

**MINUTES OF REGULAR MEETING**

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**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61802**

**DATE: November 10, 2016**

**PLACE: John Dimit Meeting Room**

**1776 East Washington Street**

**Urbana, IL 61802**

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**TIME: 6:30 p.m.**

**MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Marilyn Lee, Brad Passalacqua, Eric Thorsland

**MEMBERS ABSENT :** Jim Randol

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

**OTHERS PRESENT :** Katherine Pierson, Gary Pierson, Bob Buchanan, Kevin Pagel, Cory Rolfe, Tina Rolfe

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**1. Call to Order**

The meeting was called to order at 6:30 p.m.

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

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

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

**3. Correspondence**

None

**4. Approval of Minutes**

None

**5. Continued Public Hearing**

None

1  
2 **6. New Public Hearings**  
3

4 **Case 852-V-16 Petitioner: Gary and Katherine Pierson Request to authorize the following variance**  
5 **from the Champaign County Zoning Ordinance in the AG-1, Agriculture Zoning District: A**  
6 **proposed residential accessory building with a height of 20.25 feet in lieu of the maximum required**  
7 **height of 15 feet per Section 5.3 of the Zoning Ordinance. Location: A 0.48-acre tract in the**  
8 **Northwest Quarter of the Northwest Quarter of Section 1, Township 20 North, Range 8 East of the**  
9 **Third Principal Meridian in Hensley Township, and commonly known as the residence at 1105 CR**  
10 **2400N, Champaign.**

11  
12 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
13 the witness register for that public hearing. He reminded the audience that when they sign the witness  
14 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
15 time.  
16

17 Mr. Thorsland informed the audience that Case 852-V-16 is an Administrative Case and as such, the County  
18 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for  
19 a show of hands for those who would like to cross-examine and each person will be called upon. He  
20 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.  
21 He said that those who desire to cross-examine are not required to sign the witness register but are requested  
22 to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
23 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
24 exempt from cross-examination.  
25

26 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his case.  
27

28 Mr. Gary Pierson, who resides at 1105 CR 2400N, Champaign, apologized for being here tonight because he  
29 is not the type of person who goes against the grain. He said that his original intent was to try to build his  
30 kids a treehouse and he had an arborist visit his property to determine which one of the trees would be strong  
31 enough to hold the structure. He said that of the two trees that he wanted to use for the treehouse, one had an  
32 Ash Borer beetle infestation and within one or two years, it would need to be cut down. He said that he had  
33 already set everything in motion and had purchased the materials; therefore, he had to figure out how he was  
34 going to support the treehouse structure. He said that he was not aware of the height limitation and the intent  
35 was to only construct a treehouse for his kids and to make the best of a bad situation.  
36

37 Ms. Katherine Pierson, who resides at 1105 CR 2400N, Champaign, stated that she and her husband only  
38 wanted to build their kids a treehouse so that they could have an area so that they could play, imagine and  
39 grow up outside away from all of the electronics. She said that she and her husband have constructed the

1 playhouse themselves, so the structure is very special to them as it is something that they have built together  
2 from the ground up. She said that she hopes that the Board will grant their variance request.

3  
4 Mr. Thorsland asked the Board and staff if there were any questions for Gary and Katherine Pierson and  
5 there were none.

6  
7 Mr. Passalacqua asked Mr. Hall if the playhouse would have been constructed in the tree, would there have  
8 been a height requirement.

9  
10 Mr. Pierson stated that per the zoning office, there is no permit or height requirement for a treehouse.

11  
12 Mr. Hall stated that he does not know that anyone in the Department of Planning and Zoning would have  
13 provided Mr. Pierson that information. He said that if the structure was less than 150 square feet in area and  
14 it were constructed in the tree, there is some gray area there, but structures like this can historically cause  
15 neighbor battles. He said that he decided to be conservative and require a variance before the ZBA and be  
16 too strict rather than have a neighbor feel that he slighted their rights and did not enforce the Ordinance.

17  
18 Mr. Passalacqua stated that the answer to his question to Mr. Hall was yes.

19  
20 Mr. DiNovo stated that the information included in the mailing packet indicated an 18' x 18' dimension. He  
21 asked Mr. Pierson if that is only the platform or the enclosed portion of the playhouse.

22  
23 Mr. Pierson stated that the enclosed portion of the playhouse is 18' x 18' with an additional 6' deck area on  
24 the front.

25  
26 Mr. DiNovo stated that there were setbacks indicated on the site plan, but they were hard to read. He asked  
27 Mr. Pierson to indicate the distance from the playhouse to the side and rear property lines.

