

AS APPROVED JULY 13, 2006

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: March 30, 2006

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

TIME: 6:30 p.m.

Urbana, IL 61802

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

MEMBERS ABSENT : None

STAFF PRESENT : Connie Berry, John Hall, J.R. Knight, Jeffrey Roseman

OTHERS PRESENT : Don Wauthier, Rod Harris, Kevan Parrett, Roger Fredenhagen, Brian Uebelhoer, Darrell Uebelhoer, Gene Bateman, Carolyn Bateman, Bernard Hammel, David Phillippe, Eric Thorsland, Clara Titler, Les Olson, Julie Roth, Larry Wood, Mike Pozniak, Caroline White, Wyatt Muse, Stacy Schmidt, Bob Mitsdarfer

1. Call to Order

The meeting was called to order at 6:37 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

None

5. Continued Public Hearing

Case 523-AT-05 Petitioner: Zoning Administrator. Request to amend Sections 5.2 and 6.1 of the Zoning Ordinance as follows: A. Add "Ethanol manufacturing" and authorize by Special Use Permit with standard conditions in the I-2 Heavy Industry Zoning District and authorize By-Right under certain conditions in the I-2, Heavy Industry Zoning District.

1
2 Mr. Hall introduced Mr. J.R. Knight, Temporary Planner for the Department of Planning and Zoning. He
3 said that Mr. Knight completed most of the foundation work for Case 523-AT-05, therefore it may be more
4 appropriate for Mr. Knight to address any questions that the Board may have regarding this case.
5

6 Mr. Hall distributed a Supplemental Memorandum dated March 30, 2006. He apologized for the extent of
7 new information included in the Supplemental Memorandum but explained that staff was unable to complete
8 this information for the mailing. He said that he has had discussions with municipal planning staffs and
9 municipal protest on the proposed amendment at this time seems almost a certainty. He said that the only
10 way to avoid municipal protest is to make Fuel Ethanol Manufacturing a Special Use Permit in the I-2
11 District at all times and in all locations. He said that it would be an easy change for the Board to eliminate
12 the By Right and always make Fuel Ethanol Manufacturing a Special Use Permit. He said that as a practical
13 matter, most Fuel Ethanol facilities that would come before the Board would require a Special Use Permit
14 therefore making the change in requiring a Special Use Permit at all times would have little practical affect.
15 He said that there are very few locations that would meet the conditions for By-Right but the Board is
16 required to make the decision whether to leave the text in the amendment as it is or to make it a Special Use
17 Permit in I-2, Heavy Industry Zoning, at all times.
18

19 Mr. Irle stated that most Fuel Ethanol Manufacturing Plants would not be able to meet the three proposed
20 conditions.
21

22 Mr. Hall stated that he does not believe that most Fuel Ethanol Manufacturing Plants would be able to meet
23 the three proposed conditions.
24

25 Mr. Hall stated that at the last meeting there was discussion about some requirement of state law that Soil
26 and Water Conservation Districts would have to get involved in assessing the impacts of large groundwater
27 withdrawals. He said that staff researched this issue and discovered that the Water Use Act of 1983, which
28 is included with the Supplemental Memorandum as Attachment A. He said that the Water Use Act of 1983
29 basically established a requirement for the whole State of Illinois that anytime a water well is proposed to
30 withdraw more than 100 thousand gallons of water per day there must be notice given to the local Soil and
31 Water Conservation District before the well is constructed. He said that the Water Use Act of 1983 calls for
32 the local Soil and Water Conservation District to review the impacts of the proposed well in concert with the
33 State Water Survey and the State Geological Survey and the results of that review must be made public
34 within one month. He said that the Water Use Act of 1983 clearly provides for groundwater emergency
35 restrictions that can be established in very limited parts of the State and it identifies geographical areas
36 where that can occur. He said that it is not clear if those restrictions can be made in any part of the State or
37 just those identified limited parts because Champaign County is not included in those limited areas. He said
38 that the Water Use Act of 1983 establishes that if such a well is constructed without notifying the local Soil
39 and Water Conservation District it is a Class C misdemeanor. He said that as a practical matter the Water
40 Use Act of 1983 is not implemented because there was never any funding to the State Surveys to fulfill
41 those requirements and they view this as an unfunded mandate and there are regularly notices of new points
42 of withdraw that exceed 100 thousand gallons per day and there are no reviews conducted on those wells.
43 He said that the County cannot rely on the Water Use Act of 1983. He said that the State Water Survey and
44 the State Geological Survey gave staff a lot of time in discussing this amendment and they were very

1 helpful.

2 He said that there is no given way to assess the impacts of any given well on any given aquifer at this point
3 because the technology does not exist and all that can be done is to assess the impacts of a new well on
4 existing wells that are in the same aquifer. He said that a draft condition has been proposed for Ethanol
5 Plants that will be using wells as a source of water. He said that this condition has been reviewed by both
6 the State Water Survey and the State Geological Survey and has been included in the Supplemental
7 Memorandum dated March 30, 2006, as Attachment B. He read the condition as follows:

8
9 **When a Fuel Ethanol Manufacturing plant is proposed to utilize a private water well to
10 any extent for process water rather than a connected public water supply system the
11 petitioner shall provide a letter report assessing the likely groundwater impacts on
12 adjacent wells of finishing a water well for the proposed ethanol plant. The letter report
13 shall be prepared by either an Illinois Licensed Geologist or and Illinois Professional
14 engineer either of which shall have extensive experience with groundwater hydrology,
15 or other similarly competent groundwater hydrology professional. The County
16 reserves the right to have the report reviewed by a similarly competent Illinois
17 Licensed Geologist or an Illinois Professional Engineer. The letter report shall be
18 based on the following:**

- 19
- 20 (1) **A review of relevant well records, hydrogeologic reports, and other**
- 21 **pertinent correspondence.**
- 22 (2) **Determination of existing ground water levels in neighboring wells**
- 23 **provided that access is permitted by the well owner.**
- 24 (3) **Exploratory test hole drilling and geophysical exploration as required**
- 25 **including possibly geophysical logging of test holes.**
- 26 (4) **If adequate aquifer hydraulic property information is not otherwise**
- 27 **available test data shall be provided from a test well and other observation**
- 28 **wells, or other appropriate existing wells, sufficient to serve as the basis**
- 29 **for estimating a distance – drawdown relationship.**
- 30 (5) **An estimated distance – drawdown relationship shall also be included in**
- 31 **the letter report.**
- 32

33 Mr. Hall stated that the proposed condition has been reviewed by both the State Water Survey and the State
34 Geological Survey and only minor grammatical changes have been made since their review. He said that the
35 County reserves the right to have the report reviewed but it does not assess any fees to pay for that review by
36 an outside consultant. He said that he has not had time to consult with the State’s Attorney’s office
37 regarding these fees therefore he did not insert a requirement for the fees. He said that an Ethanol plant
38 proposing to use a public water supply would not be required to furnish any test reports. He said that they
39 may be withdrawing from the same aquifer but he cannot see any good served by those kinds of tests
40 because public water supplies are allowed to withdraw all the water they want without any testing being
41 performed therefore this would be a huge incentive for utilizing a public water supply. He said that he is not
42 aware of the cost differences in withdrawing two million gallons of water from a private well versus paying
43 for two million gallons per day from a public water supply. He said that he would be surprised if the
44 requirement

1 would make it more cost effective to use a public water supply, even if there was a public water supply that
2 would be willing to provide some large amount as proposed.

