

**MINUTES OF REGULAR MEETING**

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**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

1776 E. Washington Street  
Urbana, IL 61801

**DATE:** April 28, 2005

**PLACE:** 1776 East Washington Street  
Meeting Room 1

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

**Urbana, IL 61802**

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**MEMBERS PRESENT:** Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

**MEMBERS ABSENT :** None

**STAFF PRESENT :** John Hall, Jeffrey Roseman, Connie Berry

**OTHERS PRESENT :** Tommy Cafcas, JoAnn Wozniak, Louis Wozniak, Victoria Roberts, Philip Hult, Ann Good, Janet Eads, Gary D. Webb, Dean Mayfield, Gail Snowden

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**1. Call to Order**

The meeting was called to order at 7:02 p.m.

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

The roll was called and a quorum declared present.

**3. Correspondence**

None

**4. Approval of Minutes**

**Mr. Bluhm moved, seconded by Mr. Irle to approve the February 03, 2005 and February 17, 2005, minutes as submitted. The motion carried by voice vote.**

**Mr. Irle moved, seconded by Mr. Goldenstein to rearrange the agenda and hear Case 485-FV-04: Mayfield Builders prior to Case 462-V-04: Louis and JoAnn Wozniak. The motion carried by voice vote.**

**5. Continued Public Hearing**

**Case 462-V-04 Petitioner: Louis and JoAnn M. Wozniak Request to authorize the construction and use of a dwelling on a lot in the CR-Conservation Recreation Zoning District with the following variances: A. an average lot width of 160 feet instead of the required 200 feet minimum average lot width; and B. that does not abut a public street right of way nor a private accessway but has access to CR 2425N by means of a shared**

**easement of access that is 60 feet wide. Location: The East 5.56 acres of an existing 23.16 acre tract that borders the north side of the Sangamon River and is partially located in the West ½ of the West ½ of the East ½ of the fractional Section 2 of Mahomet Township and also partially located in both the south ½ of the Southwest ¼ of the South ½ of the Southeast ¼ of the Southwest ¼ of Section 35 of Newcomb Township and is commonly known as a residential lot at 401C CR 2425N, Mahomet.**

Mr. Hall distributed a Supplemental Memorandum dated April 28, 2005, for the Board's review. He said that the new memorandum briefly reviews the State's Attorney's opinion of the proposed condition that was included in the Supplemental Memorandum of February 17, 2005, and some minor changes which were included from the Supplemental Memorandum of April 21, 2005. He said that conditional variances are allowed under Illinois law provided that the conditions pertain to the effect of the variation itself. He said that determining the degree to which the conditions imposed actually relate to the variation can be a challenge and in this case relating definitively the effect of this one lot for which this variance is requested to the need for a complete turnaround or any other thing is a legal question and is not simply an engineering question. He said that the State's Attorney cannot review a question like this but during the State's Attorney's review the question was does it seem to be related, and yes it does seem that it is somewhat related but whether it is warranted is the call of the Zoning Board. He said that the Ordinance allows conditional variances. He said that the State's Attorney did note that because the condition must pertain to the effect of the variation itself he recommended that in this instance that if the turnaround were made a condition, the turnaround should be required on Tract B (the property that is the subject of the variance request) but that the Board could grant the petitioner flexibility in placing the turnaround on Tract A if the petitioner so chooses and if a turnaround at that location would still provide the benefits that would be provided on Tract B. He said that the State's Attorney's review did not consider any widening of the pavement but if in the Board's mind that in addition to or instead of a turnaround the pavement requires widening along the shared private lane then the Board should feel free to establish such as a condition. He said that he spoke to John Cooper, Champaign County Assistant Engineer, regarding his concern as to how much gravel paving should be required, where exactly should it be placed and is it providing the benefits that it is meant to provide. He reviewed the Proposed Condition to replace Item 15.A of the Revised Draft Summary of Evidence dated April 21, 2005. He noted that increasing pavement width and providing a turnaround does not make this private drive a public street.

Mr. Irle asked if the engineering analysis is within the same realm as what the road commissioner would accept as a public road.

Mr. Hall stated that he would hope that no road commissioner would accept this as a public road.

Mr. Irle asked if this would be acceptable to the fire protection district in regard to their requirement for height.

Mr. Hall stated that Mr. Wozniak has provided the height requirement for the existing pavement. He said that when the application was submitted Cornbelt Fire Protection only required 10 feet of width but currently they require 20 feet for pavement width and do not indicate a thickness. He said that it is safe to assume that one or two inches of gravel spread out upon compacted earth is not adequate for fire trucks therefore he would recommend that, as a good start, at least 6 inches

of gravel should be provided. He said that if a township highway commissioner accepted this knowing what additional work was necessary and was either prepared to do so or had an agreement that is one thing but there is a lot of other work which must be done to meet public road standards.

Mr. Schroeder stated that since we are dealing with public safety Mr. John Jay specifically stated that the driveway must be wide enough for emergency services vehicles to travel in and out of the area. Mr. Schroeder stated that the we are aware that the one corner is not wide enough therefore a 30 foot pavement should be required. He said that if this is going to be approved then it should be done right for public safety and that an adequate turnaround should be required for emergency service vehicles to maneuver.

Mr. Goldenstein asked how adequate of a turn is required for the corner for emergency vehicles.

Mr. Irle asked what the Board can do about the corner.

Mr. Goldenstein stated that if the road is required to be widened then the corner will also be widened.

Mr. Hall stated that if this variance is granted the Board is granting it with full recognition of the problems at the corner and one of those problems is the vegetation at the corner which is on private property and is not owned by the petitioner. He said that the culvert over the drainageway which feeds the lake is a large culvert and widening the pavement the full length to the County road to a full 20 foot width is a huge undertaking and it may be necessary to replace the culvert.

Mr. Irle stated that this Board cannot do anything to improve the existing conditions other than on this property.

Mr. Hall stated that the homeowners have to maintain the private lane which is to say that they can bring in gravel and repair the lane and he would presume that they can also bring in gravel to make it wider but what they can do individually is very limited.

Ms. Griest informed the audience that she will restrict the testimony to only new information and matters which are relevant to the zoning case and any testimony outside that boundary will be interrupted.

Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet, IL, distributed documentation to the Board dated April 28, 2005, for the Board's review. He said that he would like to address some procedural issues which he would like bring to the Board's attention. He said that at the last meeting the Zoning Board of Appeals agreed to let the Petitioner speak after all of the evidence had been given and the Board members had asked of their questions but this was not what happened therefore the issues which must be covered at tonight's public hearing would not have been necessary had he been given the chance to speak that was promised. He said that there was discussion at the last meeting as to whether this case should be continued or not to allow the State's Attorney an opportunity to review the case. He said that he feels that Mr. Hall and Mr. Roseman coached the ZBA into granting the continuance.

Ms. Griest stated that the ZBA did not take any voting at the last meeting other than to continue

the public hearing which would allow Mr. Wozniak the opportunity to offer further comment. She said that Mr. Roseman is the ZBA's professional council and they do look to Mr. Roseman and Mr. Hall for their professional advice. She informed Mr. Wozniak that the Board is not going to bicker with a Petitioner about procedural issues or interpersonal issues but only issues which deal with the case.

