

1 *AS APPROVED NOVEMBER 14, 2019*

2
3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 **1776 E. Washington Street**

6 **Urbana, IL 61801**

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8
9 **DATE: October 17, 2019**

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

10
11 **TIME: 6:30 p.m.**

Urbana, IL 61802

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13 **MEMBERS PRESENT:** Tom Anderson, Frank DiNovo, Marilyn Lee, Larry Wood

14
15 **MEMBERS ABSENT:** Ryan Elwell, Jim Randol

16
17 **STAFF PRESENT:** Susan Burgstrom, John Hall

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19 **OTHERS PRESENT:** Paul Cole, Kevin Walsh, Jan Walsh

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21 **1. Call to Order**

22
23 The meeting was called to order at 6:30 p.m.

24
25 Mr. Hall informed the Board that due to the absence of Chair Elwell, the Board is required to nominate a
26 Board member as Acting Chair for tonight's meeting.

27
28 **Mr. DiNovo moved, seconded by Ms. Lee, nominating Mr. Wood as Acting Chair for the October 17,**
29 **2019, Champaign County Zoning Board of Appeals Meeting. The motion carried by voice vote.**

30
31 **2. Roll Call and Declaration of Quorum**

32
33 The roll was called, and a quorum declared present.

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

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39 **3. Correspondence - None**

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41 **4. Approval of Minutes: September 12, 2019**

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43 Mr. Wood entertained a motion to approve the September 12, 2019, minutes.

44
45 **Mr. DiNovo moved, seconded by Ms. Lee, to approve the September 12, 2019, minutes.**

46
47 Mr. Wood asked the Board if there were any additions or corrections to the minutes, and there were none.

48
49 **The motion carried by voice vote.**

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1 5. Continued Public Hearing – None

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3 6. New Public Hearings

4

5 Case 957-V-19 Petitioner: Margaret B. Liu, Trustee of the Margaret B. Liu Revocable trust, via agent
6 Paul Cole. Request to authorize the following variance in the AG-1, Agriculture Zoning District: Part
7 A: Authorize a variance for the addition of 1.08 acres to an existing 31.835 acre lot, for a total of
8 32.915 acres in area, in lieu of the maximum allowed 3 acres for lots with soils that are best prime
9 farmland per Section 5.3 of the Champaign County Zoning Ordinance; and Part B: Authorize a
10 variance for a proposed division of a lot 5 acres or less in area, per Section 5.4.2 A. 3 of the zoning
11 Ordinance. Location: A 31.835 acre tract plus a 5-acre lot that are proposed to be subdivided into
12 three lots located in the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North,
13 Range 9 East of the Third Principal Meridian in Crittenden Township with the 5-acre lot having an
14 address of 493 County Road 1400E, Tolono.

15

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

24

25 Mr. Wood informed the audience that anyone wishing to testify for any public hearing tonight must sign
26 the witness register for that public hearing. He reminded the audience that when they sign the witness
27 register, they are signing an oath. He asked the audience if anyone desired to sign the witness register
28 and there was no one.

29

30 Mr. Wood asked the petitioner if they would like to make a statement regarding their request.

31

32 Mr. Paul Cole, attorney for Margaret Liu, stated that this is a matter, at least on its surface, which
33 appears to be very complex and deserves a good deal of attention from a full Board. He said that he is a
34 member of the City of Champaign Plan Commission and very often they get quorums that are at a bare
35 minimum and that is always a testament to the quality of people who show up, thank you, and it is only
36 those who are dedicated to the process who attend these meetings despite any great inconvenience. He
37 said that this particular matter requires a great deal of thought that he would hope to address, if not the
38 entire Board, at least a broader spectrum of it. He said that he had contemplated for a few minutes of
39 letting this process continue here tonight and totally educating the four Board members who are present
40 tonight, thus allowing them to be seeded with information for the next public hearing, but that would be
41 unfair to those Board members and anyone else waiting to have their matter heard. He said that it may
42 be that he can obtain the presence of his own client, who is out of town, and it would be best for
43 everyone if there was greater participation; therefore, he requested that Case 957-V-19 be continued to
44 the October 31, 2019, public hearing.

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46 Mr. Wood asked the Board for comment.

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Ms. Lee stated that a continuance of the case is a reasonable request and she understands Mr. Cole’s desire to have more Board members and his client in attendance.

Ms. Burgstrom informed Mr. Cole that if Case 957-V-19 is continued to a later date, the subdivision case would also be pushed back for approval, and it is possible that a final determination would not be received until 2020.

Mr. Cole stated that he understands the delay, but construction would not occur between November and January anyway.

Ms. Lee moved, seconded by Mr. Anderson, to continue Case 957-V-19 to the October 31, 2019, meeting.

Mr. DiNovo stated that according to the docket, the October 31st meeting is pretty full.