3 Mr. Steeves asked if the public water supply could drop their own well to supply this use without any
4 requirements whatsoever.

5
6 Mr. Hall stated yes.

7
8 Mr. Steeves asked if this could circumvent everything that the Board is trying to achieve.

9
10 Mr. Hall stated yes, but public water supplies do have to be sensitive to draw downs which effect private
11 wells.

12
13 Mr. Steeves asked if the public water supply was regulated by means that the County is not aware of.

14
15 Mr. Hall stated that he is not aware of any other regulations. He reviewed Section 5.2, Table of Authorized
16 Principal Uses, Footnote 14.A-C., if Fuel Ethanol Plants are allowed By-Right. He said that in regard to
17 14.C there are traffic impacts related to an ethanol plant and they may be greater than any other use in the
18 Ordinance but the data is not available to staff at this point. He said that if the ethanol plant is proposing to
19 use a rail access to that degree it is not clear that the resulting truck traffic will be worse than anything else
20 that is allowed in the I-2, Heavy Industry Zoning District by-right. He said that 14.A-C are three conditions
21 that may be sufficient to authorize Fuel Ethanol Plants by-right but as a practical matter Item #17 of the
22 Finding of Fact reviews the only locations of the I-2, Heavy Industry Zoning Districts in Champaign
23 County.

24 He said that the I-2 district is very limited in area and primarily occurs in the Champaign-Urbana area and
25 east of Rantoul. He said that there may be isolated areas of I-2, Heavy Industry throughout the County but
26 he has discussed this issue with staff and no other locations have been discovered. He said that those
27 portions of the I-2 district that are in the Champaign-Urbana area are generally as follows: (1) relatively
28 close to existing public sanitary sewers and public water although it is not clear that the water mains are
29 large enough to provide adequate water for a fuel ethanol plant; and (2) several of the land parcels are 40
30 acres or more in area; and (3) street access is generally either by local streets or urban arterials that already
31 serve other industrial uses; and (4) not all of the land parcels have railroad access. He said that it is hard to
32 say if an ethanol plant could be established on any existing I-2 parcels in the Champaign-Urbana area. He
33 said that the I-2 district east of Rantoul is not sewerred nor does it have public water and fronts on U.S.
34 Highway 136, a state highway. This district has rail access and is currently the site of the Bell Helmets
35 plant. He reviewed Section 6.1.3 Schedule of Requirements and Standard Conditions regarding Fuel Ethanol
36 Manufacturing. He said that the Fuel Ethanol Manufacturing plant will have huge wastewater discharges
37 that will require a significant drainage outlet. He noted that there is no special standard condition regarding
38 traffic impacts. He said that the Board reviews traffic impacts for all Special Use Permits on a regular basis
39 and the Board can require a traffic impact analysis anytime the Board feels that it is necessary. He said that
40 as a practical matter if it were to occur within the Champaign-Urbana area within the jurisdiction of the
41 Champaign Urbana Urbanized Area Transportation Study (CUUATS) he would request that they prepare the
42 traffic impact analysis as part of their normal duties.

43
44 Mr. Steeves asked if there was any correlation to the size of the plant and how much land is required.

1
2 Mr. Hall stated that he has no doubt that there is a direct correlation between how much land a plant of this
3 type requires and how much production they anticipate but he has no idea what that correlation may be. He
4 said that he has not proposed a minimum lot size as a standard condition although the Board could establish
5 an arbitrary limit and it would not be invalid.
6
7 Mr. Irle asked if the Board should be considering adequate filtering of the discharge during the review of
8 adequate drainage.
9
10 Mr. Hall stated that is part of the EPA's permitting and he would propose that the Board not establish any
11 requirements other than those that the EPA currently has in place.
12
13 Ms. Griest asked if the example of the Table of Authorized Uses for Ethanol Manufacturing would prevent
14 a municipal protest.
15
16 Mr. Hall stated no. He said that in order to revise the text to try to prevent municipal protests, although not
17 guaranteed, there would be no shaded area on the Table of Authorized Uses, only an "S" located in the
18 appropriate area, nor would there be a Footnote 14 and Section 6.1.3. would remain as proposed.
19
20 Ms. Griest asked Mr. Hall if he had any information that he could share with the Board that would indicate
21 what the concerns would be in relation to a municipal protest.
22
23 Mr. Hall stated that during his discussions with the municipalities they remain convinced that it does not
24 seem plausible that a Fuel Ethanol Plant can be proposed without reviewing it for everything that would be
25 reviewed during the Special Use Permit process. He said that the municipalities believe that a traffic impact
26 analysis should be prepared for any Fuel Ethanol Plant and they may even protest until that particular is
27 incorporated. He said that the ZBA has the freedom to require a traffic impact analysis for any Special Use
28 Permit and he is hesitant to pick out this one use and make it a requirement.
29
30 Mr. Bluhm asked Mr. Hall if this would be more accepted by the municipalities if it were reviewed as a
31 Special Use Permit case.
32
33 Mr. Hall stated that he believes that it would be more accepted but he does not know if it would prevent a
34 protest. He noted that the municipality's planning commissions have not reviewed the text amendment yet.
35 He said that if the Board does decide to make the change they do need to delete Item #10.A of the Finding of
36 Fact.
37
38 Mr. Goldenstein stated that a traffic impact analysis is important based on testimony received at the last
39 hearing from The Andersons regarding the transportation for the bi-product and fuel produced. He said
40 additional traffic will be generated if all of the transportation is not by rail.
41
42 Mr. Bluhm stated that most of the additional traffic will be from the delivery of the corn to the facility
43 because most of the shipping of the bi-product and produced fuel will be by rail.
44

1 Mr. Irle asked Mr. Hall if the input from the municipalities was before or after the three conditions were
2 added to the text.

