

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

DATE:	June 15, 2023	PLACE:	Shields-Carter Meeting Room
			1776 East Washington Street
			Urbana, IL 61802

MEMBERS PRESENT: Ryan Elwell, Nolan Herbert, Thaddeus Bates, Larry Wood, Jim Randol, Lee Roberts, Tom Anderson

MEMBERS ABSENT: None

STAFF PRESENT: John Hall, Susan Burgstrom, Stephanie Berry, Trevor Partin

OTHERS PRESENT: Diane Shields, Gary Place, Shelley Place, Kyle Britt, Stephen Lemke, Lisa Lemke, Alex Wilson

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.

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

3. Correspondence – None

4. Minutes – May 11, 2023

Mr. Randol moved, seconded by Mr. Herbert, to approve the May 11, 2023 minutes. The motion passed by voice vote.

5. Audience participation with respect to matters other than cases pending before the Board - None

6. Continued Public Hearings - None

7. New Public Hearings

Case 091-S-23

Petitioners: Kyle Britt and Alex Wilson, d.b.a. Big Rig Diesel Service, LLC

Request: Authorize a Special Use Permit for multiple principal structures consisting of a diesel repair shop and a diesel agricultural equipment repair shop in the B-3 Highway Business Zoning District.

1 Location: **A 6.8-acre tract in the Northwest Quarter of the Southwest Quarter and the Southwest**
2 **Quarter of the Northwest Quarter of Section 12, Township 18 North Range 10 East of**
3 **the Third Principal Meridian in Sidney Township, commonly known as Big Rig Diesel**
4 **Service and Double M Repair with an address of 2310 CR 1050 North (County Highway**
5 **15), Homer.**
6

7 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
8 the witness register for that public hearing. He reminded the audience that when they sign the witness
9 register, they are signing an oath.
10

11 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
12 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
13 show of hands from those who would like to cross-examine, and each person will be called upon. He said
14 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
15 state their name before asking any questions. He noted that no new testimony is to be given during the
16 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
17 exempt from cross-examination. He asked if the petitioners would like to outline the nature of their
18 request.
19

20 Alex Wilson gave his address as 134 West Orleans, Paxton. Kyle Britt gave his address as 412 Deerpath
21 St, Tolono. Mr. Britt said they have been operating Big Rig Diesel at that address for a few years now. He
22 said Garrett Maxheimer started Double M Repair and needed a building to use for his ag repair, so they
23 rented him what is designated as Building #2, and he has been using it for basically tractors and combines
24 repair.
25

26 Mr. Elwell thanked the petitioners and asked if there were any questions from the Board or staff. Seeing
27 none, he asked if anyone would like to cross-examine the petitioners. Seeing no one, he called Gary Place
28 to testify.
29

30 Gary Place, 2379 CR 700N, Homer, said he and his wife own the adjoining property to the north, 16 acres
31 of farmland, and they do support this change.
32

33 Mr. Elwell thanked Mr. Place and asked if there were any questions from the Board.
34

35 Mr. Anderson asked to whom the corn crop belongs on the land.
36

37 Mr. Place said it is in soybeans this year.
38

39 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
40 anyone would like to cross-examine the witness. Seeing no one, he thanked Mr. Place. He asked if anyone
41 else would like to testify in this case. Seeing no one, he asked the petitioners to step forward again. He
42 asked if there was a motion to close the Witness Register.
43

44 **Mr. Roberts moved, seconded by Mr. Herbert, to close the Witness Register for Case 091-S-23. The**
45 **motion carried by voice vote.**
46

47 Mr. Elwell said there are some special conditions for the approval. He said he would read them, and if the
48 petitioners agree, they should indicate in the affirmative. He said he would be reading from Attachment
49 F, page 16 of 20.

1 A. A Change of Use Permit shall be applied for within 30 days of the approval of Case
2 091-S-23.

3
4 The special condition stated above is required to ensure the following:

5 The establishment of the proposed uses shall be properly documented as
6 required by the Zoning Ordinance.
7

8 Mr. Elwell asked if they agreed.
9

10 Mr. Wilson said yes.
11

12 B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until
13 the petitioner has demonstrated that any new or proposed exterior lighting on the
14 subject property will comply with the lighting requirements of Section 6.1.2.

15
16 The special condition stated above is required to ensure the following:

17 That any proposed exterior lighting is in compliance with the Zoning
18 Ordinance.
19

20 Mr. Elwell asked if they agreed.
21

22 Mr. Wilson said there is no new lighting going up.
23

24 Mr. Elwell said if there is any new lighting.
25

26 Mr. Wilson said they agreed.
27

28 C. Any future sale of the subject property may be subject to the Illinois Plat Act (765
29 ILCS 205/0.01 et seq.) or the Champaign County Subdivision Regulations; or the
30 subdivision regulations of a municipality that has jurisdiction within one and one-half
31 miles of the corporate limits.
32

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

34 That the subject property complies with the Zoning Ordinance.
35

36 Mr. Elwell asked if they agreed.
37

38 Mr. Wilson said yes.
39

40 Mr. Elwell asked how the Board would like to proceed.
41

42 Mr. Randol moved, seconded by Mr. Roberts, to move to the Findings of Fact for Case 091-S-23.
43 The motion passed by voice vote.
44

45 Mr. Elwell informed the petitioners that he was going to be reading from Attachment F, page 18 of 20.
46

47 **FINDINGS OF FACT FOR CASE 091-S-23**

48 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
49 091-S-23 held on June 15, 2023, the Zoning Board of Appeals of Champaign County finds that:

1 **1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this**
 2 **location because:**

3
 4 Mr. Herbert said the requested Special Use Permit IS necessary for the public convenience at this location
 5 because both businesses have an established service area around Sidney, Philo, Homer, and St. Joseph.