28  
29 Mr. Pierson stated that the playhouse is 20 feet from the east property line and 25 feet to the south property  
30 line.

31  
32 Mr. Thorsland stated that two letters have been received from neighbors indicating their support of the  
33 variance. He said that no comment has been received from the fire protection district or the township  
34 highway commissioner. He asked Mr. Pierson if he has been contacted by any of the other neighbors  
35 regarding their concern with the variance.

36  
37 Mr. Pierson stated that he contacted his neighbors about the proposed structure and the need for the variance  
38 and it is his understanding that they had no concerns.

39

1 Mr. Thorsland asked the audience if anyone desired to cross-examine Gary or Katherine Pierson and there  
2 was no one.

3  
4 Mr. Thorsland asked the audience if anyone desired to sign the witness register and present testimony  
5 regarding the request and there was no one.

6  
7 **Findings of Fact for Case 852-V-16:**  
8 **From the documents of record and the testimony and exhibits received at the public hearing for**  
9 **zoning case 852-V-16 held on November 10, 2016, the Zoning Board of Appeals of Champaign**  
10 **County finds that:**

11 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**  
12 **involved, which are not applicable to other similarly situated land and structures elsewhere**  
13 **in the same district.**

14 Mr. DiNovo stated that special condition and circumstances DO exist which are peculiar to the land or  
15 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
16 the same district because this is a relatively small, non-conforming lot for its district.

17 Mr. Thorsland stated that the intent was to construct the playhouse in the tree, but the tree was  
18 determined to not be in good condition to support the structure.

19 Ms. Griest stated that the lot was created prior to the adoption of the Zoning Ordinance.

20 Mr. Thorsland stated that it isn't uncommon for people not to be aware of the need for a Zoning Use  
21 Permit for such a structure. He asked Mr. Pierson to indicate how he was made aware of the need for a  
22 permit.

23 Mr. Pierson stated that someone from the County mailed him a Zoning Use Permit Application for  
24 completion and submittal. He said that he was surprised when he received the application for the  
25 treehouse because he had no clue that a permit was required.

26 Mr. Thorsland asked Mr. Pierson if someone just happened to send him an application.

27 Mr. Pierson stated yes. He said that he completed the application and submitted it to the Department of  
28 Planning and Zoning, but by that time he had already constructed the platform and the frame and there  
29 was no way to lower it, and the employee of the department told him the he would need to complete and  
30 submit a variance application for the height. He said that he completed the appropriate forms so that he  
31 could follow the rules after the fact.

1 Mr. Thorsland assured Mr. Pierson that he is not the first landowner that has come before this Board  
2 under this situation.

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

6 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the  
7 regulations sought to be varied WILL prevent the reasonable or otherwise permitted use of the land or  
8 structure or construction because the structure poses no harm whatsoever to neighboring lands or the  
9 general public, and therefore there can be no justification for imposing any cost on the property owner.

10 Ms. Griest stated that this is a play structure not intended to be regulated by the Ordinance in the manner  
11 in which it was written. It was supposed to be a treehouse, but the tree was not available; therefore,  
12 necessitating the height. She said that the bottom line is that this is a play structure, not a residential  
13 structure.

14 Mr. Thorsland stated that perhaps Ms. Griest's input should not be included in the final finding, because  
15 Mr. Hall suggested that this may be indeed something that the Ordinance could regulate.

16 Ms. Griest stated that she has no doubt that the Ordinance could have a say over this structure, but her  
17 point is that the Ordinance was not written with the intent of considering these types of structures.

18 Mr. Thorsland stated that if the Board made the petitioner follow the strict letter of the Ordinance, the  
19 playhouse would have to be lowered or demolished.

20 Mr. DiNovo stated that the legal meaning of hardship means that the zoning regulations are such that it  
21 would prevent economic use of the property altogether if they were imposed to the letter of the  
22 Ordinance. He said that the inconvenience and cost to the landowner is not a hardship. He said that the  
23 law of zoning is very clear that there is not a hardship unless the landowner cannot use the property at all  
24 without the variance. He said that the best way is to approach this is to point out that applying the  
25 criteria is irrational in this instance.

26 Mr. Thorsland stated that this is a good discussion, but the Board needs to continue on with the finding.

27

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

1 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
2 result from actions of the applicant because the lot is unusually small and the trees are not available.

3 Mr. Thorsland stated that there is no certain reason for the limit on small lots versus large lots.

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

6 Mr. DiNovo stated that the requested variance IS in harmony with the general purpose and intent of the  
7 Ordinance because even though it exceeds the maximum height limit, it is more than twice the minimum  
8 required setback.