3
4 Mr. Hall stated that it was in the same phone call that he explained the three conditions to the municipalities
5 and their response was, "It is not enough."
6

7 Mr. Larry Wood, General Manager of The Andersons stated that the proposed three conditions are basically
8 what The Andersons are currently doing for the other two plants. He said that they have electronic
9 monitoring systems on the wells and site surveys will be completed. He said that the closest well to their
10 facility is the Illinois American Water Company therefore if the facility will affect anyone it would be
11 Illinois American Water Company. He said that he has discussed the water issue with Barry Suits of the
12 Water Company and there is public access to finished water within ½ mile of the facility and the issue of
13 whether they take the water from the Mahomet Aquifer, from their own well, or from Illinois American
14 Water Company is only a matter of cost because the water is coming from the same pool. He said that if
15 they took the water from Illinois American Water Company it would be up to them to provide adequate
16 supply but during their discussions it appeared that they would be interested in placing the wells on the
17 subject property. He said that if they were to hook up to a public water supply or even to pull from their
18 wells which are located to the south of the facility it would cost approximately 58 cents per 750 gallon of
19 water. He said that if they were to pull finished water the cost would approximately be 98 cents per 750
20 gallons of finished water. He said that with a private well they would have the fixed cost of installing the
21 well but if they purchase finished water for a facility of this size the cost would approximately \$450
22 thousand cost per year or more. He said that three professional consultants are present at tonight's hearing
23 to answer any questions that the Board may have regarding the proposed plant.
24

25 Mr. Steeves asked Mr. Wood how much acreage would be required to accommodate a 50 million gallon
26 plant.
27

28 Mr. Wood stated that a 100 million gallon plant could easily be placed on 40 acres with reasonable distance
29 around it.
30

31 Mr. Irle asked Mr. Wood if he could give the Board an estimate of the relative use of water for the facility.
32

33 Mr. Wood stated that the water usage for such a plant would be in the neighborhood of 600 million gallons
34 of water per year or approximately 2 million gallons per day. He said that Illinois American Water
35 Company is pulling approximately 22 million gallons per day with their current usage.
36

37 Mr. Irle asked how the plant would compare to other large customers that American Water Company may
38 have.
39

40 Mr. Wood stated that The Andersons would probably be Illinois American Water Company's largest
41 customer.
42

43 Mr. Hall stated that there are existing industrial customers that are using about ½ as much water as what The
44 Andersons are proposing to use. He asked Mr. Wood if the Board adopted a 40 acre minimum lot size could

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1 the consultants estimate how the level of any conditions would change over a distance of 660 feet.

2
3 Mr. Mike Pozniak, Consultant for The Andersons stated that the proposed text amendment is basically what
4 The Andersons have been doing. He said that an investigation of surrounding wells and if they were to
5 move ahead they would use Illinois American Water Company as a significant information source. He said
6 that a test monitoring well would be constructed to obtain the aquifer characteristics to determine the
7 amount of wells required to sustain the amount of water needed for the facility and to determine the impacts
8 to the nearby residential wells. He said that after the nearby residential wells are identified and the impact is
9 determined the resident will be notified to do further investigation regarding draw down.

10
11 Mr. Steeves stated that he appreciates what The Andersons are currently doing but the Board's concern is
12 with anyone else who would propose such a plant as a by-right use. He asked Mr. Wood if the other two
13 plants are currently in production or are they still in the planning stage.

14
15 Mr. Pozniak stated that the plants are under construction. He said that once the plants do go into production
16 they will continue to monitor the monitor wells to obtain data on draw downs from nearby wells.

17
18 Mr. Hall asked Mr. Pozniak if The Andersons plan to actively monitor the wells throughout the life of the
19 Ethanol plant.

20
21 Mr. Pozniak stated that the general plan is to monitor the wells for the first year.

22
23 Mr. Irlé asked Mr. Pozniak how the Champaign plant would stack up as far as being an ideal location in
24 comparison to some of the other plant locations.

25
26 Mr. Pozniak stated that the Mahomet Aquifer makes this location very ideal for the plant. He said that a
27 study which was completed in 1969 indicated that the aquifer had a capability of 445 million gallons per day
28 and currently it is producing 100 million gallons per day.

29
30 Mr. Rod Harris, General Manager with The Andersons in Albion, Michigan. stated that the target
31 completion date for the plant in Albion is in September. He said that all of the preliminary planning and
32 permitting process have been completed and the plant is under construction. He said that the Water Use Act
33 of 1983 is a good monitoring tool and a similar type of legislation exists in Michigan. He said that if the
34 plant affects a neighbor's well a County Well Commission is contacted. He said that during the selection of
35 a site The Andersons review several factors such as: rail, truck traffic, corn supply, water supply
36 availability. He said that the Champaign site is only one site that is being considered for the plant.

37
38 Mr. Steeves asked Mr. Harris how large the Albion, Michigan plant is proposed and how many acres will it
39 encompass.

40
41 Mr. Harris stated that the Albion, Michigan plant is proposed to be a 50 million gallon plant setting on a
42 total of 70 acres. He said that the plant will go on a footprint of 40 acres and is designed for potential
43 expansion therefore the 70 acres could hold a 100 million gallon plant.

44 Mr. Stacy Schmidt, Corporate Director of Safety and Environmental Engineering for The Andersons stated

1 that the modeling which is done during the air permitting process takes into account local structures,
2 buildings and other things that can be accounted for to assure that downstream residents are protected in
3 accordance to IEPA's laws. He said that what is proposed in the Special Use Permit text is exactly what The
4 Andersons have done in their other projects because it was the right thing to do and not because someone
5 was forcing them do so. He said that they want to make sure that they remain a good corporate citizen and
6 their commitment to environmental stewardship as an agriculture related company is exceptionally strong
7 therefore it is their intention not to hurt their neighbors.

8
9 Mr. Hall stated that he did not hear anything in the testimony received at tonight's hearing that would be
10 essential to the Finding of Fact. He said that the Finding of Fact does include what staff felt was relevant
11 from Mr. Wood's testimony at the March 16, 2006, public hearing. He said that the Finding of Fact also
12 includes recognition of the letter that the Board reviewed from Scott Bidner, President of the Champaign
13 County Farm Bureau. He asked the Board if they heard any testimony given at tonight's hearing that should
14 be added to the Finding of Fact.

15
16 Mr. Goldenstein stated that the testimony regarding the 40 acre footprint should be added to the Finding of
17 Fact.

18
19 Mr. Irle stated that Mr. Pozniak indicated that the 1969 study indicated that the capacity of the aquifer is 440
20 million gallons per day but currently the aquifer is only pumping 80 to 100 million gallons per day.

21
22 Mr. Steeves stated that the testimony regarding the monitoring wells should be added to the Finding of Fact.
23 He said that The Andersons is setting the pace and if they are doing everything right then the Board needs to
24 make sure that their practices are the standard for future facilities. He said that the Board cannot dictate
25 what the standard should be because data is not available to know what that standard should be but it is
26 something that should be included and not overlooked.

27
28 Mr. Hall stated that The Andersons find value in continuing monitoring the wells.

29
30 Mr. Steeves stated that The Andersons are doing everything that they can see to monitor to make sure that
31 they do not have a bad impact and to be aware of what impact they will have once they get started. He said
32 that if The Andersons are setting the standard for what is right then the Board should include it as testimony
33 and not forgotten.

34
35 Mr. Hall asked Mr. Steeves what he meant by forgotten.

36
37 Mr. Steeves stated that if two or three years down the road another facility is proposed the Zoning Board at
38 that time will be able to review this case to set what type of standard was being set.

39
40 Mr. Irle asked Mr. Steeves if he wanted ongoing data from a test well provided annually.

41
42 Mr. Steeves stated that The Andersons are generating data because it is the right thing to do and they need
43 the information in the future.

1 Mr. Irle stated that the Board should specify who should receive that data.

2
3 Mr. Hall clarified that Mr. Steeves does not want to make it a condition only include it as testimony.