Mr. Wozniak stated that he had previously indicated that the turnaround which had been suggested by Mr. Hall is noted as T/A 3 on the original site plan but the site plan, which is included as Attachment 2 of the distributed documentation dated April 28, 2005, by Mr. Wozniak, indicates the correct location of the proposed turnaround as T/A 2. He said that there were pictures submitted by Ms. Snowden at the February 17, 2005, meeting and he has taken additional pictures of the subject structure and attached to the distributed documentation as Attachment 3, for the Board's review. He said that he had previously testified that he had intentions to only sell the five acre tract because it was an investment made on he and his wife's part but to possibly bring this down to the same property. He said that he if he cannot obtain a variance for Tract B then he would certainly not obtain a variance on the west five acres of Tract A. He said that one of the Board members asked if it was true that Mr. Wozniak would not be able to build on Tract A and Mr. Hall indicated no. Mr. Wozniak stated that Mr. Hall is incorrect because Tract B is separately deeded and the west five acres is not separated from Tract A and if it is subdivided then it falls into the Village of Mahomet's ETJ and this will certainly not go. He said that yes the west five acres of Tract A could be built on but will it, probably not without spending a substantial amount of money to meet the subdivision requirements on a \$100,000 lot. He said that Mr. Plueger stated that he had personally hauled 168 tons of gravel to be placed on the road. Mr. Wozniak stated that Mr. Plueger did not personally haul the gravel but it was brought into the area by a hired truck and the cost of the gravel was divided by some of the landowners of the area. He said that he and his wife were the second to occupy the Trautman Estate and the first were the Keith's which owned Tract 8, now owned by the Franciscos. He said that he and his wife did not object to the other landowner's sale of their properties nor did they object to the construction of their homes or fences, which prevents the Wozniak's rightful use of the lake therefore they are asking that the neighbors not object to their request. He said that Mr. Hult and Ms. Snowden have testified that the existing problem has been festering for over 30 years yet they have only lived on their property for a few years and not 30 years therefore they do not know what has been going on for 30 years.

He said that prior to the purchase of Lot 9, by Mr. Hult and Ms. Snowden the neighbors got along quite well and did not bicker about the road because Ms. Good's husband, at the time, had a gravel turnaround and maintained the road by grading it once a week. He said that Mr. Hult and Ms. Snowden have testified that they object to the additional traffic which will be created by the Wozniak's request but when Mr. Hult and Ms. Snowden purchased the lot they were aware that an easement existed. He said that since Mr. Hult and Ms. Snowden have lived on their property they have continued to encroach and increase their yard until now there is only 23 feet available for the easement. He said that he agrees that it is an unsafe place on the drive but it is out of his hands unless he desires to take Mr. Hult and Ms. Snowden to court to have his easement returned and this is a viable option. He said that when the last load of gravel was delivered Mr. Hult and Ms. Snowden refused to share in the payment for the gravel.

Ms. Griest informed Mr. Wozniak that he is beginning to diverge from the issues which are specific to the zoning case and getting more into the neighborhood issues which would be involved in personal litigation. She requested that he focus the issues which relate to the case.

Mr. Wozniak stated that Mr. Hall made a recommendation to increase the road to 15 feet.

Ms. Griest stated that this is only an option that the Board may consider as a condition because the property does not abut a public road. She said that it is not meant to say that because the neighbor has other conflicts in relation to the road that this condition would resolve those conflicts. She said that there is not false expectation on anyone's part that no matter how wide the road is that all of the conflicts within the neighborhood would be resolved.

Mr. Wozniak stated that he has a very high respect for Mr. Hall's enormous amount of work that he has completed. Mr. Wozniak stated that the road is already 15 feet wide but the grading gives a different appearance. He said that a turnaround does exist and is indicated as T/A 3 on Attachment 2 of Mr. Wozniak's distributed documentation.

Mr. Hall stated that the turnaround which exists appears to be either a very small hammerhead turnaround or a very small cul-de-sac. He said that either way it meets none of the standards.

Mr. Wozniak stated that the existing hammerhead turnaround may not meet the depth standards but perhaps it does meet the width. He said that this was built as a turnaround but has been overgrown with trees because it is never used. He reviewed Mr. John Jay's comments. Mr. Wozniak asked Mr. Hall if the Assistant County Engineer visited the area to personally view the drive or did he only complete his review upon Mr. Hall's recommendations.

Mr. Hall stated that the Assistant County Engineer did not visit the site to view the road.

Mr. Wozniak stated that the road does have a base and it has road pack on top of that base. He said that the center has been graded down to the base and there is no crown present on the road. He said that it does not matter how much gravel is placed on the road without a crown there is no road. He said that he agrees that if this request is approved that he will pay his proportionate share of the cost for construction of the road to meet County standards. He said that when previous permits were issued for homes on the lots in the area no conditions were placed on the approvals regarding maintenance of the road.

Ms. Griest asked Mr. Hall if the Board has the power to force this and subsequent property owners into an agreement to change their easement of access into a public road. She said that if she recalls correctly a previous discussion regarding this subject the answer was, "no."

Mr. Hall stated that it is not in the Board's purview. He said that a condition might be proposed that every time someone asks for a variance that they agree to go along with a public road if it happens. He said that based on testimony which has been received it isn't likely that this will ever happen.

Mr. Wozniak stated that if each time a variance is requested on a lot in the neighborhood and a condition is applied that they must agree to designate the private road to a public road and share in the cost of maintenance to keep the road up to County standards then eventually it will happen.

Mr. Goldenstein stated that perhaps this could be included in the covenants.

Ms. Griest stated that if the private road had been done by today's standards to where it was a public road it would have been done when the subdivision was developed. She said that the Zoning Ordinance no longer permits a subdivision to be developed with access via a right of easement therefore this subdivision as it was platted would not be permitted under today's Ordinance if it were being developed.

Mr. Hall stated that it would not be allowed without a variance on each and every lot. He said that there are very few things in the land use regulatory scheme for which you can't request a waiver or variance. He said that legally this has to be an option so it is difficult to say that this could not absolutely happen. He said that it is very unlikely because as demonstrated in the Summary of Evidence the County Board has done nothing but become more and more restrictive in this regard.

Mr. Steeves stated that a public road would be required.

Mr. Hall stated that he has very little reason to think that they would entertain anything other than that but it could be proposed.

Mr. Wozniak stated that this is a privacy issue and not a road issue with most of the neighbors. He said that in fairness the Petitioners purchased this lot as an investment with certain expectations and had reason to believe that it was a buildable lot although this was not true. He said that there is definite difference between an established development and one that is proposed. He said that in an established development the neighbors can indicate that they want no more lots created and they can lock this in and not be required to bring the area up to standards. He said that it seems unfair to apply the ordinances to a mature development versus a start-up development because the circumstances are different. He said that he does not feel that it is fair that the Petitioners will be required to do all of the improvements to the road when it is road that the other landowners, who also utilize the road, refuse to improve.