Mr. Hall stated that it is unknown if all of the information requested by the Board for some of the text amendment cases will be available before the October 31st meeting. He said that some of those text amendment cases could be rescheduled to the November 14th meeting.

Mr. DiNovo asked if Case 948-AT-19 could be moved to the November 14th meeting.

Ms. Burgstrom stated that it may be a problem for ELUC if all of the cases regarding solar farm amendments were not presented together. She said that she would not have an issue with continuing Case 957-V-19 to either the October 31st or November 14th meetings.

Mr. Hall stated that Case 947-AT-19 is the case where the Board requested an opinion from the State’s Attorney regarding the issue about a different credit rating for banks headquartered in Champaign County.

Mr. DiNovo stated that Case 947-AT-19 should be continued to the November 14, 2019, meeting.

Ms. Lee revised her motion as follows:

Ms. Lee moved, seconded by Mr. Anderson, to continue Case 957-V-19 to the October 31, 2019, meeting and move Case 947-AT-19 to the November 14, 2019, meeting. The motion carried by voice vote.

Case 958-V-19 Petitioner: Kevin and Jan Walsh Request to authorize a variance for proposed Lot 1 with a lot area of 0.563 acre and an average lot width of 150 feet in lieu of the minimum required one acre in area and 200 feet average lot width in the CR Conservation Recreation Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance. Location: A proposed replat of Lot 5 of Robert Wolf Subdivision and Lots 7 and 9 of Robert Wolf Second Subdivision, in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 15, Township 19 North, Range 10 East of the Third Principal Meridian in St. Joseph Township.

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2 **Case 959-V-19** Petitioner: **Kevin and Jan Walsh** Request to authorize a variance for a proposed
3 **Lot 2 with a lot area of 0.421 acre and an average lot width of 119 feet in lieu of the minimum**
4 **required one acre in area and 200 feet average lot width in the CR Conservation Recreation**
5 **Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.** Location: **A**
6 **proposed replat of Lot 5 of Robert Wolf Subdivision and Lots 7 and 9 of Robert Wolf Second**
7 **Subdivision, in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of**
8 **Section 15, Township 19 North, Range 10 East of the Third Principal Meridian in St. Joseph**
9 **Township.**

10
11 Mr. Wood informed the audience that Cases 958-V-19 and 959-V-19 are Administrative Cases and as
12 such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper
13 time, he will ask for a show of hands for those who would like to cross-examine, and each person will be
14 called upon. He requested that anyone called to cross-examine go to the cross-examination microphone
15 to ask any questions. He said that those who desire to cross-examine are not required to sign the witness
16 register but are requested to clearly state their name before asking any questions. He noted that no new
17 testimony is to be given during the cross-examination. He said that attorneys who have complied with
18 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

19
20 Mr. Wood informed the audience that anyone wishing to testify for any public hearing tonight must sign
21 the witness register for that public hearing. He reminded the audience that when they sign the witness
22 register, they are signing an oath. He asked the audience if anyone desired to sign the witness register
23 and there was no one.

24
25 Mr. Wood asked the petitioner if he desired to make a statement regarding their case.

26
27 Mr. Kevin Walsh, who resides at 401 East Sherman, St. Joseph, stated that in 1994 he and his wife
28 purchased the first lot which had a house on it, with the idea of demolishing the house and constructing a
29 new home in this beautiful area. He said that three years later, in 1997, the second lot became available
30 for purchase and they bought it as well, and just last year they purchased the third lot with a home and
31 their son moved into it. He said that unbeknownst to them, a new home could not be constructed on
32 their lot without first obtaining a variance, and that is why he is before the Board tonight.

33
34 Mr. Wood asked the Board if there were any questions for Mr. Walsh.

35
36 Mr. DiNovo asked Mr. Walsh if the existing home is serviced by well and septic.

37
38 Mr. Walsh stated that there is a well on the vacant lot and they have plans of installing a new septic
39 system, pending the approval of the variance.

40
41 Mr. DiNovo asked Mr. Walsh if the other lot has its own well.

42
43 Mr. Walsh stated yes, and the septic system is located in the front yard.

44
45 Mr. Wood asked the Board and staff if there were any additional questions for Mr. Walsh.