6
 7 **2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
 8 ***HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}***
 9 **be injurious to the district in which it shall be located or otherwise detrimental to the public**
 10 **health, safety, and welfare because:**

11 **a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance**
 12 **location has *{ADEQUATE / INADEQUATE}* visibility.**

13
 14 Mr. Randol said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
 15 visibility.

16
 17 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:**

18
 19 Mr. Randol said emergency services availability is ADEQUATE because: the subject property is located
 20 approximately 2.7 road miles from the Sidney Fire Protection District station.

21
 22 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:**

23
 24 Mr. Herbert said the Special Use WILL be compatible with adjacent uses because: the property has been
 25 in commercial use for years. It is surrounded by land in agricultural production and the Frito-Lay facility
 26 to the south, which have also existed for many years.

27
 28 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

29
 30 Mr. Wood said surface and subsurface drainage will be ADEQUATE because: the subject property is
 31 exempt from the Storm Water Management and Erosion Control Ordinance because no new construction
 32 is proposed.

33
 34 **e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

35
 36 Mr. Herbert said public safety will be ADEQUATE because: relevant jurisdictions have been notified of
 37 this case, and no comments have been received.

38
 39 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

40
 41 Mr. Randol said the provisions for parking will be ADEQUATE because: the site has sufficient space for
 42 parking and loading berths. No screening is required for parking.

43
 44 Mr. Wood said the requested Special Use Permit will NOT be injurious to the district in which it shall be
 45 located or otherwise detrimental to the public health, safety, and welfare.

46
 47 **3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
 48 ***HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the**
 49 **DISTRICT in which it is located.**

1 Mr. Wood said the requested Special Use Permit DOES conform to the applicable regulations and
2 standards of the DISTRICT in which it is located.

3

4 **3b. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
5 **HEREIN} {DOES / DOES NOT} preserve the essential character of the DISTRICT in which**
6 **it is located because:**

7 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all relevant**
8 **County ordinances and codes.**

9

10 Mr. Randol said the Special Use will be designed to CONFORM to all relevant County ordinances and
11 codes.

12

13 **b. The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**

14

15 Mr. Randol said the Special USE WILL be compatible with adjacent uses.

16

17 **c. Public safety will be {ADEQUATE / INADEQUATE}.**

18

19 Mr. Randol said public safety will be ADEQUATE.

20

21 Mr. Herbert said the requested Special Use Permit DOES preserve the essential character of the
22 DISTRICT in which it is located.

23

24 **4. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
25 **HEREIN} {IS / IS NOT} in harmony with the general purpose and intent of the Ordinance**
26 **because:**

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

28

29 **b. The requested Special Use Permit {IS/ IS NOT} necessary for the public convenience**
30 **at this location.**

31

32 Mr. Wood said the requested Special Use Permit IS necessary for the public convenience at this location.

33

34 **c. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
35 **IMPOSED HEREIN} is so designed, located, and proposed to be operated so that it**
36 **{WILL / WILL NOT} be injurious to the district in which it shall be located or**
37 **otherwise detrimental to the public health, safety, and welfare.**

38

39 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
40 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
41 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
42 and welfare.

43

44 **d. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
45 **IMPOSED HEREIN} {DOES / DOES NOT} preserve the essential character of the**
46 **DISTRICT in which it is located.**

47

48 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
49 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

1 Mr. Wood said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
2 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

3
4 **5. The requested Special Use IS NOT an existing nonconforming use.**

5
6 **6. SPECIAL CONDITIONS ARE IMPOSED HEREIN AND ARE REQUIRED TO ENSURE**
7 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
8 **PARTICULAR PURPOSES DESCRIBED BELOW:**

9
10 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case**
11 **091-S-23.**

12
13 The special condition stated above is required to ensure the following:

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

16
17 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until**
18 **the petitioner has demonstrated that any new or proposed exterior lighting on the**
19 **subject property will comply with the lighting requirements of Section 6.1.2.**

20
21 The special condition stated above is required to ensure the following:

22 **That any proposed exterior lighting is in compliance with the Zoning**
23 **Ordinance.**

24
25 **C. Any future sale of the subject property may be subject to the Illinois Plat Act (765**
26 **ILCS 205/0.01 et seq.) or the Champaign County Subdivision Regulations; or the**
27 **subdivision regulations of a municipality that has jurisdiction within one and one-half**
28 **miles of the corporate limits.**

29
30 The special condition stated above is required to ensure the following:

31 **That the subject property complies with the Zoning Ordinance.**

32
33 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the
34 Findings of Fact as amended.

35
36 **Mr. Roberts moved, seconded by Mr. Wood to adopt the Summary of Evidence, Documents of**
37 **Record, and Findings of Fact as amended. The motion carried by voice vote.**

38
39 Mr. Elwell entertained a motion to move to Final Determination for Case 091-S-23.

40
41 **Mr. Roberts moved, seconded by Mr. Wood, to move to Final Determination for Case 091-S-23. The**
42 **motion carried by voice vote.**

43
44 Mr. Elwell informed the petitioners that he was going to be reading from page 20 of 20 of Attachment F.