4
5 Mr. Steeves stated that if the data is accumulated whatever the data relies on The Andersons will take the
6 appropriate action or the data will become public.

7
8 Mr. Wood stated that The Andersons' intention in monitoring the test wells is to give them an indication of
9 whether or not there is an upcoming problem. He said that in terms of setting the standard Mr. Steeves
10 makes a good point that if continued monitoring is practiced it will indicate if an impact is occurring on
11 neighboring wells.

12
13 Mr. Irle asked Mr. Wood if Illinois American Water Company would place a well on the subject property
14 wouldn't they monitor that well for impacts.

15
16 Mr. Wood stated that he would think that Illinois American Water Company would monitor the well. He
17 said that if the plant is pulling out a large quantity out of the well then Illinois American Water Company
18 would be the first to notice it.

19
20 Mr. Hall stated that a new Item #20 of the Finding of Fact should indicate the following: Larry Wood,
21 General Manager of The Andersons located in Champaign County testified at the March 30, 2006, public
22 hearing that 100 million gallon per year Fuel Ethanol plant could be accommodated on a 40 acre tract of
23 land. He said that a new Item #21 of the Finding of Fact should indicate the following: Mike Pozniak,
24 Representing the Albion, MI, Ethanol Plant owned by The Andersons testified at the March 30, 2006, public
25 hearing that The Andersons are planning to carry on monitoring of groundwater levels and monitoring wells
26 for at least one year after the plant goes into operation.

27
28 Ms. Griest asked the Board how they would like to proceed with a recommendation for both a By-Right and
29 a Special Use Permit choice or a Special Use only choice.

30
31 **Mr. Bluhm moved, seconded by Mr. Goldenstein to consider Fuel Ethanol Manufacturing Plant as a**
32 **Special Use only in the I-2, Heavy Industry Zoning District.**

33
34 Mr. Irle stated that it appears that a municipal protest will be received either way.

35
36 Mr. Hall stated yes.

37
38 Mr. Bluhm stated that as a Special Use Permit the Board can review the request in regard to traffic impacts
39 and the Board will have more options.

40
41 Mr. Hall stated that to implement Mr. Bluhm's motion Item #10.A of the Finding of Fact should be
42 eliminated and Item #10.B should be revised eliminating "when anyone of the above conditions are not
43 met." He said that Footnote 14 would be eliminated from the annotated version of the Ordinance and the
44 last sentence in Item #18.C of the Finding of Fact should be eliminated. He said that Item 18.C should be

1 revised so that the Finding of Fact does not give the appearance that the Board was confused on what they
2 were doing.

3
4 **Mr. Bluhm moved to amend his original motion to the following: to consider Fuel Ethanol**
5 **Manufacturing Plant as a Special Use only in the I-2, Heavy Industry Zoning District and to eliminate**
6 **Item #10.A of the Revised Finding of Fact dated March 30, 2006; revise Item #10.B of the Finding of**
7 **Fact dated March 30, 2006; eliminate Footnote 14 of the annotated version of the Ordinance and**
8 **eliminate the last sentence in Item #18.C of the Revised Draft Finding of Fact dated March 30, 2006.**
9

10 Ms. Griest stated that the Special Use would allow any petitioner that was requesting a Special Use the
11 opportunity to use a private well if they had all of the proper assessments that The Andersons have
12 facilitated.

13
14 Mr. Hall stated yes. He said that Larry Wood’s testimony that even if they were going to use Illinois
15 American Water Company they would probably end up with an Illinois American Water Company well on
16 their property. He said that it makes him wonder if the Board should require the well study even if it is
17 public water but even that makes him uncomfortable. He said Mr. Wood testified that, in his particular
18 circumstance, not only would the well be drawing from the same aquifer but the well may end up being in
19 the same location. He said that this is the text amendment in general and not The Andersons’ particular
20 circumstance but it is pretty suggestive that the Board could require the groundwater tests period.

21
22 Mr. Bluhm stated that his expectation is that the well is owned by a public company but the well will not be
23 serving the public and is serving an individual operation. He said that he would not classify the well as a
24 public utility because it is only pumping water to The Andersons and it is not finished water.

25
26 Mr. Hall asked Mr. Bluhm if he would feel differently if it were finished water.

27
28 Mr. Bluhm stated that perhaps if it is unfinished water then the report should be required.

29
30 Mr. Hall stated that the first sentence of new Item #10 should read as follows: When a Fuel Ethanol
31 Manufacturing plant is proposed to utilize either a private water well to any extent for process water rather
32 than a connected public water supply system or utilize untreated water from a public water supply system
33 the petitioner shall provide a letter report assessing the likely groundwater impacts on adjacent wells of
34 finishing a water well for the proposed ethanol plant.

35
36 Mr. Irle asked if on the list of authorized professionals could a representative of the water company be
37 included.

38
39 Mr. Hall stated that Illinois American Water Company would have a Illinois Licensed Geologist or Illinois
40 Professional Engineer.

41 **Mr. Bluhm stated that his motion stands.**

42
43 **Mr. Goldenstein seconded Mr. Bluhm’s amended motion. The motion carried by voice vote.**
44

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

3
4 Mr. Steeves moved, seconded by Mr. Schroeder to close the public hearing for Case 523-AT-05, Part
5 A. The motion carried by voice vote.

6
7 **Determination for Case 523-AT-05:**

8
9 Mr. Bluhm moved, seconded by Mr. Goldenstein that pursuant to the authority granted by Section 9.2
10 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
11 determines that the Zoning Ordinance Amendments requested in Case 523-AT-05, Part A should be
12 enacted by the County Board in the form attached hereto.

13
14 The roll was called:

15	Goldenstein-yes	Irle-yes	Miller-yes
16	Schroeder-yes	Steeves-yes	Bluhm-yes
17	Griest-yes		
18			

19
20 Mr. Hall stated that Case 523-AT-05 will be forwarded to the Environment and Land Use Committee for
21 their April 10, 2006, meeting and anyone who signed the witness register indicating interest in this case will
22 be included in the mailing for that meeting.

23
24 **Case 514-AM-05 Petitioner: Richard C. Hooser. Request to amend the Zoning Map to allow for the**
25 **development of 1 single family residence on a lot in the AG-1, Agriculture Zoning District by adding**
26 **the Rural Residential Overlay (RRO) Zoning District. Location: A 4.72 acre tract of land located in**
27 **the South ½ of the Northwest ¼ of the Southwest ¼ of Section 25 of Stanton Township and that fronts**
28 **on the west side of CR 2325E and is approximately one-quarter mile south of CR 1950N.**

29
30 Mr. Hall stated that no new information has been received regarding this case.

31
32 Mr. David Atchley, Engineer with HDC Engineering stated that he is present at tonight’s public hearing
33 representing Richard Hooser. He said that neither he nor Mr. Hooser were notified by the Stanton Township
34 Planning Commission regarding their protest therefore they are not aware of Stanton Township’s concerns
35 were in regard to the request.