46

- 1 Mr. Anderson asked Mr. Walsh if Parrish Drive was a developed road or a driveway. He asked Mr.
2 Walsh if he had any plans to develop Parrish Drive into a road.
3
- 4 Mr. Walsh stated that he has no plans in developing a road, because Parrish Drive has crushed gravel on
5 it and has been in place as long as he has been affiliated with the area. He said that it would be nice if
6 the County would install a road for the area, but he does not believe that is going to happen.
7 Mr. DiNovo stated that Mr. Walsh would have to take that issue up with the township.
8
- 9 Mr. Anderson stated that the property is beautiful. He asked Mr. Walsh if the low land would be used as
10 a recreational area.
11
- 12 Mr. Walsh stated that he does not own the low land; in fact, the people who constructed the home across
13 the street own it. He said that the low land is located in the floodplain, and anything beyond the new
14 tool shed that was recently constructed is located in the mapped floodplain.
15
- 16 Mr. DiNovo asked if St. Joseph had a Comprehensive Plan in 1966. He said that the memorandum
17 indicated that the subdivision was approved in the Village of St. Joseph, but if St. Joseph did not have a
18 Comprehensive Plan in 1966, then they did not have jurisdiction over the subdivision. He said that the
19 Village of Philo had a Comprehensive Plan in 1960 and at one time staff had an inventory of all of the
20 known Comprehensive Plans in the County, with their adoption dates. He said that he does not
21 remember the Village of St. Joseph having a Comprehensive Plan that early, and if we wanted to take a
22 hard line on this, we could say that these lots were not nonconforming and were actually illegal. He said
23 that nonetheless, the lots did exist on the adoption date of the Champaign County Zoning Ordinance.
24
- 25 Mr. Hall stated that the lots would be grandfathered by the clause in the Zoning Ordinance which
26 grandfathers Plat Act violations prior to 1991.
27
- 28 Ms. Lee stated that it is not uncommon for rural areas to have lot descriptions. She asked Mr. DiNovo
29 why he is concerned about the year 1966.
30
- 31 Mr. DiNovo stated that the first six lots were platted in 1966 and if they were approved by the Village of
32 St. Joseph and not the County, then they were not created lawfully, but the clause in the Zoning
33 Ordinance covers it.
34
- 35 Mr. Wood asked the Board if there were additional questions for Mr. Walsh, and there were none.
36
- 37 Mr. Wood asked the audience if anyone desired to cross-examine Mr. Walsh, and there was no one.
38
- 39 Mr. Wood asked the audience if anyone desired to sign the witness register, and there was no one.
40
- 41 Mr. Wood closed the witness register.
42
- 43 Mr. Wood asked the Board how they would like to proceed.
44
- 45 **Mr. DiNovo moved, seconded by Ms. Lee, to move to the Findings of Fact for Cases 958-V-19 and**
46 **959-V-19. The motion carried by voice vote.**

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FINDINGS OF FACT FOR CASES 958-V-19 AND 959-V-19:

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases 958-V-19 and 959-V-19 held on October 17, 2019, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. DiNovo 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 the subdivision was platted five years before the adoption of the Zoning Ordinance, and two of the lots were lawfully built upon before the petitioners purchased the subject property.

- 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. DiNovo 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 there were two houses there at the time the property was purchased, and two houses remained there until 2018.

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

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the regulations applying to non-conforming lots are frequently the subject of confusion, and it is very common for people to purchase the lots not being aware of the issue of common ownership.

- 4. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony with the general purpose and intent of the Ordinance.**

Mr. DiNovo stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony with the general purpose and intent of the Ordinance because this will not increase traffic compared to 2018; there is evidence that there is sufficient room to develop the septic system and water wells; and the proposal does not create any special nuisances.

- 5. The requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.**

Mr. DiNovo stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL

1 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare
2 because the effect of the variance will simply be to restore conditions on the subject property that
3 were in effect between 1974 and 2017.
4

5 **6. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum**
6 **variation that will make possible the reasonable use of the land/structure.**
7

8 Mr. DiNovo stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS the
9 minimum variation that will make possible the reasonable use of the land/structure because making one
10 lot larger will make the other lot smaller.
11

12 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE**
13 **PARTICULAR PURPOSES DESCRIBED BELOW:**
14

15 Mr. Wood read Special Condition A. and asked Mr. Walsh to indicate if he agreed or disagreed.
16

17 **A. Within 30 days of Final Action of Cases 958-V-19 and 959-V-19, the petitioners shall**
18 **file a miscellaneous document with the Champaign County Recorder of Deeds that**
19 **documents the following:**

20 **(1) Variances were granted in Zoning Cases 958-V-19 and 959-V-19 to authorize**
21 **a lot less than one acre in area.**
22

23 Mr. Walsh agreed with Special Condition A.(1).
24

25 **(2) Because of the size of the lots, there are concerns whether replacement**
26 **wastewater (septic) systems can be installed on the lots in the future.**
27

28 Mr. Walsh stated that evidence has been included in the mailing packet regarding sufficient room for
29 future septic systems.
30

31 Mr. Hall stated that the information in the packet is for the proposed septic system, but every system has
32 a limited life and the concern is about when the new system needs to be replaced, will there be adequate
33 area. He said that Mr. Walsh is proving that he can meet the current standard, but the special condition
34 is to make a future owner aware that they may need to check if there is adequate room for a future
35 system to be installed.
36

37 Mr. Walsh agreed with Special Condition A. (2).
38

39 **(3) Any new wastewater (septic) system will need to be authorized by the**
40 **Champaign County Health Department.**
41

42 Mr. Walsh agreed with Special Condition A. (3).
43

44 **(4) For further information, interested parties should contact the Champaign**
45 **County Department of Planning and Zoning.**
46

47 Mr. Walsh agreed with Special Condition A. (4).

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

That potential buyers of the property are aware of how the lots were created and the possible limitations regarding the replacement of wastewater systems on the properties.