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

11 Mr. Thorsland stated that the requested variance WILL NOT be injurious to the neighborhood or  
12 otherwise detrimental to the public health, safety, or welfare because the neighbors have expressed no  
13 concern; the fire department and highway department have been notified and no comment has been  
14 received.

15 **6. The requested variance IS the minimum variation that will make possible the reasonable**  
16 **use of the land/structure.**

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

19 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

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

22  
23 **Ms. Lee moved, seconded by Ms. Griest to adopt the Summary of Evidence, Documents of Record**  
24 **and Findings of Fact as amended. The motion carried by voice vote.**

25  
26 Mr. Thorsland entertained a motion to move to the Final Determination for Case 852-V-16.

27  
28 **Ms. Capel moved, seconded by Ms. Griest, to move to the Final Determination for Case 852-V-16.**  
29 **The motion carried by voice vote.**

30  
31 Mr. Thorsland informed the petitioners that currently the Board has one member absent; therefore, it is at  
32 their discretion to either continue Case 852-V-16 until a full Board is present or request that the present

1 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required  
2 for approval.

3  
4 Mr. and Mrs. Pierson requested that the present Board move to the Final Determination.  
5

6 **FINAL DETERMINATION FOR CASE 852-V-16:**  
7

8 **Mr. DiNovo moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals**  
9 **finds that, based upon the application, testimony, and other evidence received in this case, that the**  
10 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**  
11 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of**  
12 **Appeals of Champaign County determines that:**  
13

14 **The Variance requested in Case 852-V-16 is hereby GRANTED to the petitioners Gary and Katherine**  
15 **Pierson to authorize the following variance in the AG-1 Agriculture Zoning District:**  
16

17 **A proposed residential accessory building with a height of 20.25 feet in lieu of the maximum**  
18 **required height of 15 feet as per Section 5.3 of the Zoning Ordinance.**  
19

20 Mr. Thorsland requested a roll call vote.  
21

22 The roll was called as follows:  
23

24 **Capel – yes                      DiNovo – yes                      Griest – yes**  
25 **Lee – yes                        Passalacqua – yes                Randol – absent**  
26 **Thorsland – yes**  
27

28 Mr. Hall informed the petitioners that they have received an approval for their request. He said that staff will  
29 mail out the final paperwork as soon as possible.  
30

31 Mr. Pierson thanked the Board. He said that he is the Champaign County Construction Manager for the  
32 Champaign County Habitat for Humanity; therefore, he was very embarrassed to find out that he was not  
33 following the County’s rules. He said that he spends over 60 hours per week making sure that people have a  
34 decent, safe and affordable place to live and this playhouse means a lot to his kids. He thanked the Board for  
35 giving him the opportunity to finalize the construction of the playhouse for his kids.  
36

37 **Case 853-S-16 Petitioner: Kevin and Angela Pagel Request to authorize a Special Use Permit for**  
38 **construction of an artificial lake of 1 acre or more acres in area in the AG-1 Agriculture Zoning**  
39 **District. Location: A 10.18-acre tract in the Northeast Quarter of the Southeast Quarter of Section 23**

1 **of Township 21 North, Range 7 East of the Third Principal Meridian in Newcomb Township with an**  
2 **address of 2639 CR 500E, Mahomet.**

3  
4 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
5 the witness register for that public hearing. He reminded the audience that when they sign the witness  
6 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
7 time.

8  
9 Mr. Thorsland informed the audience that Case 853-S-16 is an Administrative Case and as such, the County  
10 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for  
11 a show of hands for those who would like to cross-examine and each person will be called upon. He  
12 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.  
13 He said that those who desire to cross-examine are not required to sign the witness register but are requested  
14 to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
15 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
16 exempt from cross-examination.

17  
18 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his case.

19  
20 Mr. Kevin Pagel, whose address is 2639 CR 500E, Mahomet, stated that he is planning on building a larger  
21 pond so that he can place backfill around the house due to the slope of the lot. He said that they determined  
22 that the pond needed to be larger so that they could have enough dirt.

23  
24 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Pagel.

25  
26 Mr. Thorsland asked Mr. Pagel if the pond has been started.

27  
28 Mr. Pagel stated yes, but he needs to get the dirt from the pond so that they can start the construction on the  
29 house.

30  
31 Mr. Thorsland stated that he is familiar with the area and there is quite a slope on the property.

32  
33 Mr. DiNovo stated that the plans that were submitted indicate berms on each side. He asked Mr. Pagel if  
34 there would be a berm on the south side between the pond and the driveway.

35  
36 Mr. Pagel stated no.

37  
38 Mr. DiNovo stated that the Board did have a previous case where a pond was constructed near a driveway  
39 and it led to a terrible tragedy. He said that a barrier between the driveway and the pond, even if it were



1 landscaping, would be appropriate.