45
46 **FINAL DETERMINATION FOR CASE 091-S-23**

47 **Mr. Wood moved, seconded by Mr. Roberts, that the Champaign County Zoning Board of Appeals**
48 **finds that, based upon the application, testimony, and other evidence received in this case, that the**

1 requirements for approval of Section 9.1.11B. *HAVE* been met, and pursuant to the authority
2 granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, recommends that:

3
4 The Special Use requested in Case 091-S-23 is hereby *GRANTED WITH SPECIAL*
5 *CONDITIONS* to the applicants, Kyle Britt and Alex Wilson, d.b.a. Big Rig Diesel Service
6 LLC, to authorize the following:

7
8 Authorize a Special Use Permit for multiple principal structures consisting of a diesel
9 repair shop and a diesel agricultural equipment repair shop in the B-3 Highway
10 Business Zoning District.

11
12 The vote was called as follows:

13 **Randol- Yes Roberts- Yes Anderson- Yes Herbert- Yes**
14 **Elwell- Yes Wood- Yes Bates- Yes**

15
16 The motion carried by roll call vote.

17
18 Case 092-V-23

19 Petitioners: **Stephen Lemke**

20
21 Request: **Authorize the following variance in the I-1 Light Industry Zoning District:**

22 **Part A: Authorize a variance for a lot area of 6,600 square feet in lieu of the**
23 **minimum required 10,000 square feet in area as per Section 4.3.4 of the Zoning**
24 **Ordinance.**

25
26 **Part B: Authorize an existing single-family home with a side yard of 0 feet in lieu**
27 **of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.**

28
29 **Part C: Authorize an existing detached storage shed with a side yard of 0 feet in**
30 **lieu of the minimum required 10 feet side yard, as per Section 7.2.1 of the Zoning**
31 **Ordinance.**

32
33 Location: **Lots 141 and 142 in Wilber Heights Subdivision in the Southeast Quarter of the**
34 **Southwest Quarter of Section 31, Township 20 North, Range 9 East of the Third**
35 **Principal Meridian in Somer Township, and more commonly known as 318 Paul Ave,**
36 **Champaign, Illinois.**

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

41
42 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
43 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
44 show of hands from those who would like to cross-examine, and each person will be called upon. He said
45 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
46 state their name before asking any questions. He noted that no new testimony is to be given during the
47 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
48 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request.

1 Stephen Lemke, 318 Paul Avenue, Champaign, said he was requesting a variance. He said his parents own
2 all the land that his house currently sits on. He said his dad has since passed away and his mother's health
3 is not the greatest so the reason he is looking to get this approved is so that he doesn't have to pay for his
4 property again between his brother and sister if something was to happen to his mother.

5
6 Mr. Elwell thanked Mr. Lemke and asked if there were any questions from the Board.

7
8 Mr. Wood asked when all eight of those parcels were bought by his mother.

9
10 Mr. Lemke said he thinks they purchased it in 1966 or 1967, somewhere in that range. He said when they
11 purchased it, they had been through all the different zoning changes out there. He said before they used to
12 be declared individual lots, then when the zoning change happened then they combined and even though
13 they're considered still separate lots according to the County for zoning, it's all one lot. He said therefore
14 if he was to try to do anything with his house, he can't do anything because he doesn't own the land
15 underneath it.

16
17 Mr. Wood asked if the houses were there when she bought all that property at one time.

18
19 Mr. Lemke said the house that his mom lives in was there and then there was a single-wide trailer at the
20 north end of that lot that ran east and west. He said when that trailer was old enough there and his sister
21 graduated and got married, they purchased the modular home, and it was put running north and south on
22 the property. He said they got all the building permits and that was around 1991 or 1992. He said his sister
23 lived there until her family got big enough and they moved to a different house, then his brother moved
24 into the house, then he got married and had kids and they moved to a different house. He said he moved
25 in when his dad was sick so someone was right there next to him to help take care of him. He said he has
26 been there since 2003 or 2004.

27
28 Mr. Wood said he had a question for Staff. He said when you have multiple lots like that, that according
29 to current zoning are not of appropriate size for residences, when you have all those lots adjoined as they
30 are, is there a rule that says we should not go backward on something like that. He asked if they are still
31 considered individual lots or is this all one lot.

32
33 Mr. Hall said the individual lots are all non-conforming and once zoning is adopted, non-conforming lots
34 under a common ownership have to stay that way unless they can be divided to create conforming lots
35 and the houses are not located such that a new lot could be made that is conforming. He said that is why
36 Mr. Lemke is here tonight. He said given the structures that are on the property, a 6,600 square foot lot is
37 about as large as you can come up with; the good thing is this house is already connected to sewer, unlike
38 most houses in Wilber Heights, so there is no need for a septic field area. He asked Mr. Lemke if he was
39 on a public water system or if he has a well.

40
41 Mr. Lemke said all the places out there are on city water, and there are about eight houses that are actually
42 on the city sewer out there too.

43
44 Mr. Hall said a variance is required, but with the facts as they are, there's not the normal issues when
45 you're not on sewer and things like that.

46
47 Mr. Wood said Mr. Lemke mentioned something about having to buy the house from his brother and sister
48 if this change doesn't take place. He asked if Mr. Lemke had to buy it if he does make the change.