Mr. Philip Hult, who resides at 401A CR 2425N, Mahomet, IL, stated that at the February 17<sup>th</sup>, meeting there was a mention of the tall grass which exists at the curve of the shared driveway. He said that in all of the years that they have lived on their property they have never been told that the tall grass was a problem. He said that they have cut down the tall grass and they will maintain them at a safe height. He said that there was also discussion that some stakes were placed along the shared drive and these stakes were placed at this location to keep vehicles from driving further and further onto their property. He said that an untrue statement was stated that he has not shared in the cost of the maintenance of the private drive but they have done so. He said that they have purchased gravel at their own expense and did not request payment from the neighbors. He said that he and Ms. Snowden are not in opposition to a public road and he went to a lot of trouble talking to the neighbors trying to get this achieved but Mr. Wozniak walked out of the meeting before anything could be resolved. He said that they are opposed to the unplanned process of permitting by serial variances. We heard in the last disputed case out there, that is was just one more house, and that it would be the last. Now in this case, Mr. Hall has stated that this would only increase traffic another 10%. The house constructed on the illegally subdivided lot by Armstrong Construction added 15% to the traffic on a per house basis but more like 30% on a vehicle trip basis. He said that the cumulative totals keep increasing and we see no end in sight to the escalating increases of traffic on a private drive that does not meet standards. Mr. Hult read a

verbatim statement dated April 28, 2005, which was distributed to the Board and added as a Document of Record.

Ms. Griest asked the Board if there were questions for Mr. Hult.

Mr. Hall stated that as previously discussed with Mr. Hult, the Department's position is that this variance is not prohibited.

Mr. Irle asked Mr. Hult if he was aware that there were additional lots which were already laid out when he purchased his lot.

Mr. Hult stated that he was not aware that additional lots were laid out. He said that they were told that everything should be five acres or more. He said that they purchased their lot in 1988.

Mr. Irle stated that he would guess that Mr. Trautman surveyed most of the tract at one time during the 70's.

Mr. Hult stated that there was a lot of underhanded stuff going on which probably started most of the problems. He said that one of things that they were not aware of at the time of their purchase is that when you buy into a subdivision which has covenants you would think that all of the covenants would be equal from one property to another but this is not the case.

Mr. Irle stated that the lots were laid out and were for sale yet testimony has been received that no one believed that there would be additional lots developed upon.

Mr. Hult stated that the map that they were shown indicated that there were no other lots surveyed at the time of their purchase. He said that the assessment office indicates Tract A and Tract B as one lot.

Mr. Irle asked Mr. Hult if his impression when he purchased the lot at this location was that they shared access with the neighbors and there was not to be any further development in the subdivision.

Mr. Hult stated that they were prepared to accept that the lot next to them would be developed. He said that there are lots at the very end of the subdivision which Mr. Trautman still owns which may be developed but they were not prepared for the division of Tract A and Tract B, owned by the Wozniaks.

Ms. Griest asked Mr. Hult if he purchased his lot from a realtor and not from the developer.

Mr. Hult stated that he purchased his lot from a realtor. He distributed and read verbatim text from a prepared statement regarding the Findings of Fact and the document was added to the Documents of Record.

Ms. Griest asked the Board if they had any questions for Mr. Hult and there were none.

Ms. Janet Eads, who resides at 401E CR 2425N, Mahomet, IL, stated that she is concerned about a survey that the Board has accepted which was completed in 1975. She said that she owns the

property directly East of Mr. Wozniak's Tract B and is probably the most effected by this request. She said that Mr. Wozniak had removed the property survey markers from the west side of her lot and in many unsuccessful attempts to discover the property markers on the east side of her lot. She said that she called Rex Bradfield, surveyor and he indicated that he came out and found Mr. Wozniak's monument markers and did some measuring and elevation drawings but no actual current survey of Mr. Wozniak's property. She said that Mr. Bradfield showed her the monument markers to the back of the property and showed her a picture of a survey dated 1975. She said that she was concerned with the possibility of someone building a house on Tract B without knowing where the true property lines were located. She said that Mr. Bradfield indicated that without finding the monument markers to the back of the property a true property line could not be found. She said that she is mostly concerned about the property line on the west side of her property and she is very opposed to the requested variance. She said that when she purchased her property she was also told that there was absolutely no way that anyone could build next to her.

Ms. Griest asked the Board if they had any questions for Ms. Eades.

Mr. Irle asked Ms. Eades if she knew what her lot dimensions were.

Ms. Eades stated that her lot is supposed to be 160' across. She said that she bought her home in 1988 from the original owner. She said that she purchased her home from a realtor. Ms. Ann Good, who resides at 401G CR 2425N, Mahomet, IL, stated that she was unable to attend the last meeting because she had pneumonia. She said that she is concerned about the information that Mr. Wozniak has entered into the record. She said that she does admit that she did not first obtain a building permit when she built her home but this matter has been corrected. She said that she did not sell the land which is across the road from the subject property to Mr. Jahn. She said that the land was used as pasture with an existing barn and she sold the land to a gentleman who was also going to use it as a pasture but he subsequently sold the land to Mr. Jahn. She said that the issue of the road maintenance has always been a battle but until this variance was requested the neighborhood has always gotten along. She said that she is concerned with the list of people who have signed the submitted petition indicating that they have no problem with the request variance. She said that the majority of these people don't even live in the Trautman tracts and live on the outside of the subdivision and have no reason to even travel the private lane. She said that she would not object to someone building a home in Thornwood Subdivision and would be glad to sign a petition to confirm that she has no objection but it is totally irrelevant. She said that the property owners do like the subdivision the way it is and the comment has been made that they are trying to keep others out of the subdivision. She said that it sounds pretty harsh but maybe they don't want anymore properties out there because they do like their larger lots and they depend on each other as neighbors including the Wozniaks. She said that the turnaround which Mr. Wozniak has spoken about is across from her house next to the barn which no longer belongs to her. She said that there is no way that a fire truck could turn around at this location. She said that she owns a truck and a car and it would be hard to turn those smaller vehicles around. She said that at the last meeting it was said that she was speaking for Ms. Eades although they are both pretty independent women and they speak for themselves. She said that the opinions that she expressed are her opinions although they may share some of the same. She said that it was said that a majority of the landowners do not oppose the requested variance although she does not believe this at all. She said that Mr. Wozniak stated that due to



Ms. Good's objections he was required to spend \$600 for a survey and Ms. Eades just testified that Mr. Bradfield did not complete such a survey. She said that she is 100% opposed to the requested variance on the subject property.

Ms. Griest asked Ms. Good if the T/A 3 which is indicated on the plan submitted by Mr. Wozniak is in the correct place and is it located on Mr. Trautman's property.

Ms. Good stated that T/A 3, as indicated on the plan, is on property owned by Mr. Trautman. She said that she did not buy her property from a realtor but from a couple who worked at the University of Illinois who placed an advertisement in the newspaper.

Mr. Irle asked Ms. Good if when she built her home in 1978 if she realized that the lot was only 160 feet wide.