36
37 Mr. Hall asked Mr. Atchley if he was aware that the Stanton Township Planning Commission was going to
38 discuss Case 514-AM-05 at their monthly meeting.

39 Mr. Atchley stated that neither HDC Engineering nor Mr. Hooser was notified of the meeting.

40 Mr. Roger Fredenhagen, who resides at 1916 CR 2325E, St. Joseph gave an overhead presentation and
41 distributed copies of an aerial photograph of the existing Hooser property, plat of survey of the subject
42 property, map indicating the BFE of the subject property and a map indicating the flood lever per testimony.
43 He said that he misspoke at the last hearing regarding this case and clarified that CR 2325E and 1950N were
44 both impassable due to flood water. He said that CR 2325E had four feet of flood water and CR 1950N had

1 six feet of water on the road. He said that the flood waters rise higher than the estimated Base Flood
2 Elevation as indicated on the plat of survey for the property. He distributed and read a prepared document
3 dated March 30, 2006, from Gary Olson, who resides at 1810 CR 2275E, St. Joseph, and submitted the
4 statement as a Document of Record. Mr. Fredenhagen said that the distributed document from Mr. Olson
5 includes an aerial photograph of the Hooser property which includes the house, garage and barn. He said
6 that when he purchased his property, which is immediately to the southeast of the subject property, he spoke
7 to the previous owner, Richard Swearingen. He said that Mr. Swearingen is now deceased but during their
8 discussion he indicated that he had seen flood water within 10 feet of the corner of the barn on the Hooser
9 property. He said that on the last page of his handout he projected that flood level to the corner of the barn
10 which is a 40 foot movement from the estimated BFE. He said that this may not be the most important point
11 about the difference but it is unknown if those were 100-year flood events or whether they were more
12 ordinary events that were observed. He said that if they were ordinary events then it is possible that the
13 water could come up even higher onto the property during a 100-year flood event. He said that in New
14 Orleans much of the city was inundated but the French Quarter sustained minimal damage. He said that the
15 French Quarter is the oldest part of the City of New Orleans and was built by the "old-timers" who were
16 aware of where things flooded and where they did not. He said that testimony has been submitted from
17 Gary Olson regarding his concern about flooding on the subject property. He said that he attended the
18 Stanton Township Planning Commission meeting and a large portion of their concern was flooding issues
19 with the subject property. He said that there is a wealth of experience of people who have lived in the area
20 for a number of years and their testimony should be taken into account. He said that there are a number of
21 reasons why the request should be denied: 1. flooding higher than the estimated 100-year BFE; 2. 1/3 of the
22 property is west of the Spoon River with new legal access to that portion of the lot without trespassing or
23 crossing the river. He said that the entire 30 acres was owned by Mr. Hooser and he could have divided the
24 property differently or at a minimum he could have reserved an easement for access to the back side of the
25 subject property. He said that it is unknown why there is a 57.29 foot strip on the west side of the property;
26 3. addition of another house on 2325E would add a 25% increase in traffic on the mile long road; 4.
27 testimony received regarding the re-routing of emergency vehicles due to flood water on the road; and 5.
28 protest received from Stanton Township Planning Commission. He urged the Board to review the evidence
29 and reject the proposal as submitted.

30
31 Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet stated that Mr. Fredenhagen did not know
32 whether that was the 100-year flood line when it was observed to be within 10 feet of the corner of the barn.
33 He said that in not knowing this information this line could be the 200-year flood line therefore the 100-year
34 flood line would be much less than that. He said that it is difficult to place a figure of merit on Mr.
35 Fredenhagen's statement.

36
37 Mr. David Atchley stated a few months back he was before the Board regarding another issue in the
38 Mahomet area and a gentleman testified that he had five foot of water in his basement although his house
39 was determined to be above the floodplain. He said that after some questions by the Board it turned out that
40 the flooding was only up to the wall outlet. He said that after staff reviewed the gentleman's previous
41 building permit it turned out that it was possible that the gentleman's house was not above the floodplain.
42 He said that there has been some heartfelt testimony regarding the flooding issues and if the Board is going
43 to reject this request based on the flooding issues he requests that the Board consider hiring an outside
44 agency or outside engineering company to review the floodplain information. He said that Mr. Fredenhagen

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1 indicated that addition of the requested lot would increase traffic by 25% although there are three existing
2 lots that front the road and he would assume that they are the only people who utilize the road. He said that
3 the issue of no access to the other side of the property is not relevant because there is no access currently
4 and if the owner cannot cross the river until it is dry then they just cannot cross.
5

6 Mr. Bluhm stated that if someone wanted to use the property and there is water in the creek it is either a
7 canoe or trespass upon another person's property to access that piece of the property. He said that he is not
8 in favor of this practice. He asked Mr. Atchley why the 57.29 foot strip was cut out of the parcel.
9

10 Mr. Atchley stated that he does not know why the 57.29 foot strip was cut out of the parcel and added to the
11 parcel to the north.
12

13 Mr. Hall stated that the Board could place any condition on the approval that they desired. He asked Mr.
14 Bluhm if he would feel differently about the proposal if the property line was drawn east of the Spoon River.
15

16 Mr. Bluhm stated that it would not change his view of the proposal. He said that he is not only concerned
17 about flooding but also trespass.
18

19 Mr. Atchley stated that he could propose to Mr. Hooser that the west property line stop at the east side of
20 Spoon River. He said that it would be helpful if he had some feedback to give to the owner as to why
21 the Board does not support his request.
22

23 Mr. Bluhm stated that there are a couple of funny things involved with this request that bother him such as
24 why was the line not drawn straight back because it takes away the frontage protest from the people on the
25 west side of the subject property; and Mr. Hooser received his "by-right" development therefore why did he
26 keep this lot if he knew that it was an unbuildable lot. He said that it is his understanding that the person
27 who purchased the old homesite offered to purchase the rest of the property and their offer was refused.
28 Safety of road and bridge. He said that he has testified before that there are usually kids playing on the
29 bridge and the visibility approach to the bridge is hindered by a hill on either end. He said that if this had
30 originally been presented as an RRO and some of these concerns were presented they may have been
31 addressed. He said that an additional house will only increase the problem.
32

33 Mr. Atchley stated that they cannot place a restriction on the parcel regarding kids.
34

35 Mr. Irle stated that the Board should review the previous testimony and consider revising the conditions. He
36 said that perhaps the availability of emergency services is less than typical because of the flooding and if the
37 testimony regarding the approach to the bridge is considered then perhaps the safety of the roads is not much
38 better than typical. He said that if this is the case then the conditions may need to be reviewed and revised.
39

40 Mr. Hall stated that the kids on the bridge is part of the effects on farms which is to say that in the things that
41 the Board considers explicitly that is where it fits best. He said that there is not a factor for pedestrians
42 standing in the road other than the impact that it has on farm traffic.
43

44 Mr. Bluhm stated that it is not just farm traffic. He said that the kids from Royal which go to high school at

1 St. Joseph-Ogden travel the road tremendously.

2
3 Mr. Hall stated that he would stand by the much better than typical rating for adequacy and safety of roads.