2

3 Mr. Thorsland asked Mr. DiNovo if he would like the Board to propose a special condition requiring a  
4 barrier between the driveway and the pond.

5

6 Mr. DiNovo stated no, but it would be prudent in case someone comes to the property who is not familiar  
7 with where they were traveling. He said that after the previous hearing the safety ledge requirement was  
8 adopted.

9

10 Ms. Lee asked Mr. Pagel to indicate what he intends to do if farm tiles are discovered while digging the  
11 pond.

12

13 Mr. Pagel stated that he has not discovered any farm tiles yet. He said that there was one tile found that was  
14 from the property to the south of his property, but the neighbor has agreed to take care of that tile. He said  
15 that there is one culvert that comes under the county road that drains the neighboring fields, but the pond has  
16 been kept away from that so that the pond has its own water life.

17

18 Mr. Thorsland asked the Board if there were additional questions for Mr. Pagel and there were none.

19

20 Mr. Thorsland read the special conditions as follows:

21

22 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**  
23 **Stormwater Management Erosion Control Ordinance shall be submitted and approved**  
24 **as part of the Zoning Use Permit approval process and all required certifications shall**  
25 **be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

26

27 The above special condition is required to ensure the following:

28 **The construction of the pond conforms to the requirements of the Stormwater**  
29 **Management and Erosion Control Ordinance.**

30

31 Mr. Thorsland asked Mr. Pagel if he agreed with Special Condition A.

32

33 Mr. Pagel stated that he agreed with Special Condition A.

34

35 **B. A Change of Use Permit application shall be submitted with the Stormwater Drainage**  
36 **Plan.**

37

38 The above special condition is required to ensure the following:

39 **The establishment of the proposed use shall be properly documented as required by the**

**Zoning Ordinance.**

Mr. Thorsland asked Mr. Pagel if he agreed with Special Condition B.

Mr. Pagel stated that he agreed with Special Condition B.

**FINDINGS OF FACT FOR CASE 853-S-16:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **853-S-16** held on **November 10, 2016**, the Zoning Board of Appeals of Champaign County finds that:

**1. The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this location because the project will provide borrow material for the project on site, which will avoid the necessity of trucking in material.

Ms. Capel asked Mr. Pagel if the stockpiles have been relocated.

Mr. Pagel stated that the stockpile that was in question has been pulled back from the property line.

**2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:**

**a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

**b. Emergency services availability is ADEQUATE.**

Ms. Capel stated that emergency services availability is ADEQUATE.

Mr. DiNovo stated that the pond itself creates no hazards than a pond of less than 1 acre that is allowed by-right would impose.

1 Ms. Capel stated that the pond also creates a water source for the fire department.

2

3 **c. The Special Use WILL be compatible with adjacent uses.**

4

5 Mr. DiNovo stated that the Special Use WILL be compatible with adjacent uses because similar ponds  
6 are common in the district.

7

8 **d. Surface and subsurface drainage will be ADEQUATE.**

9

10 Ms. Capel stated that surface and subsurface drainage will be ADEQUATE because Mr. Pagel is aware  
11 of the issue, and so far, he has consulted his neighbor and plans to take care of any drainage issues that  
12 come up.

13

14 Mr. DiNovo stated that the petitioner is aware that he must meet the SWMEC Ordinance.

15

16 **e. Public safety will be ADEQUATE.**

17

18 Mr. DiNovo stated that public safety will be ADEQUATE because the pond creates no hazards and a  
19 pond of less than 1 acre is allowed by-right.

20

21 **f. The provisions for parking will be ADEQUATE.**

22

23 Ms. Capel stated that the provisions for parking will be ADEQUATE.

24

25 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

26

27 Ms. Capel stated that the property IS WELL SUITED OVERALL for the proposed improvements.

28

29 **h. Existing public services ARE available to support the proposed SPECIAL USE**  
30 **without undue public expense.**

31

32 Mr. Passalacqua stated that existing public services ARE available to support the proposed SPECIAL  
33 USE without undue public expense.

34

35 **i. Existing public infrastructure together with the proposed development IS adequate**  
36 **to support the proposed development effectively and safely without undue public**  
37 **expense.**

1 Mr. DiNovo stated that existing public infrastructure together with the proposed development IS  
2 adequate to support the proposed development effectively and safely without undue public expense.

3 Mr. Thorsland stated that the requested Special Use Permit SUBJECT TO THE SPECIAL  
4 CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL  
5 NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health,  
6 safety, and welfare.

7 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
8 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**  
9 **DISTRICT in which it is located.**

10  
11 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
12 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in  
13 which it is located.