Ms. Good stated that yes they realized that the lot was only 160 feet wide. She said that her husband at the time did take care of the private drive and maintained the crown. She said that she did receive a bill from Mr. Plueger requesting reimbursement for the gravel which was placed on the private road. She said that she does agree with Mr. Wozniak that a crown must be maintained on the private road.

Ms. Griest asked Ms. Good how she came into ownership of the Jahn parcel.

Ms. Good stated that she and her husband purchased the lot after they built there home. She said that the lot at the time belonged to Mr. Trautman. She said that the home which was built on the Jahn property was built for someone else and the Plueger property has changed hands many times.

Mr. Irle stated that the lot which the variance is requested for appears to be comparable with her lot and several others.

Ms. Good stated that the lot which they are requesting the variance for seems much smaller. She said that the lot has a very sharp drop off and visually it is very crowded. She said that Ms. Eades will be the most affected landowner by the placement of a home on Tract B.

Ms. Griest asked the audience if there was anyone else in attendance who would like to sign the witness register to present testimony for this case and there were none. She closed the witness register.

Mr. Wozniak stated that Tract B does appear to be smaller but it is 160 feet wide and very deep. He said that the original markers were found by ZAMCO. He said that ZAMCO did not prepare a survey but found the original pins of the original survey paid for Mr. Trautman in 1975. He said that the markers on the front of the property are clearly marked and there is one clearly marked monument marker on the west side of Tract B. He said that Mr. Hult actually placed stakes onto the drive and not the grass and the only reason that it appears that they are located in the grass is because the grass has grown into the gravel because no one is allowed to drive there.

Mr. Irle asked Mr. Wozniak if he had the option to purchase additional ground from Mr. Trautman.

Mr. Wozniak stated that they would have had the opportunity to purchase additional 160 foot lots but declined during their original purchase. He said that in regard to the petition that was submitted the signatures are of those landowners which have a right to the lake and were included because they use the private drive to access the lake.

Ms. Griest stated that those landowners do not have a right of easement unless it is included in their deed. She said that the lake is not relevant to the case nor are the signatures of those landowners.

**Mr. Irle moved, seconded by Mr. Miller for the Board to recess at 9:00 p.m. The motion carried by voice vote.**

**The Board resumed at 9:05 p.m.**

Mr. Irle asked if Tract B has a separate recorded easement.

Mr. Hall stated that Tract B does have a separate recorded easement.

Mr. Irle asked Mr. Hall if Tract B has a separate Permanent Index Number.

Mr. Hall stated that Tract B does not have a separate Permanent Index Number.

Ms. Griest stated that Curt Dietrich, Chief County Assessment Officer, indicated in his letter dated January 24, 2005, that it appears that it originated from the recording of two deeds, 96R9686 & 96R9687, dated October 28, 1975 in Book 1082, Page 531 and Book 1082, Page 533, respectively. It appears that common practice in that office then and now is that when two tracts, A & B in this case, share a common boundary and have the same ownership that they are combined together to become one new unique PIN.

Mr. Hall stated that Item #9.G(2) indicates the following: A review of the Recorder's documents by John Hall, Associate Planner, revealed that the deeds for Tract A (96R9686) and Tract B (96R9687) were both recorded at 3:00 p.m. on June 4, 1976, and this likely contributed to the merging of the two properties into the same parcel for purposes of assigning tax parcel numbers (Permanent Identification Numbers or PINs).

Ms. Griest asked if the turnaround which has been discussed and introduced into evidence this evening as T/A-3, across from Ms. Good's property, is not part of the easement of record. She said that it is not an easement which has been platted anywhere that there would be any requirement for that parcel owner to continue to maintain as a turnaround.

Mr. Hall stated that he cannot say that some part of the turnaround is on the easement but because it is not terribly distance from the area where gravel can be seen it is fair to say that part of it might be within the easement. He said that he does not know if the entire turnaround falls entirely into the easement because he hasn't measured it.

Mr. Irle asked if it would be safe to assume that the recorded 60 foot easement makes no

provision for a turnaround.

Mr. Hult and Mr. Wozniak agreed.

Ms. Griest asked if the two Trautman parcels which have right of access by the easement which remain undeveloped and are not contiguous in the same ownership and are not owned by any adjacent landowner have rights of development and access through this easement without the restriction of appearing before this Board for a variance.

Mr. Hall stated that the tract between Lots 1 and 9 is actually owned jointly with land which fronts on 2425N therefore a permit could not be granted on this lot without a variance and it may require subdivision approval from the Village of Mahomet. He said that he is not familiar with Lot 12 therefore he cannot comment on the requirements for Lot 12.

Mr. Irle asked if there were potentially 8 lots available for development along the easement.

Ms. Griest stated that there are at least 3 potentially lots available for development along the easement. She said that her issue is that if they have different rights then it may influence her perspective on the case. She said that it appears to be unfair for ownership to have been retained by the original developer that would maintain developer rights when the lots were sold as containing rights of development and only because they are in common ownership with adjacent parcels those rights are diminished. She said that since there were parcels sold between other lots with rights of ownership the original developer has retained those rights. She said that this introduces unfair bias and she is uncomfortable with this issue. She said that is an invalid criticism if the Board says that development should not be allowed on this lot because it is going to generate additional traffic on the easement the same should hold true if there are other lots which are available for development which could generate the same amount of traffic without scrutiny.

Mr. Irle stated that there are a lot of issues which cloud the atmosphere and makes the case unclear. He said that in just looking at the facts this is a lot which has the same recorded easement as the other lots and had a different tax parcel number when it was originally purchased but was combined by the County and not by the Petitioner. He said that as an individual he can see approving something that would mitigate the problems but as a Board member he is unsure how far the Board's authority goes and what limits exist. He said that it would be nice if the Board had the authority to help establish a trend to where all of these private lanes are at some point and time will be updated according to their particular township code but at this time the Board does not have that authority.

Ms. Schroeder stated that it appears that the Board has no control over issues like this. He said that it doesn't seem that it has been pinned down as to what the Board's obligation is in regard to the easement.

Mr. Hall stated that the Board's obligation is not written down anywhere but it is what the Board decides in each case based on the evidence and testimony presented. He said that the rules are in place for a reason and the Board can waive them if the Board feels that it is warranted but there are not specific guidelines for when a condition is or is not warranted.

Mr. Goldenstein stated that he agrees with Mr. Irle and Ms. Griest.

Mr. Hall stated that the property between Lot 1 and 9 is not buildable without going through a different level of approval. He said that he does not know if Lot 12 is buildable or not but he does know that the physical conditions of Lot 12 is much lower and may be entirely within the floodplain. He said that this is a private road which has problems which this Board cannot completely fix. He said that the Board must weigh the problems with the road against someone who had made an investment with a certain expectation and now realizes that those expectation cannot be fulfilled.

Mr. Irle stated that it appears that at some point and time all of these lots were intended to be sold and developed upon.

Mr. Hall stated that this is true but there are conditions which apply to this lot which do not apply to the property which is located between Lots 1 and 9.