Mr. Walsh indicated that he agreed with the Special Condition A. overall.

Mr. Wood entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact for Cases 958-V-19 and 959-V-19.

Ms. Lee moved, seconded by Mr. Anderson, to adopt the Summary of Evidence, Documents of Record and Findings of Fact for Cases 958-V-19 and 959-V-19, and to move to the Final Determinations for Cases 958-V-19 and 959-V-19 and determine each separately. The motion carried by voice vote.

FINAL DETERMINATION FOR CASE 958-V-19 (PROPOSED LOT 1):

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

The Variance requested in Case 958-V-19 is hereby GRANTED WITH ONE CONDITION to the petitioners, Kevin and Jan Walsh, to authorize the following variance:

Authorize a variance for proposed Lot 1 with a lot area of 0.563 acre and an average lot width of 150 feet in lieu of the minimum required one acre in area and 200 feet average lot width in the CR Conservation Recreation Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

SUBJECT TO THE FOLLOWING CONDITION:

- A. Within 30 days of Final Action of Cases 958-V-19 and 959-V-19, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
 - (1) Variances were granted in Zoning Cases 958-V-19 and 959-V-19 to authorize a lot less than one acre in area.**
 - (2) Because of the size of the lots, there are concerns whether replacement wastewater (septic) systems can be installed on the lots in the future.**
 - (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
 - (4) For further information, interested parties should contact the Champaign**

County Department of Planning and Zoning.

Mr. Wood informed Mr. Walsh that currently the Board has two members absent; therefore, it is at his discretion to either continue Case 958-V-19 until a full Board is present or request that the present Board move to the Final Determination. He informed the petitioner that four affirmative votes are required for approval.

Mr. Walsh stated that he was comfortable with the Board’s findings.

Mr. Wood requested a roll call vote.

The roll was called as follows:

Anderson – yes	DiNovo – yes	Elwell – absent
Lee – yes	Randol – absent	Wood – yes

FINAL DETERMINATION FOR CASE 959-V-19 (Proposed Lot 2):

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

The Variance requested in Case 959-V-19 is hereby GRANTED WITH ONE CONDITION to the petitioners, Kevin and Jan Walsh, to authorize the following variance:

Authorize a variance for proposed Lot 2 with a lot area of 0.421 acre and an average lot width of 119 feet in lieu of the minimum required one acre in area and 200 feet average lot width in the CR Conservation Recreation Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

SUBJECT TO THE FOLLOWING CONDITION(S):

- A. Within 30 days of Final Action of Cases 958-V-19 and 959-V-19, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
 - (1) Variances were granted in Zoning Cases 958-V-19 and 959-V-19 to authorize a lot less than one acre in area.**
 - (2) Because of the size of the lots, there are concerns whether replacement wastewater (septic) systems can be installed on the lots in the future.**
 - (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
 - (4) For further information, interested parties should contact the Champaign**

County Department of Planning and Zoning.

Mr. Wood requested a roll call vote.

The roll was called as follows:

DiNovo – yes	Elwell – absent	Lee – yes
Randol – absent	Anderson – yes	Wood – yes

Mr. Hall informed the petitioner that he has received an approval for both cases and Ms. Burgstrom would be in contact regarding the next steps.

Mr. Walsh thanked everyone involved with what was a long process for them, but staff and the Board made it very easy, and he thanked them for their time.

7. Staff Report - None

8. Other Business

A. Review of Docket

Mr. DiNovo asked when the new member would begin his term in November.

Mr. Hall stated that the new member would begin in December, although he is not sure why.

Ms. Lee stated that the begin date is probably so that the new member could serve a full term.

Mr. Hall stated that the rules indicate that if you fulfill the remainder of someone else’s term, you can still serve two full terms after that, but either way, the new member starts at the December 12th meeting.

Mr. DiNovo noted that there would only be five members at the October 31st meeting.

Ms. Lee stated that no one is indicated as being absent on October 31st.

Mr. DiNovo apologized for his error.

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

None

10. Adjournment

Mr. Elwell entertained a motion to adjourn the meeting.

Ms. Lee moved, seconded by Mr. DiNovo, to adjourn the meeting.

The meeting adjourned at 7:20 p.m.

ZBA

AS APPROVED NOVEMBER 14, 2019

10/17/2019

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Respectfully submitted

Secretary of Zoning Board of Appeals