4
5 Mr. Bluhm stated that if staff feels that the concern regarding the safety of the road fits better under the
6 impact on farm traffic then so be it but it is a concern and it should be included somewhere. He said that
7 personally his family alone has almost had four accidents on this road.

8
9 Ms. Griest asked Mr. Hall if there was some potential for the traffic concern to fit under Category #5: Other
10 Hazards. She said that when a stream, bridge, country road and kids are placed together there is a man-
11 made hazard. She said that there the bridge is enticing for the kids to throw their bikes down and fish.

12
13 Mr. Hall stated that the Board is free to interpret the table as they see fit.

14
15 Ms. Griest stated that there is no other category available to put the additional pedestrian traffic in the rural
16 setting as a factor.

17
18 Mr. Hall stated that if the Board is going to start evaluating river front lots or water front lots as unsuitable
19 because they are next to water then he does not know how to treat those requests.

20
21 Mr. Bluhm stated that the “by-right” development has already occurred and the Board is aware that these
22 problems and concerns are out there and do exist therefore he is not willing to create more houses to
23 exacerbate the problem. He said that if this entire project would have been presented to the Board as an
24 RRO then some of these issues would have been addressed but since the other lots have already been
25 developed and the problems are apparent it should be noted in the finding.

26
27 Mr. Steeves asked if the Board is looking at a preview of what is going to happen if the proposed text
28 amendments for the Comprehensive Zoning Review regarding one lot per 40 acres are approved.

29
30 Mr. Hall stated that if the proposed text amendments are approved the Board could see one lot RRO’s to get
31 the second lot out of a 40 acre tract.

32
33 Ms. Griest asked the audience if anyone else would like to sign the witness register to present testimony
34 regarding this case and there were none.

35 **Ms. Griest closed the witness register.**

36
37 Ms. Griest stated that an Item #8 should be added to the Documents of Record indicating the letter of
38 opposition with attachment dated March 30, 2006, from Gary Olson, 1810 CR 2275E, St. Joseph , received
39 at the March 30, 2006, public hearing; and an Item #9 should be added indicating handouts distributed by
40 Roger Fredenhagen, who resides at 1916 CR 2325E, St. Joseph, at the March 30, 2006, public hearing.

41
42 Mr. Hall stated that the only admissible testimony given at tonight’s hearing is from the letter from Mr. Gary
43 Olson regarding flood water being within thirty feet of the southwest corner of the barn.

44

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1 Mr. Bluhm stated that the testimony from Mr. Fredenhagen regarding his conversation with Mr.
2 Swearingen, deceased previous owner of his property, regarding the flood water on the subject property is
3 hearsay.

4
5 **Mr. Bluhm moved, seconded by Mr. Miller to re-open the witness register to allow Mr. Les Olson the**
6 **opportunity to present testimony. The motion carried by voice vote.**

7
8 Mr. Les Olson, 2316 CR 1950N, St. Joseph stated that he can remember the floodwater reaching to the
9 corner of the previously mentioned barn. He said that during every flood event he drives his ATV or tractor
10 through the floodwater around to the other side of the Salt Fork. He said that HDC Engineering indicated
11 that there is a two foot difference in the two bridge heights and the 100-year flood is two feet below the Salt
12 Fork Bridge deck. He said that the floodwater has hit the Salt Fork Bridge and the water backs up. He said
13 that in 1993 the river flooded to the same height 9 times and he had to replant his crops 6 times. He said that
14 he was informed that if the Salt Fork River was ever cleaned up then it may help with the flooding but it is
15 unknown if this will ever happen. He said that he has resided at his current address since 1976 and farmed
16 the property for several years prior to his purchase.

17
18 Mr. Hall stated that a new Item #21.C of the Draft Summary of Evidence dated March 24, 2006, should state
19 the following: Roger Fredenhagen submitted a letter from Gary Olson at the March 30, 2006, public hearing
20 in which Mr. Olson testified that he has seen floodwaters on the subject property that were higher than the
21 Base Flood Elevation indicated on the Schematic Plan. Mr. Fredenhagen testified that the difference is
22 about 40 feet. He said that a new Item #21.D should state the following: Les Olson testified at the March
23 30, 2006, public hearing that he remembers seeing floodwaters touching the former barn on the subject
24 property. He said that old Item #21.C will become new Item #21.E.

25
26 **Finding of Fact for Case 514-AM-05:**

27
28 From the Documents of Record and the testimony and exhibits received at the public hearing conducted on
29 November 22, 2005 and March 30, 2006, the Zoning Board of Appeals of Champaign County finds that:

30
31 **1. The Proposed Site IS NOT WELL SUITED for the development of one**
32 **residence.**

33
34 Mr. Bluhm stated that the proposed site is not well suited for the development of one residence because
35 testimony received at the March 30, 2006, public hearing indicated that flooding conditions on the subject
36 property is worse than indicated by the base flood elevation which impacts the buildable area.

37 Mr. Irle stated that the proposed site is not well suited for the development of one residence because
38 testimony received at the March 30, 2006, public hearing indicated that occasionally flooding is higher than
39 the 100-year flood plain.

40
41 Mr. Bluhm stated that the proposed site is not well suited for the development of one residence because
42 emergency services can be compromised during flooding events.

43
44 Mr. Miller stated that the proposed site is not well suited for the development of one residence because

1 approximately 1/3 of the proposed lot area is landlocked by drainageway therefore without access other than
2 a trespass onto surrounding properties.

3
4 Mr. Bluhm stated that the proposed site is not well suited for the development of one residence because the
5 bridge located on CR 1950N is a hazard to motorists due to children, who reside in the new existing houses
6 within the same location, playing on the bridge. He said that a hill exists on each side of the bridge on CR
7 1950N which causes visibility issues during the approach to the bridge. He said that if a septic system was
8 placed in an area that would become flooded the high water would hinder the use of the system.

9
10 **and despite:**

11
12 Mr. Hall informed the Board that if no information is included under the DESPITE section of the Finding of
13 Fact it is an indication that the Board did not see anything positive about this location, in which case it
14 places the evaluation suspect.

15
16 Mr. Irle stated that the Proposed Site is not well suited for the development of one residence despite the
17 LESA score being much better than typical.

18
19 **2. Development of the Proposed Site under the proposed Rural Residential**
20 **Overlay development WILL NOT BE COMPATIBLE with surrounding**
21 **Agriculture.**

22
23 Mr. Bluhm stated that the development of the Proposed Site under the proposed Rural Residential
24 Overlay development will not be compatible with surrounding agriculture because the 25% addition of
25 traffic with agricultural traffic is dangerous. He said that the children playing on the bridge located at
26 CR 1950N is dangerous and causes conflict with agriculture and non-agriculture traffic. He said that the
27 subject property is bordered on two sides, the east and south, by farm production.

28
29 **and despite:**

30
31 Mr. Irle stated that the development of the Proposed Site under the proposed Rural Residential Overlay
32 development will not be compatible with surrounding agriculture because of the nearly ideal conditions for
33 drainage and no testimony has been received regarding any drainage issues on the subject property.