Ms. Griest stated that the issue of accessing through a private easement applies to the property which is located between Lots 1 and 9 and any condition which would be placed on this particular lot that is before this Board and require that the condition be fulfilled so that the lot can be buildable would not apply to either of the other two lots if they were buildable unless they came back and the same condition was applied by the sitting Board at that time.

Mr. Hall stated that the fact remains that the conditions surrounding Tract B are not the same conditions as between the property located between Lot 1 and 9. He said that the difference is that it is owned jointly with land that fronts on a public road.

Mr. Steeves asked if the property located between Lot 1 and 9 could be sold separately from the adjoining land which fronts the public road.

Mr. Hall stated that this would be a subdivision approval with the Village of Mahomet because it is owned jointly and it is within the Village of Mahomet ETJ and it was created separately . He said that this is the main difference between the subject property and the property located between Lots 1 and 9. He said that Mahomet has come on record as saying that Tract B was created before it came into the Mahomet ETJ so if this Board approves a variance it is a separate lot and no subdivision approval is required from the Village of Mahomet. He said that he cannot address Lot 12 because he has not had time to investigate this lot.

Mr. Goldenstein asked if it would require Mr. Trautman's approval if Mr. Wozniak desired to expand T/A 3. He said that if no one can determine the width of easement then how could the front setbacks be determined for the new home.

Mr. Hall stated that yes expansion of T/A 3 would require Mr. Trautman's approval.

Ms. Griest stated that the pins which are located at the front of the lot would help determine the easement width because from the documentation that has been received it appears that the easement begins on the north side of the pins.

Mr. Irle asked Mr. Hall if something happened to the homes which are located on Lots 4,5 and 6,

would the landowners be required to appear before this Board for approval of the nonconforming lots.

Mr. Hall stated that the lots are not nonconforming because they were created after the adoption of zoning and do not meet the average lot width requirements therefore they would require a variance. He said that the fact that they were granted a permit originally is beside the point and cannot be addressed now but the next time that those lots require a permit they will be required to obtain a variance for average lot width. He said that the lots are nonconforming in regard to access.

Mr. Hall stated that the following items need to be added to the Documents of Record: Item #12: Supplemental Memorandum dated April 28, 2005; Item #13: Petitioner's handout dated April 28, 2005; Item #14: Statement from Philip Hult dated April 28, 2005; and Item #15: Supplemental handout from Philip Hult regarding the Draft Finding of Fact dated April 28, 2005. He said that Item #13 of the Summary of Evidence discusses how the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare. He said that the text under Item #13 discusses why the County has adopted the regulations that it has and why in the past the division of large tract without adequate means of access to public streets has resulted in variances problems. He said that Item #13 discusses problems with access for fire trucks and utility vehicles and examples were given. He said that Item #13 discusses problems with maintenance of the private street and examples were given regarding this location. He said that tonight under Item #13.B(3) discusses that proper drainage improvements and stormwater management measures are difficult to provide and maintain and protect if not in areas easily accessible to the public and testimony has been received from two of the residents regarding drainage problems on the road. He said that the following text should be added to Item #13.B(3) as follows: The shared private lane lacks a crown and there have been incidents of water standing in the center of road.

Ms. Griest stated that there does not appear to be a lot of disagreement among the Petitioners that the road is less than stellar and certainly does not live up to anyone's expectations.

Ms. Good asked Mr. Hall if her home was destroyed by a fire would she be required to obtain a variance before she could rebuild on her property.

Mr. Hall stated that if her home was destroyed by a fire that she would be required to obtain a Zoning Use Permit to rebuild her home but a Zoning Use Permit could not be issued until the lot obtained a variance for lot width. He said that her lot is legally nonconforming in respect to access but not for lot width because it is only 160 feet wide.

Mr. Steeves asked if Lots 4, 5 and 6 would all be required to obtain variances for lot width but not for lot access.

Ms. Griest stated that he was correct. She said that the width issues is created by the width of the lot but the access issue is created by the common ownership.

Mr. Hall stated that Tract A abuts a property that was also owned by the Wozniaks that fronts on Route 47.

Mr. Bluhm stated that Item #13.E(1) indicates that Mr. Bradfield, Illinois Professional Engineer and Illinois Professional Land Surveyor found iron pipes and are noted on Exhibit III of the Surveyor's Report. Mr. Bradfield verifies to the best of his professional knowledge and belief that the found iron pipes are the corner monuments indicated on the July 17, 1975, Plat of Survey at the northwest and northeast corners of the 5.56 acres indicated in the Plat. Mr. Bluhm stated that he is concerned with the statement, "to the best of his professional knowledge and belief."

Mr. Hall stated that there is no way to know if they are the exact monuments that were placed there in 1975 and the only way to this is to start over with a fresh survey and the chances of starting over with a fresh survey and ending up in the exact same place is probably not going to happen. He said that Item #15 of the Summary of Evidence should be reviewed by the Board.

Mr. Irle asked if the condition which is being placed on the private lane is strictly for the width of Tract B or the width of both Tract A and B.

Mr. Hall stated that it is his understanding that these lot owners have the right to maintain the access to their properties that is within the easement therefore if the Board does not have to limit themselves to just the Wozniak property.

Mr. Irle asked if the Board could impose a condition on other landowners.

Mr. Hall stated that only in regard to something that already exists such as the right to have egress.

Ms. Griest stated that all of the landowners share the right to the easement and they could improve the easement at their own expense. She said that if Mr. Wozniak desired to develop on the lot and Ms. Good, Ms. Eads or Mr. Dunlap came to the Board for a variance for width the Board could impose the same condition on those landowners but the remaining landowners would not be subjected to this variance.

Mr. Hall stated that a condition could be attached to a variance on lot width which has something to do with access. He said that in reality the condition could only be placed on this property at this time.

Mr. Bluhm asked if Lots 5, 6 or 7 would require a variance for a construction the condition could not be attached due to lot access because they are nonconforming by right for access. He said that the variance would only be for lot width.

Mr. Hall stated that he has measured gravel in a couple of places which is 15 feet wide from CR 2425N to the corner of the easement to the east.

Mr. Wozniak asked Mr. Hall if he had measured the gravel lane since Mr. Plueger installed new gravel. He said that the gravel area is over 15 feet in width because Mr. Plueger spread the rock everywhere else except for approximately 400 feet. He said that the new gravel begins at his driveway and ends at the end of Tract B.

Mr. Hall stated that he completed his measurements on November 9, 2005.

Mr. Wozniak stated that the gravel has been placed since November 9<sup>th</sup>. He said that the gravel begins at T/A #1 and continues to the road. He said that gravel was not placed to the east of T/A #1 although this area could use some gravel. He said that up to T/A #1 there is adequate width to the road.

Mr. Irle stated that a condition would be imposed to the farthest edge of Tract B to the access of CR 2425N. He said that the condition would state that the minimum average width would be 20 feet from the edge of Tract B all the way to CR 2425N and Mr. Wozniak would be responsible for the cost.