49

1 Mr. Lemke said he would basically have to buy it again, yes, because they would have to split everything
2 into thirds since everything there is in his mom's name now that his dad has passed away. He said he
3 would basically have to repurchase it out of the third of all of that.
4
5 Mr. Wood asked if he had already purchased it once.
6
7 Mr. Lemke said yes, from before his dad passed away or around that time.
8
9 Mr. Wood said he's just curious on how the title work would work on something like that.
10
11 Mr. Lemke said because it's a modular home it actually has a vehicle title, so all he has to do is send that
12 into the State and then the title for it is all in his name.
13
14 Mr. Wood asked if that included the property.
15
16 Mr. Lemke said no, according to the way he has to do it is if this variance is approved then he has to go
17 into the Assessor's office and do something that they call a PIN split to separate those from the other six
18 lots that are there to make these two their own separate lots.
19
20 Mr. Wood asked if they are all taxed as one lot right now.
21
22 Mr. Herbert asked if the back building was a garage, with one house facing the south that is his mom's
23 house, and then his house is to the east.
24
25 Mr. Lemke said yes and asked which page he was referring to.
26
27 Mr. Herbert said it was Attachment B.
28
29 Mr. Lemke said if you're looking at the picture, the house to the east is the modular home, which faces
30 north and south closest to Fourth Street. He said the house that's in the middle of the picture is his mother's
31 house, which faces out to Paul Avenue, and the very back building is a garage. He said there's an existing
32 shed that is to the far northeast corner of that lot.
33
34 Mr. Wood asked if the split takes place is there an issue with that garage and whether it's far enough away
35 from the line as well – does it meet the 10-foot minimum.
36
37 Ms. Burgstrom said it does meet the 10-foot minimum.
38
39 Mr. Herbert asked how does that work when the property line is right out the back door and appears to be
40 going through the deck. He said that could get kind of sticky with friends or family, or strangers for that
41 matter. He said if that other place were to be sold, he guesses that's a pretty unique situation there.
42
43 Mr. Lemke said with his mom living right next door, there's no issue there at all.
44
45 Mr. Herbert said currently.
46
47 Mr. Lemke said if anything was to be sold, it would all be sold; even though we split this, this is just for
48 when something winds up happening to his mother, so he doesn't have to buy it again. He said once
49 something happens to his mother, his brother and sister don't have an interest in that property, so he is

1 going to wind up buying it and then it will all be considered one lot again.
2
3 Mr. Herbert asked how does that work once it's split off; we're essentially splitting this off to a separate
4 lot so therefore it can't really be sold as one lot again – it's still two lots. He asked if we would end up
5 with the same question in 10 or 15 years.
6
7 Mr. Elwell said there's still one PIN as of right now.
8
9 Mr. Herbert said but he's wanting to re-PIN it if this happens, so there would be two PINs.
10
11 Mr. Hall said he would own two properties at that time.
12
13 Mr. Wood said you're assuming that the same person would buy both lots; suppose you can't sell both
14 lots to the same person.
15
16 Mr. Herbert said that's kind of what he's getting at – what happens if that doesn't happen.
17
18 Mr. Wood said that's the problem it creates in the future if that situation arises.
19
20 Mr. Hall asked what is it that he's concerned about.
21
22 Mr. Wood said if you make the split and something happens to his mother, he assumes that would trigger
23 the decision to sell the property.
24
25 Mr. Lemke said then he would be the one to buy that property there, his mother's property, so it's not like
26 it is going to get sold to someone else, it's going to get sold to him. He said this is just doing it so he
27 doesn't have to pay for his existing property twice.
28
29 Mr. Bates asked if the existing property is in Mr. Lemke's name.
30
31 Mr. Lemke said the house itself is in his name.
32
33 Mr. Bates asked what about the property.
34
35 Mr. Lemke said the land is not, it is in his mother's name.
36
37 Mr. Bates asked how we could separate something off that Mr. Lemke doesn't even own.
38
39 Mr. Hall asked if his mother's signature was on the variance application.
40
41 Ms. Burgstrom said no we don't, but she is aware of this case. She said she spoke with her personally and
42 she knows what's going on.
43
44 Mr. Bates said he just has concerns that somebody can separate his property off that doesn't own it. He
45 said he thought he had missed something in the documentation that shows her approval.
46
47 Mr. Hall said it might be appropriate to have a condition that we get a signed letter from Mrs. Lemke or
48 in fact just arrange for her to sign the application.
49