34
35 **Mr. Bluhm moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of Record**
36 **and Finding of Fact as amended. The motion carried by voice vote.**

37
38 **Mr. Miller moved, seconded by Mr. Steeves to close the public hearing for Case 514-AM-05. The**
39 **motion carried by voice vote.**

40
41 **Determination for Case 514-AM-05:**

42
43 **Mr. Bluhm moved, seconded by Mr. Miller that pursuant to the authority granted by Section 9.2 of**
44 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**

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determines that the Map Amendment requested in Case 514-AM-05 should not be enacted by the County Board.

The roll was called:

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

Mr. Schroeder moved, seconded by Mr. Steeves to recess the Board for a five minute break. The motion carried by voice vote.

The Board recessed at 9:02 p.m
The Board resumed at 9:10 p.m.

Mr. Bluhm moved, seconded by Mr. Goldenstein to rearrange the docket and hear Case 524-AM-05; 525-V-05; and 526-V-05: Clara Titler prior to Case 520-AM-05: Gene Bateman. The motion carried by voice vote.

6. New Public Hearings

Case 520-AM-05 Petitioner: Gene Bateman Request to amend the Zoning Map to allow for the development of 5 single family residential lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: The North 631.0 feet of the East 1,042.7 feet and the South 545 feet of the North 1,960.0 feet of the East 641.0 feet, all of the East 1/2 of the NE 1/4 of Section 29 of Newcomb Township and fronting on the south side of CR 2600N and on the west side of 200E and commonly known as the farmland in the Southwest corner of the intersection of CR 2600N and CR 200E.

Mr. Jeffrey Roseman distributed a Supplemental Memorandum dated March 30, 2006, to the Board for review. He said that several corrections have been made to the Preliminary Finding of Fact dated March 24, 2006 and are included in the Revised Preliminary Finding of Fact dated March 30, 2006. He reviewed the changes with the Board.

Mr. Hall stated that Case 520-AM-05 could be continued to the April 13, 2006, ZBA meeting.

Mr. Goldenstein indicated that he would be absent from the April 13, 2006, ZBA meeting.

Ms. Griest explained to the audience that the ZBA has a three hour time limit on meetings unless the Board votes to formally extend the meeting. She said that if the meeting is not formally extended the meeting comes to an end automatically. She said that the Board has extended the March 30th meeting twice to allow some of the issues for Case 520-AM-05 to be heard. She said that because of the volume of the information required in an RRO it would be unreasonable to assume that there would be any possible way of taking final action upon this case tonight.

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Mr. Bluhm moved, seconded by Mr. Steeves to continue the March 30, 2006, public hearing to 10:00 p.m. The motion carried by voice vote.

Mr. Bluhm moved, seconded by Mr. Schroeder to continue Case 520-AM-05: Gene Bateman to the April 13, 2006, ZBA meeting. The motion carried by voice vote.

Case 524-AM-05 Petitioner: Clara Titler Request to amend the Zoning Map to change the zoning district designation from B-5, Central Business to R-2, Single Family Residence. Location: Lots 11, 12 and 13 in Block 1 of the Original Town of Penfield and commonly known as the vacant lots at 121 Main Street, Penfield.

Case 525-V-05 Petitioner: Clara Titler Request to authorize the use of nonconforming lots of record that are currently in common ownership with a connected public water supply system and without a public sanitary sewer system and with a lot area of 13,000 square feet in lieu of the required minimum lot area of 20,000 square feet, in the R-2 Single Family Residence Zoning District. Location: Lots 11, 12 and 13 in Block 1 of the Original Town of Penfield and commonly known as the vacant lots at 121 Main Street, Penfield.

Case 526-V-05 Petitioner: Clara Titler Request to authorize the use of nonconforming lots of record that are currently in common ownership with a connected public water supply system and without a connected public sanitary sewer system and with a lot area of 15,000 square feet in lieu of the required minimum lot area of 20,000 square feet, in the R-2, Single Family Residence Zoning District. Location: Lots 16 and 17 in Block 1 of the Original Town of Penfield and commonly known as the residence at 123 Main Street, Penfield.

Ms. Griest called Case 524-AM-05; Case 525-V-05; and Case 526-V-05 concurrently.
Mr. Hall stated that Ms. Titler owns a number of lots in Penfield. He said that the lots are non-conforming and are in common ownership. He said that some of the lots are zoned B-5, Central Business and Ms. Titler wanted to allow her son to use some of the lots as a location for a manufactured home. He said that there was a manufactured home on the lot in 1972 and she wants to replace the manufactured home but to do so a variance is required to use the lots separately and where the location of the manufactured home is in the B-5, zoning district which does not allow residential structures. He said that the map amendment is required to take care of the zoning and the lot area variances to authorize separate use of the non-conforming lots that are in common ownership. He said that he did send a copy of the case to the County Health Department and they would appreciate a condition on the variance to assure that they have the opportunity to review the lot for wastewater systems but he has not had time to prepare such a condition. He said that in order for Ms. Titler to use the lot a permit will be required from the County Health Department therefore he is unsure how much difference the condition would make. He said the Board could continue the variance case and dispense with the map amendment case and forward it to ELUC. He said that Ms. Titler could not obtain a Zoning Use Permit to establish the new house until the April, 2006, County Board meeting or all of the cases could be dispensed tonight knowing that a permit is required from the County Health Department.

Mr. Irle stated that the variance is for the lot size and typically the lot size in Penfield is normally way under

1 what is required by the Zoning Ordinance.

2
3 Ms. Griest informed the audience that Case 525-V-05 and Case 526-V-05 are Administrative Cases and as
4 such the County allows anyone the opportunity to cross examine any witness. She said that at the proper
5 time she will ask for a show of hands for those who would like to cross examine and each person will be
6 called upon. She requested that anyone called to cross examine go to the cross examination microphone to
7 ask any questions. She said that those who desire to cross examine are not required to sign the witness
8 register but are requested to clearly state their name before asking any questions. She noted that no new
9 testimony is to be given during the cross examination.

10
11 Ms. Clara Titler stated that when she purchased the lots she sold one 20 foot lot to the American Legion so
12 that they would extra space south of their building. She said that staff informed her that when she sold the
13 20 foot lot she created an illegal lot therefore she must go through this process.

14
15 Ms. Griest asked Ms. Titler if there would be a problem in continuing the variances cases so that a condition
16 could be drafted regarding the County Public Health Department approval.

17
18 Ms. Titler stated that she does not understand why the variances cases would need to be continued.

19
20 Ms. Griest stated that the Board typically does not ask staff to write a condition at a public meeting because
21 it normally does not serve the petitioner very well.

22
23 Ms. Titler stated that she is required to obtain a permit from the County Health Department anyway so why
24 continue the cases to draft a condition.

25
26 **The consensus of the Board was not to draft a condition regarding County Health Department**
27 **approval.**

28
29 Ms. Griest asked the Board if they had any questions for Ms. Titler.

30
31 Mr. Irle asked Ms. Titler if an adequate septic system was present on the lot when the previous trailer was
32 located on the lot.