Mr. Hall stated that Mr. Irle was correct and if Mr. Plueger has added additional gravel since his last visit then there would be less cost to Mr. Wozniak.

Ms. Griest stated that this condition would not require Mr. Wozniak to maintain the driveway once he receives his Zoning Use Permit.

Mr. Hall stated that there will be no requirement for continued maintenance.

Mr. Goldenstein stated that public safety and welfare is not being served if the Board ignores the private road.

Ms. Griest stated that Chief Jay indicated that the road is already a hazard and the addition of one more home will not make a difference.

Mr. Irle stated that the burden will be placed on the Petitioner. He said that most of the testimony regarding the requested variance has regarded the private road and its maintenance.

Ms. Griest stated that no matter how much the ZBA restricts the development or lack of development on this property the Board cannot solve the road issue for the long term. She said that if the Board cannot solve this for the long term then the Board has not addressed Chief Jay's issues. She said that the Board can put a Band-Aid on the property which may work for a year or two but after that the same issues will arise because there is no text which addresses maintenance.

Mr. Irle stated that the condition does address the primary concern of the neighbors and the Cornbelt Fire Protection District. He said that the condition is short term but the Board does not have the capability of solving the problem for the long run because it is a private issue. He said that this may be the price of developing the lot and the Petitioner should be questioned if he is willing to accept such a condition in order to have approval for development on the subject property.

Mr. Steeves agreed with Mr. Irle in that the Petitioner should be questioned if he is willing to accept such a condition.

**Mr. Irle moved, seconded by Mr. Goldenstein to continue the April 28, 2005, meeting to**

**10:30 p.m. The motion carried by voice vote.**

Ms. Griest asked Mr. Wozniak if he has read the condition as drafted.

Mr. Wozniak stated that he is not opposed to some upgrade on Tract B frontage which is 160 feet in width and continual onto the turnaround in front of Mr. Plueger's tract. He said that he would be opposed to upgrading the private road to CR 2425N for the benefit of the other residents who are not willing to put in their fair share of the cost.

Ms. JoAnn Wozniak stated that she is not sure if they would have the right to upgrade the easement.

Ms. Griest stated they do have the right to upgrade the easement.

Mr. Miller stated that the easement is not private property.

Ms. Griest stated that the easement does not allow anyone to take that ground as private property and restrict your access across it therefore many of the issues regarding the private lane belongs in private litigation.

Ms. Wozniak stated that they then have the right to tear out the other property owner's fence and vegetation for the required upgrading of the road.

Ms. Griest stated that she would not recommend such a practice and that legal council be sought before taking such action for the upgrade.

Mr. Irle stated that there is a 60 foot easement from the edge of the property to CR 2425N. He said that if the Board decided on an improvement of 20 feet he would suspect that you would use 20 feet of the 60 foot easement for the private lane upgrade.

Ms. Griest stated that the Petitioners may want to request a continuance so that they may investigate the cost of such an upgrade of the private lane.

Mr. Irle stated that a continuance may allow the neighbors an opportunity to share in the cost of such an upgrade which would benefit the area.

Ms. Wozniak stated that she does not feel that this condition is going to solve any of the problems in the area but open up a new rat's nest.

Ms. Griest stated that the Board does not have any false expectation that they can solve the neighbor conflicts which have existed since the lots were originally platted.

Mr. Irle stated that the Board has received an extensive amount of testimony regarding public safety and the Board must address the issue of public safety. He said that a private easement is a private issue between the landowners.

Mr. Wozniak stated that they would decline the offer of a continuance for the case. He said that



he has already consulted an attorney and was informed that they cannot exercise their easement right on those things which have been within the easement for more than 20 years. He said that there are a couple of trees which are on the curve which would impact the easement. He said that in regard to the condition he does agree to place more gravel on the private lane but he will not agree to an outside engineer. He said that the new survey cost \$600 and he could see that a private engineer could easily cost over \$5000 and this is money which could be used to pay for gravel instead. He said that the expectation that he should pay for the entire upgrade is not an option which he and the co-petitioner can accept. He said that he would be more than happy to place a fair amount of rock in front of Tract B to the same level as Mr. Plueger but not to CR 2425N. He thanked the Board for their time.

Ms. Griest read Item #15.B of the Summary of Evidence as follows:

**The Zoning Administrator shall not issue a Zoning Compliance Certificate for Tract B until in addition to the basic requirements for a Zoning Compliance Certificate the following as occurred: (1) Tract B is clearly signed with the appropriate address in plan sight at the driveway entrance to Tract B as required by Cornbelt Fire Protection District Ordinance No. 96B; and (2) access is provided to all improvements on Tract B by means of a paved surface meeting the requirements of Cornbelt Fire Protection District Ordinance No. 96B as Revised on March 2, 2005; to ensure that development of Tract B complies with the requirements of the Cornbelt Fire Protection District.**

Mr. Hall stated that the Item #15.B(2) should be revised to read as follows: access is provided on Tract B to all improvements on Tract B by means of a paved surface meeting the requirements of Cornbelt Fire Protection District Ordinance No. 96B as Revised on March 2, 2005. He reminded the Board that they can continue this case to a later date if necessary.

Mr. Steeves stated that in regard to public safety and the discussions that have taken place so far we have laid out that Condition A is required.

**Mr. Steeves moved, seconded by Mr. Goldenstein to adopt Revised Condition 15.A(1)(a-f) with the insertion of a 20 foot width requirement for the total gravel pavement surface.**

Mr. Hall stated that the ensure statement should be revised to read as follows: To ensure that development of Tract B complies with the requirements of Cornbelt Fire Protection District and there is no deterioration in public safety.

Mr. Wozniak stated that if the Board requires the 20 foot width requirement for the total gravel pavement surface then the bridge and culvert would have to be redone which would cost well over \$10,000 and this is an issue which he and the co-petitioner would need to consider.

Mr. Schroeder stated that his 250 foot asphalt lane cost approximately \$16,000 therefore he does not feel that \$10,000 is a lot of money to redo the bridge and culvert.

Ms. Griest restated the entire motion for clarification: **Mr. Steeves moved, seconded by Mr. Goldenstein to adopt the Revised Condition 15.A(1)(a-f) with the insertion of a 20 foot width requirement for the total gravel pavement surface to ensure that development of Tract B complies with the requirements of Cornbelt Fire Protection District and there is no**

**deterioration in public safety.****The motion carried.**

Ms. Griest requested comments from the Board regarding Item #15.B(2)(a-d).

Mr. Goldenstein stated that he is concerned that if the road is 20 feet wide and there are two emergency vehicles on the road there is no place to turn around.

Mr. Bluhm asked if the hammerhead turnaround could be part of the driveway for Tract B.

Mr. Hall stated that it could be provided that it is never blocked but the more that he thought about this issue he feels that it would be better to have the turnaround as a separate area. He said that the Board can do it either by incorporating it into the driveway for Tract B marked with a "no parking" sign. He said that he is not sure how the Cornbelt Fire Protection District would feel about a hammerhead turnaround but it is obviously better than no turnaround. He said that at the last hearing Chief John Jay said that pavement brought up to public road standards and a turnaround would be a wonderful improvement.