14  
15 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
16 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**  
17 **is located because:**

18 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**  
19 **and codes.**

20 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances  
21 and codes.

22 **b. The Special Use WILL be compatible with adjacent uses.**

23  
24 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

25  
26 **c. Public safety will be ADEQUATE.**

27 Ms. Capel stated that public safety will be ADEQUATE.

28 Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL  
29 CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which  
30 it is located.

31 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
32 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**  
33 **because:**

34 **a. The Special Use is authorized in the District.**



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The above special condition is required to ensure the following:

**The construction of the pond conforms to the requirements of the Stormwater Management and Erosion Control Ordinance.**

**B. A Change of Use Permit application shall be submitted with the Stormwater Drainage Plan.**

The above special condition is required to ensure the following:

**The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.**

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

**Ms. Capel moved, seconded by Ms. Lee, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact as amended. The motion carried by voice vote.**

Mr. Thorsland entertained a motion to move to the final determination for Case 853-S-16.

**Ms. Capel moved, seconded by Ms. Lee, to move to the final determination for Case 853-S-16. The motion carried by voice vote.**

Mr. Thorsland informed the petitioners that currently the Board has one member absent; therefore, it is at their discretion to either continue Case 853-S-16 until a full Board is present or request that the present Board move to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

Mr. Pagel requested that the present Board move to the Final Determination.

**FINAL DETERMINATION FOR CASE 853-S-16:**

**Mr. DiNovo moved, seconded by Mr. Passalacqua, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

**The Special Use requested in Case 853-S-16 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants, Kevin and Angela Pagel, to authorize the following as a Special Use on land in the AG-1 Agriculture Zoning District:**

1  
2 **Authorize a Special Use Permit for construction of an artificial lake of 1 or more**  
3 **acres in area in the AG-1 Agriculture Zoning District.**

4  
5 ***SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:***  
6

7 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**  
8 **Stormwater Management and Erosion Control Ordinance shall be submitted and**  
9 **approved as part of the Zoning Use Permit approval process and all required**  
10 **certifications shall be submitted after construction prior to issuance of the Zoning**  
11 **Compliance Certificate.**

12  
13 **B. A Change of Use Permit application shall be submitted with the Stormwater**  
14 **Drainage Plan.**

15  
16 Mr. Thorsland entertained a roll call vote.

17  
18 The roll was called as follows:

19  
20 **Capel – yes                      DiNovo – yes                      Griest – yes**  
21 **Lee – yes                          Passalacqua – yes              Randol – absent**  
22 **Thorsland - yes**  
23

24 Mr. Hall informed Mr. Pagel that he has received an approval for his request. He said that staff would  
25 contact him as soon as possible regarding the next step. He said that Mr. Pagel should call the office with  
26 any questions.

27  
28 **Case 856-V-16 Petitioner: Bob Buchanan, agent for Sport Redi-Mix, LLC Request to authorize the**  
29 **following variance to the I-2 Heavy Industry Zoning District: Part A: Authorize a variance for the**  
30 **addition to a principal structure with a rear yard of 15 feet in lieu of the minimum required 30 feet**  
31 **as per Section 5.3 of the Zoning Ordinance; and Part B: Authorize a variance for parking 0 feet from**  
32 **the front property line in lieu of the minimum required 10 feet from the front property line as**  
33 **required by Section 7.4.1 of the Zoning Ordinance; and Part C: Authorize a variance for providing 0**  
34 **loading berths in lieu of the minimum required 2 loading berths for Industrial uses as per Section**  
35 **7.4.2 of the Zoning Ordinance. Location: A 0.91-acre tract comprised of Lots 19, 20, 21, 22, 23,24,25,**  
36 **25, 26, 27, 28, 29 and 30 of Wilbur Heights Subdivision in the Southeast Quarter of the Southwest**  
37 **Quarter of Section 31, Township 20N, Range 9E in Somer Township and commonly known as Sport**  
38 **Redi-Mix, LLC, with an address of 402 Wilbur Avenue, Champaign.**  
39

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

5  
6 Mr. DiNovo noted that the agenda only indicates Part A and Part B., but the Preliminary Memorandum dated  
7 November 3, 2016, indicates Part A, Part B, and Part C.

8  
9 Mr. Hall stated the agenda is in error and Part B. on the agenda should actually be Part C.

10  
11 Mr. Thorsland read the corrected description for Case 856-V-16.

12  
13 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
14 the witness register for that public hearing. He reminded the audience that when they sign the witness  
15 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
16 time.