- 1 Mr. Bates said what we're looking at right now is somebody separating property that doesn't own it.
2
- 3 Mr. Wood asked Mr. Lemke if he had power of attorney for his mother.
4
- 5 Mr. Lemke said no, he does not.
6
- 7 Mr. Wood said if he did, that would fix the problem.
8
- 9 Mr. Lemke said right, but no he doesn't. He said he thinks his sister may have some forms of power of
10 attorney if something has happened where his mom is not capable of doing that. He said right now his
11 mother is still of sound mind and everything so she's more than able to do whatever needs to be done. He
12 said he wouldn't have come in to try to do this if it wasn't okay with his mother anyway. He said he asked
13 all kinds of questions before he even applied and did all this, and that part of it was never brought up.
14
- 15 Mr. Wood asked Mr. Lemke if he has had an attorney work on this.
16
- 17 Mr. Lemke said no, not that he has gotten. He said he knows his mother has an attorney that had done
18 some stuff after his dad had passed away, but as far as for this stuff here, no.
19
- 20 Mr. Elwell asked if it would be responsible of us to ask that the entire deck be included on one PIN. He
21 said if there is damage to the deck that's greater than 50% would we require the total deck to be removed.
22
- 23 Ms. Burgstrom said one of the complicating factors in this is that City of Champaign has the subdivision
24 jurisdiction over this property and the city has said it can do a simpler split if existing Wilber Heights
25 original lot lines are used. She said if we were to deviate from that and maybe go a little to the west, then
26 that complicates the process for splitting these lots.
27
- 28 Mr. Herbert asked what the measurement from the line to his back door is.
29
- 30 Mr. Lemke said the way they had figured it when his dad was alive was that the deck goes right out to the
31 edge of the sidewalk. He said the aerial photo doesn't line up with that completely. He said if you go
32 through all the aerial photos, you'll see that line moves quite a bit. He said that is approximately eight feet
33 from where the back door is to the edge of that sidewalk.
34
- 35 Mr. Herbert asked how far the line is from the back door.
36
- 37 Mr. Lemke said the property line would be about eight feet from the back door.
38
- 39 Mr. Herbert asked how many feet the deck is.
40
- 41 Mr. Lemke said the deck goes right to the property line; it's eight feet. He said the deck that's shown in
42 the picture is not the current deck; you'd have to look at the actual photographs of the house that shows
43 the current deck that's there, and then you can see that sidewalk a bit better too.
44
- 45 Mr. Herbert said it looks like the photo was taken April 27, 2023.
46
- 47 Mr. Wood asked if that deck is on the west side of the building or is it just a sidewalk on that side.
48
- 49 Ms. Burgstrom said it's the deck and the sidewalk that are on the west side of the building.

- 1 Mr. Wood said so the property line is right at the edge of the deck.
2
- 3 Ms. Burgstrom said that's not how Staff measured it. She said we're not professional surveyors, but when
4 we went out, we figured the proposed property line was about bisecting that deck.
5
- 6 Mr. Wood said that part B. of the variance says that the side yard is zero feet in lieu of the minimum
7 required ten feet, so it's not really zero.
8
- 9 Ms. Burgstrom said because it's actually crossing the proposed property line, we put it at zero because we
10 can't use like negative four, so we have to say zero.
11
- 12 Mr. Elwell said he really would hope that someone is not petty enough to camp out on four feet of the
13 deck. He said he's not familiar enough of Champaign's code when it comes to the PIN. He asked if it is
14 responsible for us to draw a line that goes through half a deck. He said it will be drawn when he gets it re-
15 pinned.
16
- 17 Mr. Wood said it really only becomes an issue if at some point in the future the two lots that we would
18 end up creating are owned by two different people; that's the only thing that he sees could be a problem.
19 He said the only thing that we have here that's an issue as far as he is concerned is the legal issue that we
20 don't have permission from the actual owner of the land. He said you just have to wait and get that
21 permission, however you want to do it, whether it's Mr. Lemke's sister who has a financial power of
22 attorney or his mother has to sign off on that because he doesn't know that the Board has the authority to
23 actually make that change without the owner being here saying yes, they can do that.
24
- 25 Mr. Randol asked if that could just be put in as a special condition that this only takes place when the
26 mother comes in and signs the paperwork.
27
- 28 Mr. Bates said that Ms. Burgstrom made the reference that it muddies the water downstream if we move
29 the line to the edge; who does that muddy the waters for.
30
- 31 Ms. Burgstrom said the City of Champaign would have a different approval process for subdividing that
32 is more complicated for the City and for the petitioner.
33
- 34 Mr. Bates said he is not really wanting to kick the can, but he is not comfortable with a deck crossing a
35 property line, so it would be either a deck coming off or a property line being moved out. He said he is
36 not comfortable with a scenario where a piece of property 1) doesn't meet the setback but 2) crosses a
37 property line. He said we've all seen goofier things. He said the plan forward makes a lot of sense – he
38 understands exactly what Mr. Lemke is doing and he's not trying to be defiant in that. He said he's seen
39 things in his own family similar to this that it doesn't go as planned.
40
- 41 Mr. Lemke said he knows whenever Staff came out and measured, they went from the center of the road,
42 they went down about a two-foot ditch, back up a two foot ditch and then out, so they're four foot extra
43 from where they measured because you have to take the two foot down and the two foot back up to add
44 to it. He said it has to be a straight line, it can't be down and up; it has to be on a flat surface in order to
45 measure correctly. He said therefore that puts it right to the edge of that sidewalk if you look at the current
46 pictures of that new deck which is right where the end of the deck is, at the edge of that sidewalk. He said
47 the deck isn't technically going to be crossing the property line.
48
- 49 Mr. Herbert said he doesn't think that's right; if you're going down at an angle that doesn't equate to two

1 feet, you might add six inches to that measurement but not two feet and two feet, not four feet to that
2 measurement.

3
4 Mr. Lemke said the ditch goes down quite a bit and it flattens out and then comes back up, so you're going
5 to have a section there that adds feet because you're going down and coming back up. He said you have
6 to take what you went down and what you went back up and add to the end of it to make the straight line
7 that goes across.

8
9 Ms. Burgstrom said she understands what Mr. Lemke is saying – what we had in terms of the tools we
10 had was the measuring wheel, but she doesn't think the ditch was that deep. She said at the end of the day
11 only a surveyor could tell us exactly how far this goes onto that deck.