Ms. Wozniak stated that she and her husband are not going to spend this kind of money in order to develop on the subject property therefore there is no need to further discuss this case. She said that they do not desire to withdraw the case but they are not going to spend \$150,000 to improve the road when they would probably only receive \$100,000 for the lot.

Mr. Wozniak thanked the Board for their time but indicated that they would find another venue in order to achieve their goal.

**Mr. Irle moved, seconded by Mr. Miller to adopt Item #15.A(2)(a-d).**

Mr. Hall stated that the Board could condition Item #15.A(2)(a-d) at the discretion of the Cornbelt Fire Protection District.

**Mr. Goldenstein moved, seconded by Mr. Irle to continue the April 28, 2005, meeting to 10:45 p.m. The motion carried by voice vote.**

Ms. Griest stated that since the Cornbelt Fire Protection District does not have a published standard it would be indefensible for them to say one versus the other without passing a standard. She said that they could make a recommendation but it should be at the Petitioner's discretion to go for the most cost effective manner if they chose to do so.

Mr. Goldenstein stated that the most cost effective route may not be adequate for the size of the equipment for the Cornbelt Fire Protection District.

Ms. Griest stated that the Petitioner will be required to do one of the items in #15.A(2)(a) for it to be adequate.

Mr. Hall stated that more than likely the turnaround will be constructed as a hammerhead turnaround.

Mr. Goldenstein stated that he visited the site and once he went pass Lot 7 there was no turnaround.

**The motion carried.**

**Mr. Bluhm moved, seconded by Mr. Steeves to adopt Item #15(B)(1-2). The motion carried by voice vote.**

Mr. Hall stated that the following items should be added to the Documents of Record: Item #12: Supplemental Memorandum dated April 28, 2005; Item #13: Petitioner handout received at the April 28, 2005, meeting; Item #14: Written Statement by Philip Hult received at the April 28, 2005, meeting; and Item #15: Finding of Fact Comments from Philip Hult received at the April 28, 2005, meeting.

**Finding of Fact for Case 462-V-04:**

From the documents of record and the testimony and exhibits received at the public hearing conducted on November 9, 2004, February 17, 2005, and April 28, 2005, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Steeves stated that special conditions and circumstances do exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land and structures elsewhere in the same district because this is a double lot or a lot owned by contiguous land owner. Mr. Irle stated that Tract B was purchased as a separate tract that was surveyed in 1975 and has inadequate width.

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

Mr. Steeves stated 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 if no variance is granted no structure can be built on Tract B.

3. The special conditions, circumstances, hardships or practical difficulties do result from actions of the applicant.

Mr. Steeves stated that the special conditions, circumstances, hardships or practical difficulties do result from the actions of the applicant because the Petitioner bought the land at the same time he bought the other parcel knowing it was only 160 feet in width. Mr. Bluhm stated that at the time the lot was deeded the owner had the ability to make the lot 200 feet wide and a legal lot.

4. The requested variance, subject to the conditions, is in harmony with the general purpose and intent of the Ordinance.

Mr. Steeves stated that the requested variance, subject to the conditions, is in harmony with the general purpose and intent of the Ordinance because if the variance is granted with the conditions the petitioner could build on Tract B and have the same expectations as the owners of Lots 5, 6 and 7.

5. The requested variance, subject to the conditions, will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. Irle stated that the requested variance, subject to the conditions, will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because due to the conditions which should improve public safety and will not be detrimental to public health and welfare.

6. The requested variance is not the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Irle stated that the requested variance is not the minimum variation that will make possible the reasonable use of the land/structure because imposing the condition places an undue disproportional financial hardship on the petitioners.

**Mr. Goldenstein moved, seconded by Mr. Irle to continue the April 28, 2005, meeting to 11:00 p.m. The motion carried by voice vote.**

**Mr. Irle moved, seconded by Mr. Bluhm to adopt the Summary of Evidence, Finding of Fact and Documents of Record as amended. The motion carried by voice vote.**

**Mr. Bluhm moved, seconded by Mr. Goldenstein to close the public hearing for Case 462-V-04: Louis and JoAnn Wozniak. The motion carried by voice vote.**

**Final Determination:**

**Mr. Irle moved, seconded by Mr. Miller 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 of Section 9.1.9C have been met, and pursuant to the authority granted by Section 9.1.6B of the Champaign County Zoning Ordinance, determines that the variances requested in Case 462-V-04 are hereby granted to the petitioners, Louis and JoAnn M. Wozniak, to authorize the construction and use of a dwelling on a lot in the CR, Conservation Recreation Zoning District with the following variances:**

- A. an average lot width of 160 feet instead of the required 200 feet minimum average lot width; and
- B. that does not abut a public street right of way nor a private accessway but has access to CR 2524N by means of a shared easement of access that is 60 feet wide.

and subject to the following conditions:

- A. The Zoning Administrator shall not approve a Zoning Use Permit Application on Tract B unless the following has occurred:
- (1) The existing shared private lane shall have a paved surface that consists of the existing gravel and includes additional gravel pavement as follows:
    - (a) the total gravel pavement surface shall be a minimum average of 20 feet in width; and
    - (b) new gravel pavement shall be a minimum of six inches thick and shall meet the minimum compaction requirements as specified by the Illinois Department of Transportation; and
    - (c) the new gravel pavement shall be cut into the existing shared private lane pavement following generally acceptable good engineering practice and the sub base shall meet the minimum compaction requirements as specified by the Illinois Department of Transportation; and
    - (d) wherever the existing gravel is less than six inches thick where it joins to the new gravel the existing gravel pavement shall be topped with new gravel pavement to achieve a minimum thickness of six inches; and
    - (e) the finished gravel surface shall blend to a uniform surface nearly level with the existing gravel but shall be pitched to provide minimum surface drainage or as otherwise required by good engineering practice; and
    - (f) provided that an Illinois Professional Engineer (other than the applicant) has certified in writing and by means of a drawing that all new and remaining gravel pavement meets the above conditions; and further provided that
    - (g) other additional paving meeting the requirements of Cornbelt Fire Protection District Ordinance No. 96B. As revised on March 2, 2005, may be provided in addition to the gravel.
  - (2) Tract B shall be provided with a turnaround that shall be primarily intended for use by emergency vehicles and that shall not be otherwise available for parking and that shall be as follows:
    - (a) constructed of gravel pavement meeting the same conditions as described above for the new pavement on the shared private lane and said pavement shall be as follows:
      - (1) a rectangular paved surface that is 35 feet long from the edge of the shared gravel drive and 20 feet wide with a 30 feet corner radius on each side where it intersects the shared private drive; or
      - (2) a circular paved surface that is 20 feet wide and has an outer diameter of 80 feet and is connected to and incorporates the shared private drive; and
    - (b) provided that the dimensions, thickness of gravel, and gravel compaction of said turnaround shall also be certified in writing and by means of a drawing by an Illinois Professional Engineer (other than the applicant); and
    - (c) the turnaround shall be posted with a sign indicating "no parking" provided however that

- (d) the turnaround may be provided in an alternative location if the alternative location is determined by the Zoning Administrator to provide the same benefit to the public and is authorized in writing before any construction and provided that the pavement of the shared private drive is widened all the way to the turnaround;

to ensure that development of Tract B complies with the Cornbelt Fire Protection District and there is no deterioration in public safety.