17  
18 Mr. Thorsland informed the audience that Case 856-V-16 is an Administrative Case and as such, the County  
19 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for  
20 a show of hands for those who would like to cross-examine and each person will be called upon. He  
21 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.  
22 He said that those who desire to cross-examine are not required to sign the witness register but are requested  
23 to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
24 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
25 exempt from cross-examination.

26  
27 Mr. DiNovo stated that he would like to disclose *ex-parte* communication. He said that he visited the site  
28 today and Mr. Chris Knipfer, co-owner of the subject property and Mr. DiNovo's neighbor from his personal  
29 residence, began a conversation regarding other subjects Mr. Knipfer did indicate his satisfaction that the  
30 subject property is the best place for the special use permit.

31  
32 Mr. Thorsland asked the Board if they were comfortable with Mr. DiNovo's *ex-parte* communication with  
33 Mr. Knipfer or do they wish to have Mr. DiNovo abstain from the case.

34  
35 The Board indicated that Mr. DiNovo should not abstain from the case.

36  
37 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his case.

38  
39 Mr. Bob Buchanan, agent for Sport Redi-Mix, LLC, Duce Construction, and Duce Concrete, which are all



1 located in the Wilbur Heights Subdivision. He said that he is the past Chairman for the Village of  
2 Mahomet's Zoning Board of Appeals and is currently the Village of Mahomet's Zoning Commissioner. He  
3 said that he worked in the engineering and surveying field for many years and currently works for Duce  
4 Construction and Concrete and Sport Redi-Mix, LLC. He said that he would be happy to answer any  
5 questions that the Board may have regarding the proposed addition to an existing auxiliary structure. He said  
6 that the structure houses one of the many concrete pumps for Duce Concrete. He said that the other pumps  
7 are stored outside, but in order to keep those expensive pumps in working order they desire to store them  
8 inside during the winter so that they do not freeze up.

9  
10 Mr. Buchanan stated that Wilbur Avenue is an Illinois Department of Transportation (IDOT) controlled road  
11 and he has applied for an entrance construction permit with IDOT and he has submitted a copy of the permit  
12 with an attached drawing to staff for the Board's review. He said that IDOT required that he submit a  
13 complete drainage plan indicating the hydraulics and runoff of the proposed development and all of the  
14 runoff will drain to the roadside ditch. He said that he knows that staff is very familiar with the problems  
15 regarding drainage in the Wilbur Heights Subdivision. He said that IDOT required a 12" pipe, but they are  
16 installing a 15" pipe in the roadside ditch.

17  
18 Mr. Buchanan said that he has been in contact with the IDOT Road Maintenance Supervisor and he  
19 authorized him to clean the road ditch beyond the subject property. He said that this was originally a  
20 residential subdivision with small lots and there are small culverts at each one of those lots that are not being  
21 used and they are obstructed and plugged. He said that the IDOT Road Maintenance Supervisor authorized  
22 him to consult with all of the adjoining property owners so the small culverts can be removed. He said that  
23 they will clean the ditch to the point where it drains into another culvert located at the Eastern Prairie Fire  
24 Protection District property and then runs across that property to the corner and then diagonally across  
25 Wilbur Avenue onto the right-of-way along their property on the south side of Wilbur Avenue and turns east  
26 to the railroad right-of-way ditch. He said that they are going to hydro-jet and clean all of those pipes to  
27 provide good drainage because right now they are all more or less plugged. He said that they are working  
28 with IDOT to assure that there is positive drainage from their site.

29  
30 Mr. Buchanan stated that he is in consultation with IDOT regarding Wilbur Avenue. He said that Wilbur  
31 Avenue is somewhat a concrete road that has a large amount of truck traffic from the petitioner's businesses  
32 and Clifford Jacobs and it is deteriorating very quickly. He said that the petitioners have an agreement with  
33 IDOT to supply Redi-Mix concrete at a contracted price for the roads in District 5. He said that the  
34 petitioners are going to work with IDOT in supplying the concrete, at the contracted price, and perform the  
35 work required at no cost for replacing the bad sections of the road in front of the petitioner's property and an  
36 additional 150 feet in patches on Wilbur Avenue to improve the road. He said that several years ago he and  
37 Ms. Burgstrom were involved in meetings for improvements to the area, but no one wanted to improve the  
38 road and the City of Champaign does not want take it because it is in such poor condition. He said that the  
39 petitioners are basically stepping up and trying to improve the area for not only themselves, but for others as