12
13 Mr. Lemke said also on that picture he knows there's a lamppost to the north and that lamppost is where
14 when his dad was alive they had it surveyed and that lamppost is where the property line is.

15
16 Mr. Elwell asked who did the survey.

17
18 Mr. Lemke said he couldn't tell them because that was probably 25 to 30 years ago.

19
20 Mr. Elwell asked Ms. Burgstrom if it was easier to have the property surveyed than going through the
21 muddied waters of Champaign.

22
23 Ms. Burgstrom said she honestly doesn't know what their process is for this other than this simple PIN
24 split, she doesn't know which subdivision regulation would kick in, so she couldn't say.

25
26 Mr. Herbert said he would feel more comfortable moving that property line closer to the garage and have
27 a smaller yard space on the back side of a property next to a garage with more adequate room from each
28 house. He said the garage yard space is minimal. He said in the future if something didn't work out, we've
29 now established a new property line.

30
31 Mr. Randol said but we can't establish the property line.

32
33 Mr. Herbert said but we can approve this one. He said not knowing exactly where that's at that's kind of
34 a tough call to make.

35
36 Mr. Elwell said it's his understanding that they can't re-pin it until there's a variance, so we can't establish
37 the PIN.

38
39 Mr. Hall said if it would help the Board and if it fits within Mr. Lemke's time schedule, our Staff would
40 be happy to contact Jeff Marino at the City of Champaign and get more details. He said our Board wants
41 to make sure this deck is on the lot and that's going to probably require something other than just working
42 within the lot lines; what is the cost, what are the approvals necessary, Staff can come back to the Board
43 and report on that. He said he doesn't see why the city couldn't do something like say this lot would be
44 the entirety of lots 141, 142 and the south portion of 143 so that all of that deck is included. He said that's
45 working with whole lots, it's not requiring a surveyor to get involved, we can see if the city would be
46 amenable to something like that and it would also give us the chance to get Mrs. Lemke's signature on the
47 application.

48
49 Mr. Bates said he is in full agreeance with that and it's to protect him as well if something were to happen

1 with the other lot.

2
3 Mr. Lemke said he already knows that if something happened to his mother, nothing could be sold from
4 that lot unless it's in agreeance with all three of them, which his brother and sister don't want anything to
5 do with it so he would be the one buying it. He said he just doesn't want to have to re-buy his current spot
6 that he's at.

7
8 Mr. Bates said he thinks what Mr. Hall is saying would protect Mr. Lemke from that.

9
10 Mr. Lemke said he even talked to Jeff Marino before he filed the variance and there is another fee. He
11 said he forgets if it was \$300 or \$500 through the city that he has to pay then he also has to pay either an
12 architect or a surveyor or both to come out, propose what they're going to do. He said then they have to
13 go to the city board, make sure they approve it and then they will get in touch with the P&Z Department
14 to make sure everybody is in agreeance with everything on that before they approve it. He said if they do
15 it that way, then he might not even need the variance to begin with. He said all those extra costs involved
16 with paying the city to possibly approve it or not, they won't say one way or the other. He said when Jeff
17 Marino pulled it up, he said they didn't need to do it because they are already individual lots. He said Mr.
18 Marino looked at the plat map and said he could take those first two lots and it's fine. He said so the city
19 doesn't have to be involved at all with anything on there according to Jeff Marino.

20
21 Mr. Elwell said his concern is when Mr. Lemke does move, now potentially there's two different parcels
22 that are able to be sold separately because they are now conforming if we approve this process. He said
23 he sells real estate as a profession and these kinds of things come out, it's not very apparent sometimes,
24 and it does cause problems. He said he would rather do our due diligence in making sure that it's done
25 right the first time than try to potentially cut corners. He said he understands, and he is very sympathetic
26 and empathetic to fees and stuff like that, but he thinks that would do Mr. Lemke well in the future doing
27 the work now.

28
29 Mr. Lemke said the thing he is trying to do is, and maybe the Board isn't quite understanding this, when
30 something happens to his mother then he will be the one buying the stuff next door and then once that
31 happens, then all the lots would be together again according to the zoning. He said he would get rid of this
32 new PIN that we're doing and then it would be all under one PIN according to the county again; it's not
33 going to stay separated. He said there's a way to do that, the same way as he's doing it now, so therefore
34 it's like we're doing a bunch of stuff that we don't really have to do other than get his mother's signature,
35 which if he had known that he would have had her come to the meeting tonight.

36
37 Mr. Wood said one other issue is that if you move the line, does that compromise the side yard for the
38 garage on the other property.

39
40 Ms. Burgstrom said it does create the need for a variance for that garage and that would be a separate fee
41 and case.

42
43 Mr. Wood said the other thing you might think about is you might get a really good lawyer to take care of
44 redesigning the will so Mr. Lemke doesn't have to pay for it.

45
46 Mr. Lemke said right, but the other problem he has is because he doesn't own the land underneath the
47 house, there's no way if he needs to do any repairs, if he doesn't have the cash himself to do it he can't
48 borrow money on it because he doesn't own the land underneath it to do any repairs inside the house.