33 Ms. Titler stated yes. She added that the previous trailer was located on Lot 13 and her home is located on
34 Lots 16 and 17.

35
36 Mr. Irle asked Ms. Titler what was the nature of the septic system.

37
38 Ms. Titler stated that there was a septic tank. She said that she would suppose that the septic system was
39 installed when the 1971 trailer was originally placed on the lot but she is not sure of the exact date.

40
41 Ms. Griest asked if staff had any questions for Ms. Titler and there were none.

42
43 **Finding of Fact for Case 524-AM-05:**

1 **Mr. Irle stated that Item #15.C.4.of the Preliminary Draft Summary of Evidence dated March 30,**
2 **2006, CONFORMS based on the adequacy of the septic systems in place on the subject property.**

3
4 **Mr. Irle stated that Item #28.B.1.of the Preliminary Draft Summary of Evidence dated March 30,**
5 **2006, ACHIEVES based on current hook-up to public water and an adequate septic system.**

6
7 **Mr. Irle stated that Item #28.C. of the Preliminary Draft Summary of Evidence dated March 30, 2006,**
8 **ACHIEVES the third general land use goal.**

9
10 **Mr. Bluhm stated that Item #29 of the Preliminary Draft Summary of Evidence dated March 30,**
11 **2005, should indicate that overall the fourth general land use goal will BE ACHIEVED by the**
12 **proposed map amendment based on conformance or achievement with the preceding policies goals.**

13
14 **Mr. Irle moved, seconded by Mr. Goldenstein to adopt the Summary of Evidence, Finding of Fact and**
15 **Documents of Record for Case 524-AM-05, as amended. The motion carried by voice vote.**

16
17 **Mr. Bluhm moved, seconded by Mr. Steeves to close the public hearing for Case 524-AM-05. The**
18 **motion carried by voice vote.**

19
20 **Final Determination for Case 524-AM-05:**

21
22 **Mr. Irle moved, seconded by Mr. Goldenstein that pursuant to the authority granted by Section 9.2 of**
23 **the Champaign County determines that the Map Amendment requested in Case 524-AM-05 should be**
24 **enacted by the County Board.**

25 The roll was called:

26			
27	Schroeder-yes	Steeves-yes	Bluhm-yes
28	Goldenstein-yes	Irle-yes	Miller-yes
29	Griest-yes		
30			

31 **Mr. Irle moved, seconded by Mr. Goldenstein to extend the March 30, 2006, public hearing to 9:45**
32 **p.m. The motion carried by voice vote.**

33
34 **Mr. Hall stated that no new information needs to be added to the Preliminary Draft Summary of Evidence**
35 **and Documents of Record dated March 30, 2006, for Case 525-V-05 and Case 526-V-05.**

36
37 **Mr. Irle moved, seconded by Mr. Goldenstein to combine the Finding of Fact for Case 525-V-05 and**
38 **Case 526-V-05. The motion carried by voice vote.**

39
40 **Finding of Fact for Case 525-V-06 and Case 526-V-05:**

41
42 **From the documents of record and the testimony and exhibits received at the public hearing for zoning case**
43 **525-V-05 and 526-V-05 held on March 30, 2006, the Zoning Board of Appeals of Champaign County finds**
44 **that:**

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- 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. Bluhm 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 all of the lots are non-conforming lots of record and the petitioner is trying to replace a trailer that was damaged by a storm two years ago.

- 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 it would make the one lot unusable and not permit the owner to replace a trailer that was there before and damaged by the storm.

- 3. **Special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.**

Mr. Bluhm stated that special conditions, circumstances, hardships, or practical difficulties do not result from because the previous trailer which was on the property was placed prior to October 10, 1973, and the petitioner did not know that the lot was not zoned for residential purposes.

- 4. **The requested variance is in harmony with the general purpose and intent of the Ordinance.**

Mr. Steeves stated the requested variance is in harmony with the general purpose and intent of the Ordinance because it makes appropriate use of the property and does not change the existing conditions.

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

Mr. Goldenstein stated that the requested variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the petitioner is replacing a trailer that was damage by a storm and the petitioner owns the adjacent lots. Mr. Bluhm stated that no comments have been received from the fire protection district or road commissioner. Mr. Steeves stated that the County Health Department has to approve the septic system.

- 6. **The requested variance is the minimum variation that will make possible the reasonable use of the land/structure.**

1 Mr. Irle stated that the requested variance is the minimum variation that will make possible the reasonable
2 use of the land/structure because of the unique and typical size of the lots in Penfield. He said that in the
3 past the Board has allowed similar variances in Penfield.

4
5 Ms. Griest asked Mr. Hall if the approval of the variances were contingent upon County Board approval of
6 the map amendment (Case 524-AM-05).

7
8 Mr. Hall stated that the variance can be granted without a condition regarding the map amendment.

9
10 **Mr. Irle moved, seconded by Mr. Steeves to adopt the Summary of Evidence, Finding of Fact and**
11 **Documents of Record as amended. The motion carried by voice vote.**

12
13 **Mr. Steeves moved, seconded by Mr. Bluhm to close the public hearing for Case 525-V-05 and Case**
14 **426-V-05. The motion carried by voice vote.**

15
16 **Final Determination for Case 525-V-05 and Case 526-V-05:**

17
18 **Mr. Steeves moved, seconded by Mr. Irle that the Champaign County Zoning Board of Appeals finds**
19 **that, based upon the application, testimony, and other evidence received in this case, that the**
20 **requirements of Section 9.1.9C have been met and pursuant to the authority granted by Section**
21 **9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign**
22 **County determines that the variances requested in Case 525-V-05 and Case 526-V-05 should be**
23 **granted to the petitioner, Clara Titler to authorize the following:**

24
25 **Case 525-V-05: Authorize the use of nonconforming lots of record that are currently**
26 **in common ownership without a connected public sanitary sewer system**
27 **and with a lot area of 13,000 square feet in lieu of the require minimum**
28 **lot area of 20,000 square feet, in the R-2, Single Family Zoning District.**

29
30 **Case 526-V-05: Authorize the use of nonconforming lots of record that are currently**
31 **in common ownership without a connected public sanitary sewer system**
32 **and with a lot area of 15,600 square feet in lieu of the required minimum**
33 **lot area of 20,000 square feet, in the R-2, Single Family Zoning District.**

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35 The roll was called:

36
37 **Steeves-yes Bluhm-yes Goldenstein-yes**
38 **Irle-yes Miller-yes Schroeder-yes**
39 **Griest-yes**

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41 **7. Staff Report**

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43 None

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8. Other Business

A. October 26, 2006, ZBA Meeting location

Mr. Bluhm moved, seconded by Mr. Goldenstein to schedule the October 26, 2006, ZBA meeting in Meeting Room 2. The motion carried by voice vote.

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

None

10. Adjournment

The meeting adjourned at 9:54 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

ZBA //

DRAFT SUBJECT TO APPROVAL DRAFT

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DRAFT SUBJECT TO APPROVAL DRAFT

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