1 well.  
2  
3 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Buchanan and there were none.  
4  
5 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Buchanan and there was no one.  
6  
7 Mr. Thorsland asked Mr. Buchanan if any construction has occurred on the property.  
8  
9 Mr. Buchanan stated that no construction has occurred on the property. He said that they were waiting on  
10 the variance in order to proceed with construction of the building. He said that they do not have room to  
11 build the building and without the building, there is no need to go through any of this work. He said that  
12 there is a dilapidated home on one of the lots, which has asbestos siding on it, and they are currently working  
13 on properly disposing of the house. He said that if the variance is granted and they are permitted to construct  
14 the proposed building, he would contact IDOT so that they can get the entrances constructed and begin  
15 working on the road.  
16  
17 Mr. Thorsland thanked Mr. Buchanan for the detailed information.  
18  
19 Mr. Thorsland read the proposed special conditions as follows:  
20  
21 **A. The Petitioner will not allow on-street parking on Wilbur Avenue or 4<sup>th</sup> Street.**  
22  
23 The special condition stated above is necessary to ensure the following:  
24 **To maximize safety for residents and business clients.**  
25  
26 Mr. Thorsland asked Mr. Buchanan if he agreed with Special Condition A.  
27  
28 Mr. Buchanan stated that he agreed with Special Condition A.  
29  
30 **B. A Zoning Use Permit shall be applied for within 30 days of the approval of Case 856-V-**  
31 **16.**  
32  
33 The above special condition is required to ensure the following:  
34 **The establishment of the proposed use shall be properly documented as required by the**  
35 **Zoning Ordinance.**  
36  
37 Mr. Thorsland asked Mr. Buchanan if he agreed to Special Condition B.  
38 Mr. Buchanan stated that he agreed to Special Condition B.  
39

1           **C.     Prior to occupancy, the petitioner shall provide documentation of compliance with the**  
 2           **IDOT construction permits for the two access driveways and associated drainage**  
 3           **improvements.**

4  
 5           The above special condition is required to ensure the following:  
 6           **That as-built construction reflects the pre-construction design approved by IDOT.**

7  
 8           Mr. Thorsland asked Mr. Buchanan if he agreed to Special Condition C.

9           Mr. Buchanan stated that he agreed to Special C.

10  
 11          Mr. Thorsland stated that there are no new Documents of Record.

12  
 13          Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Buchanan and there was no one.

14  
 15          **Findings of Fact for Case 856-V-16:**

16          From the documents of record and the testimony and exhibits received at the public hearing for zoning  
 17          case **856-V-16** held on **November 10, 2016**, the Zoning Board of Appeals of Champaign County finds  
 18          that:

19  
 20           **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**  
 21           **involved, which are not applicable to other similarly situated land and structures elsewhere**  
 22           **in the same district.**

23  
 24          Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land  
 25          or structure involved, which are not applicable to other similarly situated land and structures elsewhere  
 26          in the same district because of the limited size of the lot compared to the required size of the building,

27  
 28          Mr. DiNovo stated that the area was platted in the 1920s and is not laid out to modern standards.

29  
 30           **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**  
 31           **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**  
 32           **structure or construction.**

33  
 34          Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of  
 35          the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
 36          structure or construction because the Petitioner testified that without this variance they would not be able  
 37          to proceed.

38  
 39           **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**  
 40           **from actions of the applicant.**

1  
 2 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
 3 result from actions of the applicant because the area was platted in the 1920s and is not laid out to  
 4 modern standards.

5  
 6 Mr. DiNovo stated that the area was platted in small lots for residential use that are inconsistent with  
 7 zoning.

8  
 9 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in harmony**  
 10 **with the general purpose and intent of the Ordinance.**

11  
 12 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS  
 13 in harmony with the general purpose and intent of the Ordinance because it permits usage and also  
 14 improves the area.

15  
 16 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT be**  
 17 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**  
 18 **welfare.**

19 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS,  
 20 WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or  
 21 welfare because the plan actually improves and makes the area better and safer.

22  
 23 **6. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS the**  
 24 **minimum variation that will make possible the reasonable use of the land/structure.**

25  
 26 Mr. Thorsland stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS  
 27 the minimum variation that will make possible the reasonable use of the land/structure.

28  
 29 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE**  
 30 **PARTICULAR PURPOSES DESCRIBED BELOW:**

31  
 32 **A. The Petitioner will not allow on-street parking on Wilbur Avenue or 4<sup>th</sup> Street.**

33  
 34 The special condition stated above is necessary to ensure the following:  
 35 **To maximize safety for residents and business clients.**

36  
 37 **B. A Zoning Use Permit shall be applied for within 30 days of the approval of Case**  
 38 **856-V-16.**

39  
 40 The above special condition is required to ensure the following:

1           **The establishment of the proposed use shall be properly documented as required by**  
2           **the Zoning Ordinance.**

3  
4           **C.     Prior to occupancy, the petitioner shall provide documentation of compliance with**  
5           **the IDOT construction permits for the two access driveways and associated**  
6           **drainage improvements.**

7  
8           The above special condition is required to ensure the following:  
9           **That as-built construction reflects the pre-construction design approved by IDOT.**

10  
11          Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and  
12          Findings of Fact, as amended.