49

1 Mr. Wood said prior to his mother passing away.
2
3 Mr. Lemke said exactly.
4
5 Mr. Wood said then Mr. Lemke or somebody would need financial power of attorney so they could do
6 that if his mother is not capable of making that decision.
7
8 Mr. Lemke said he didn't understand because he can't borrow money on his house because he doesn't
9 own the land underneath it and because the whole entire thing is considered one PIN.
10
11 Mr. Wood said if Mr. Lemke had financial power of attorney over his mother, he can borrow money
12 against it.
13
14 Mr. Lemke said yes, but then that takes care of all the other six lots too on top of these two lots here.
15
16 Mr. Wood said somebody may have to do that.
17
18 Mr. Randol said we're getting into legal issues that are not our jurisdiction.
19
20 Mr. Bates said even if we change anything today, we're not changing who owns the land, and that's what
21 he's not comfortable with.
22
23 Mr. Randol asked Mr. Hall if Mr. Lemke brings his mother here to another meeting and she signs all the
24 paperwork, does that solve everything.
25
26 Mr. Herbert said but she still owns it.
27
28 Mr. Randol clarified signing for the variance.
29
30 Mr. Hall said it doesn't solve the problem that the Board has been discussing about the fact that the deck
31 extends onto the other lot.
32
33 Mr. Randol said but she owns all the land so if she is signing the variance request, it's for the land, right.
34
35 Mr. Hall said yes.
36
37 Mr. Randol said she owns all the land.
38
39 Mr. Bates said we're also creating a separate PIN and we're kicking the can down the road because nobody
40 lives forever and we're going to have two separate PINs. He said eventually this is coming back to the
41 Board. He said if a deck is over a property line, it's on two separate PINs, we'll have this issue again.
42
43 Mr. Herbert asked if we could start back at the basics. He said he is assuming that Mr. Lemke owns his
44 home, his mother owns the land under the two lots.
45
46 Mr. Lemke said yes.
47
48 Mr. Herbert asked if Mr. Lemke wants this variance to basically get his inheritance early. He assumes that
49 each one of his siblings gets two lots.

1 Mr. Lemke said no, that has nothing to do with it.
2

3 Mr. Herbert said if getting the inheritance early is not the case and taking ownership of these two lots,
4 we're not changing anything at all because his mom is still going to own the lots under the house that he
5 owns.
6

7 Mr. Lemke said right, she would still own that.
8

9 Mr. Herbert said he guessed he doesn't understand what we're doing then.
10

11 Mr. Lemke said when something does happen to his mother, a real estate person is going to come in and
12 do an appraisal. He said they're going to appraise the whole entire land and say this is what it's worth
13 because it's all one property.
14

15 Mr. Bates said but it's not – it would be two separate PINs and somebody else that owns the house that
16 sits on the property.
17

18 Mr. Lemke said the way it is right now, that's the way it is because he doesn't own the land underneath.
19

20 Mr. Bates said he wouldn't own the land underneath if this is changed; it's still going to be in his mom's
21 name.
22

23 Mr. Lemke said not if we do that PIN switch and he switches those two lots into his name, which is the
24 way it needs to be done.
25

26 Mr. Hall said he thinks Mr. Bates is pointing out that there is a PIN that needs to be changed, but also the
27 record of who owns the land needs to be changed and that can only be done in a deed conveyance.
28

29 Mr. Bates said we're not changing any of that here.
30

31 Mr. Hall said no. He said for Mr. Lemke to show up as the owner, he'll have to have an attorney involved.
32 He said the only thing the Board can do is authorize the division of lots 141 and 142 from the rest of the
33 lots. He said the Board can't change the ownership, but they can authorize that division. He said what he's
34 hearing the Board say is they are uncomfortable doing that knowing that the deck extends over that lot
35 line. He said he understands why they're uncomfortable about that.
36

37 Mr. Herbert said deck or not, the owner is not here to tell us what their wishes are.
38

39 Mr. Hall said and that's the other thing.
40

41 Mr. Lemke said and that's not a problem. He said if it got approved with the exception of his mother
42 signing it, she can be in here first thing tomorrow morning to sign whatever she needed to do. He said if
43 they had known that's what needed to happen, then she would have been here tonight, and the Board could
44 have asked her.
45

46 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
47 anyone would like to cross-examine this witness and there was no one.
48

49 Mr. Elwell said just to clarify, when Mr. Lemke said he owned the home, he owns the home itself.

1 Mr. Lemke said that is what he currently owns right now, yes. He said but whenever he had purchased
2 that, since all of those lots are considered one lot according to the county, the land came with him too
3 according to that, they just couldn't split it because at that point his dad had talked to the city and things
4 were different. He said the city said they don't want to do anything with it, but like he said that was 20
5 something years ago.

6
7 Mr. Elwell said let him put this together. He said Mr. Lemke's home is 100. He said he paid someone 150
8 for the land and the house.

9
10 Mr. Lemke said no, the price that he paid for included the house being able to stay with that land.

11
12 Mr. Elwell asked Mr. Lemke if he had that information. He asked if he had that agreement.

13
14 Mr. Lemke said no, that was verbal between him and his dad with all of that, he doesn't think there was
15 anything in writing on that. He said he doesn't know because they've never had to worry about anything
16 like that.

17
18 Mr. Wood said he thinks a lot of this just goes beyond anything that the Board has to do other than
19 changing the two lots once you get permission from the owner of the land to do that. He said he would
20 still recommend getting an attorney involved and see if there's a simpler way to do this as opposed to
21 jumping through all of these hoops. He said it might not cost him any less, but it might get the job done.

22
23 Mr. Lemke said right. He said in order for him to do any kind of repairs and upkeep on it, he's not able to
24 borrow any money against the property that he owns there.