- (B) The Zoning Administrator shall not issue a Zoning Compliance Certificate for Tract B until in addition to the basic requirements for a Zoning Compliance Certificate the following has occurred:
  - (1) Tract B is clearly signed with the appropriate address in plain sight at the driveway entrance to Tract B as required by Cornbelt Fire Protection District Ordinance No. 96B; and
  - (2) access is provided on Tract B to all improvements on Tract B by means of a paved surface meeting the requirements of Cornbelt Fire Protection District Ordinance No. 96B as Revised on March 2, 2005;

to ensure that development of Tract B complies with the requirements of Cornbelt Fire Protection District and there is not deterioration in public safety.

The roll was called:

|            |                 |             |
|------------|-----------------|-------------|
| Bluhm-yes  | Goldenstein-yes | Irle-yes    |
| Miller-yes | Schroeder-yes   | Steeves-yes |
| Griest-yes |                 |             |

6. New Public Hearings

Case 485-FV-04 Petitioner: Mayfield Builders Request to authorize the following variances from the Champaign County Special Flood Hazard Area Ordinance: A. The floor of the garage shall be no more than one foot below the Base Flood Elevation and no more than two feet below the required Flood Protection Elevation instead of the required Flood Protection Elevation which is one foot above the Base Flood Elevation; and B. The garage is 627 square feet in area instead of no more than 500 square feet in area. Location: Lot 35 of The Meadows Subdivision and that is commonly known as the residence at 2502 Appaloosa Lane, Mahomet.

Mr. Hall stated that this is the second Flood Variance that has come to the ZBA since the Special Flood Hazard Ordinance was amended. He said that this property is located within the Meadows Subdivision which is well documented as being in the Special Flood Hazard Area. He said that in this instance the prospective owner wanted to keep the slope of the driveway into the garage at a lower slope therefore keeping the floor lower and requiring a variance. He said that no new information is available for tonight's public hearing therefore the Summary of Evidence remains as it was when it was mailed to the Board.

Mr. Dean Mayfield of Mayfield Builders stated that he had no new information to present to the Board.

Ms. Griest asked the Board if they had any questions for Mr. Mayfield.

Mr. Irle asked Mr. Mayfield why they didn't request the variance in the beginning.

Mr. Mayfield stated that his dad started this project and he did not realize that the prospective owner would want to keep the garage floor lower.

Mr. Bluhm asked Mr. Mayfield if the vents which are to be installed are the flow through vents.

Ms. Hitt, Zoning Officer stated that Mr. Mayfield has already installed 10 vents and there will be four more installed upon approval of this case.

Mr. Hall stated that this home is not located within the floodway.

Mr. Bluhm stated that the garage floor will be one foot below the base elevation.

Mr. Hall stated that everything below the BFE is concrete block so there is no wood below the BFE.

Mr. Goldenstein stated that all of the storage would be required to be kept up high.

Mr. Hall stated that FEMA does not address personal storage but appliances and outlets must be above the BFE.

Mr. Hall asked Mr. Mayfield where the breaker panel would be located.

Mr. Mayfield stated that the breaker panel will be placed high on the wall.

Ms. Griest asked the audience if there was anyone else in attendance who would like to sign the witness register to present testimony for this case and there were none. She closed the witness register.

**Finding of Fact for Case 485-FV-04:**

From the documents of record and the testimony and exhibits received at the public hearing conducted on April 28, 2005, the Zoning Board of Appeals finds that:

1. The development activity can be located outside of the floodplain.

Mr. Bluhm stated that the development activity can be located outside of the floodplain with enough fill but the fill would cause a slope on the driveway too great to be safe during winter conditions.

2. An exceptional hardship would result if the floodplain variance were not granted.

Mr. Irle stated that an exceptional hardship would result if the floodplain variance were not granted because without the variance there would be extensive modification required to the garage door and walk through door. Mr. Bluhm stated that the driveway would be unsafe during winter conditions.

3. The relief requested is the minimum necessary.

Mr. Goldenstein stated that the relief requested is the minimum necessary because it is what it would take to make the driveway safe during winter conditions.

4. The requested floodplain variance will result in no additional threat to public health or safety or creation of a nuisance.

Mr. Bluhm stated that the requested floodplain variance will result in no additional threat to public health or safety or creation of a nuisance because the utilities are located at least 46" above the garage floor and it will not increase any water flow onto adjacent neighbors.

5. The requested floodplain variance will not result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.

Mr. Goldenstein stated that the requested floodplain variance will not result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities because the material being used at or below the BFE are flood resistant and the electrical panels will be located more than 46" above the floor and no additional runoff to the neighbors will be created. Mr. Bluhm stated that one foot below the BFE should not hamper rescue relief efforts.

6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the National Flood Insurance Program.

Mr. Irle stated that the applicant's circumstances are unique and do not establish a pattern inconsistent with the National Flood Insurance Program because of over 1700 Zoning Use Permits authorized this is only the 16<sup>th</sup> Flood Variance.

7. All other required state and federal permits have been obtained.

Mr. Goldenstein stated that all other required stated and federal permits have been obtained.

**Mr. Irle moved, seconded by Mr. Bluhm to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**



Mr. Goldenstein moved, seconded by Mr. Steeves to close the public hearing for Case 485-FV-04. The motion carried by voice vote.

**Final Determination of Case 485-FV-04:**

Mr. Goldenstein moved, seconded by Mr. Bluhm 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 of Section 10 a. of the Special Flood Hazard Areas Ordinance have been met and determines that the Floodplain Variance in Case 485-FV-04, is hereby granted to the petitioners, Harold Mayfield d.b.a. Mayfield Builders, to authorize the following variances from the Champaign County Special Flood Hazard Area Ordinance:

- A. The floor of the garage shall be no more than one foot below the Base Flood Elevation and no more than two feet below the required Flood Protection Elevation instead of at the required Flood Protection Elevation which is one foot above the Base Flood Elevation; and
- B. The garage is 627 square feet in area instead of no more than 500 square feet in area.

The roll was called:

**Goldenstein-yes  
Schroeder-yes  
Griest-yes**

**Irle-yes  
Steeves-yes**

**Miller-yes  
Bluhm-yes**

7. Staff Report

None

8. Other Business

Mr. Hall stated that Mr. Roseman wanted the Board to know that a Facilities Committee Meeting is scheduled for May 02, 2005. He said that the letter which was written to the Facilities Committee from the Zoning Board of Appeals regarding Meeting Room One will be on the agenda and Board members are welcome to attend.

Mr. Goldenstein stated that due to a scheduled surgery he will absent from the next two to four Zoning Board of Appeals meetings.

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

None

10. Adjournment

The meeting adjourned at 10:55 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