13  
14          **Ms. Lee moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of Record**  
15          **and Findings of Fact, as amended. The motion carried by voice vote.**

16  
17          Mr. Thorsland entertained a motion to move to the Final Determination for Case 856-V-16.

18  
19          **Ms. Griest moved, seconded by Ms. Capel, to move to the Final Determination for Case 856-V-16.**  
20          **The motion carried by voice vote.**

21  
22          Mr. Thorsland informed the petitioners that currently the Board has one member absent; therefore, it is at  
23          their discretion to either continue Case 856-V-16 until a full Board is present or request that the present  
24          Board move to the Final Determination. He informed the petitioners that four affirmative votes are required  
25          for approval.

26  
27          Mr. Buchanan requested that the present Board move to the Final Determination.

28  
29          **FINAL DETERMINATION FOR CASE 856-V-16:**

30  
31          **Mr. Passalacqua moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals**  
32          **finds that, based upon the application, testimony, and other evidence received in this case, that the**  
33          **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**  
34          **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**  
35          **Champaign County determines that:**

36  
37          **The Variance requested in Case 856-V-16 is hereby GRANTED WITH CONDITIONS to the**  
38          **petitioner Bob Buchanan, agent for Sport Redi-Mix, LLC, to authorize the following variance in the I-**  
39          **2 Heavy Industry Zoning District:**

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**Part A: Authorize a variance for the addition to a principal structure with a rear yard of 15 feet in lieu of the minimum required 30 feet as per Section 5.3 of the Zoning Ordinance.**

**Part B: Authorize a variance for parking 0 feet from the front property line in lieu of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance.**

**Part C: Authorize a variance for providing 0 loading berths in lieu of the minimum required 2 loading berths for Industrial uses as per Section 7.4.2 of the Zoning Ordinance.**

***SUBJECT TO THE FOLLOWING CONDITIONS:***

- A. The Petitioner will not allow on-street parking on Wilbur Avenue or 4<sup>th</sup> Street.**
- B. A Zoning Use Permit shall be applied for within 30 days of the approval of Case 856-V-16.**
- D. Prior to occupancy, the petitioner shall provide documentation of compliance with the IDOT construction permits for the two access driveways and associated drainage improvements.**

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

<b>Griest – yes</b>	<b>Lee – yes</b>	<b>Randol – absent</b>
<b>Capel – yes</b>	<b>DiNovo – yes</b>	<b>Passalacqua – yes</b>
<b>Thorsland – yes</b>		

Mr. Hall informed the petitioner that he has received an approval for his request. He said that staff would be in contact regarding the petitioner’s next step.

**7. Staff Report**

None

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**8. Other Business**

A. Review of Docket

Mr. Thorsland requested that, if possible, he would like to see every member of the Board present at the tentative March 16<sup>th</sup> meeting.

Ms. Griest stated that she will be absent from the tentative February 16<sup>th</sup> and April 27<sup>th</sup> meetings.

Mr. Passalacqua stated that he will be absent from the tentative January 26<sup>th</sup> meeting.

Ms. Lee asked the Board if, as a ZBA member, could she visit the Frazier property.

Mr. Thorsland stated that Ms. Lee could visit the property, but it important that she does not participate in any *ex-parte* communication.

Ms. Lee stated that it is difficult to determine elevations of a property through photographs. She said that she could get a better perspective by physically looking at the property.

Mr. Hall stated that he would like Ms. Lee to contact staff with a date and time of when she would be visiting the property so that staff could call the petitioner and make him aware of her pending visit.

Ms. Lee agreed.

B. Cancellation of December 22, 2016, meeting

Mr. Thorsland entertained a motion to cancel the December 22, 2016, meeting.

**Ms. Griest moved, seconded by Ms. Capel, to cancel the December 22, 2016, meeting. The motion carried by voice vote.**

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

None

**10. Adjournment**

Mr. Thorsland entertained a motion to adjourn the meeting.

1 **Ms. Lee moved, seconded by Ms. Griest, to adjourn the meeting. The motion carried by voice vote.**  
2  
3 The meeting adjourned at 7:30 p.m.  
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6  
7 Respectfully submitted  
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12 Secretary of Zoning Board of Appeals  
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*DRAFT    SUBJECT TO APPROVAL    DRAFT            ZBA    //*

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