received.

6. The requested variance *{IS/IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:

Mr. Andersen said the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because it is the minimum lot size that will provide adequate setbacks for existing structures and encompass the existing grass area and trees while creating straight property lines.

Ms. Cunningham entertained a motion to adopt the Findings of Facts. Mr. Roberts made the motion, which was seconded by Mr. Flesner. The motion passed by voice vote.

Ms. Cunningham entertained a motion to proceed to the Final Determination. Mr. Bates made the motion, which was seconded by Mr. Andersen. The motion passed by voice vote.

FINAL DETERMINATION for case 149-V-24

Mr. Bates made the motion, seconded by Mr. Andersen that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C ***HAVE*** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **149-V-24** is hereby ***GRANTED*** to the petitioner, **Rodney Osterbur,** to authorize the following:

> **Authorize a variance for a proposed 5.026-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Roll call vote was as follows:

Andersen – Yes	**Bates – Yes**	**Cunningham – Yes**	**Elwell – Absent**
Flesner – Yes	**Randol – Absent**	**Roberts – Yes**	

Ms. Cunningham thanked Mr. Scott and Mr. Osterbur for their time and said to reach out to the Department of Planning & Zoning with any questions.

8. Staff Reports – None

9. Other Business

A. ZBA request for appointment of a new chair

Mr. Hall stated that request for appointment of a new chair was for the Boards consideration. Mr. Hall said that Board could choose to adopt the measure or not, they can make that decision. Mr. Hall said he wanted to make sure that the request was in front of the Board in case they are inclined to make that request.

Mr. Bates asked if there had been any communication with Mr. Elwell. Mr. Hall said that Mr. Elwell did communicate that he didn't think he could make it to any future meetings and should probably resign, but that was all that was communicated. Mr. Flesner said that if Mr. Elwell thinks he should resign the rest of the Board would agree. Mr. Hall said Mr. Elwell can do that if he wants to. Mr. Bates asked if Mr. Elwell intends to come back or implied that he would come back as he has already surpassed the time frame that he was expected to be absent. Mr. Hall said that was correct.

Mr. Hall clarified that asking Mr. Elwell to resign as chair is different from removing him from the Board. Mr. Hall said this motion doesn't involve Mr. Elwell leaving the Board. Mr. Bates asked if this was a long-term appointment of a new chair and that if Mr. Elwell returned that he would resume his role as chair. Mr. Hall said that Mr. Elwell can continue serving on the Board if he returns, but he wouldn't be the chair.

Mr. Bates asked if someone from the current board would be appointed or if Mr. Summers would appoint a new person. Mr. Hall said that there is interest in appointing someone currently on the board. Mr. Bates asked if anyone currently on the Board is interested in accepting the position. Ms. Cunningham said that she has enjoyed her time as interim chair because she finds the work interesting and likes running the ZBA

meetings. Mr. Hall said that Mr. Summers mentioned a letter from the Board would be helpful with this process. Mr. Bates thanked Mr. Hall for writing the letter.

Mr. Andersen made the motion to accept the letter as written, seconded by Mr. Flesner. Ms. Cunningham said before voting on the motion, a special thanks to Mr. Elwell for his time as chair. Ms. Cunningham said that while she wasn't on the board for many of the meetings he ran, she felt he was a competent chair. Ms. Cunningham emphasized that this motion was not based on Mr. Elwell's ability as chair but based on his availability going forward.

Mr. Bates asked if this motion would also appoint Ms. Cunningham to the chair position. Ms. Cunningham said that isn't what the letter is asking, but that she would accept the appointment if Mr. Summers offered it to her.

Ms. Cunningham addressed the motion of Mr. Summers appointing a new chair. The motion passed via voice vote.

B. Review of the Docket

Mr. Andersen said that his attendance for the October 17 meet was in question, but he could make it work if he was needed for quorum. Mr. Flesner said that his son's baseball season is now over, but harvest is coming up and might impact his attendance, but if it rains on a day of a Board meeting, he will be in attendance. Mr. Hall asked for clarification on how many weeks harvest would take. Mr. Flesner said that depending on rain, harvest could take 2 to 4 weeks to complete and last year it took 17 days.

Ms. Cunningham asked when case 144-S-24 was scheduled for its hearing. Mr. Hall said it has been scheduled for November 14, 2024, which is after harvest should be done.

Mr. Andersen motioned to adjourn the meeting, which was seconded by Mr. Flesner. The motioned passed via voice vote.

10. Adjournment – 7:07 pm