25
26 Mr. Wood said his mother would have to borrow it or her financial power of attorney would have to
27 borrow it.

28
29 Mr. Lemke said right, but if that's the case then that creates a whole other thing. He said if we were to do
30 this today and then his mom passes away tomorrow, now all three of them are responsible for that money
31 that was borrowed.

32
33 Mr. Wood said yes, that would be part of the estate.

34
35 Mr. Lemke said exactly, where if we get to where we split the two lots off from the other six lots that are
36 there, then that issue is not involved, which is the same issue that would be involved if his mom passed
37 away tomorrow. He said whoever comes in to appraise the property is going to appraise the whole entire
38 thing because that's what his mother owns. He said therefore, he is going to have to repay for his house
39 and the property that's underneath it.

40
41 Mr. Wood asked Mr. Lemke if he has sought an attorney's advice on what he's talking about.

42
43 Mr. Lemke said they had on that. He said there are ways to get some of that done but again it doesn't help
44 with the fact that there's no way to borrow money against the house to do any needed repairs to it that cost
45 more than what cash he has on hand.

46
47 Mr. Herbert said his question is plain and simple – if Mr. Lemke bought the house, the deed should show
48 the two lots that you own. He said he can understand him buying the house, but he doesn't own the land
49 underneath it.

1 Mr. Lemke said right, but that's because it's still there, they weren't able to split those two off.
2
3 Mr. Herbert said he doesn't think that's how that works.
4
5 Mr. Lemke said he knows, the land is not in his name.
6
7 Mr. Herbert said when Mr. Lemke bought that, it would have been put in his name. He said you can't buy
8 something with the agreement.
9
10 Mr. Randol said he only bought a modular home.
11
12 Mr. Lemke said that's right, it's like buying a vehicle according to the State of Illinois.
13
14 Mr. Herbert said he's saying he owns the land underneath it.
15
16 Mr. Randol said no he doesn't, he just said he doesn't.
17
18 Mr. Elwell said he's heard testimony that Mr. Lemke is going to buy it back the second time, so in his
19 mind, if the trailer was X, he paid X plus Y for the land and now he doesn't want to pay the price of the
20 land again.
21
22 Mr. Herbert said he didn't buy the land.
23
24 Mr. Elwell said so he hasn't paid twice for it then.
25
26 Mr. Herbert said right, that's the easy part to say about it – he never paid twice for it. He said he owns the
27 house on it but not the land underneath it so he wouldn't be paying for it twice.
28
29 Mr. Bates said none of this is our issue at the Zoning Board of who is paying for what. He said all we're
30 here to decide is if this property fits within the realm, so who owns what is not our concern, we need to
31 be talking to the property owner.
32
33 Mr. Elwell said he agrees, but that was the testimony that was given in front of us.
34
35 Mr. Wood suggested that the Board just defer the case until we come up with the answers to all the things
36 we've discussed here to this point.
37
38 Mr. Hall said Staff would need a little guidance about what the Board wants solved. He said we can
39 arrange for the actual owner's signature; that's very easy. He said he doesn't think that is what the Board
40 has been discussing for the last 45 minutes though – so what is it that you want done.
41
42 Mr. Wood said he doesn't think the Board cares about all of the other stuff, all we need to know is whether
43 or not we can move the line so we are assured that the deck, unless he wants to move the deck, are all on
44 the same piece of property.
45
46 Mr. Hall said okay, so you want the deck on the property with the house.
47
48 Mr. Wood said yes, and what kind of complications that involves with the City of Champaign, which is
49 not our concern anyway.

1 Mr. Lemke said so you're basically wanting to go through with the city, since we're creating a complete
2 new lot, because we're not using the existing ones, we're using two of them and part of another one, that
3 requires the city to approve it, which he doesn't think will be a problem, but then he doesn't need a
4 variance if we do it like that because then it's going to be up to the square footage amount and everything
5 is going to be within the thing, so it's kind of a waste of him doing this variance stuff to begin with.
6

7 Mr. Wood said Mr. Lemke might not need a variance for his piece of property, but you may need a variance
8 for his mother's piece of property because you're moving the line over too close to the garage. He said he
9 didn't know, it depends on where the thing falls out.
10

11 Mr. Lemke said it would fall too close that way, so then he's going to basically have to pay again for
12 another variance, or his mother is going to have to pay for a variance over there now because the Board is
13 requesting that he do something that's there.
14

15 Mr. Herbert said we could vote on this tonight.
16

17 Mr. Lemke said he's just wondering if he gets his mother's signature, if the Board is good with it.
18

19 Mr. Bates said we're not good with it, that's the thing, they are not good with how this lays out. He said
20 he's not good with it, he's not going to speak for the rest of the Board.
21

22 Mr. Lemke said so basically it all falls down to that deck because if our measurements are there, where
23 the line was when his dad had it done 25 or 30 years ago, where that light pole is, where the sidewalk is,
24 which is where the end of the deck is, which is right at the edge of the property line.
25

26 Mr. Elwell said so have it surveyed or find the previous survey.
27

28 Mr. Lemke said that's fine, if that's what we have to do then that's what we have to do. He said it just
29 would have been nice to know that's what we needed to do to start with because then we wouldn't be
30 having all this discussion on it now. He said he filed the variance clear back in February or March.
31

32 Mr. Elwell said he's sure that Mr. Lemke's property is within his property; he doesn't have a problem
33 with a zero yard. He said but he does have a problem with a negative four yard. He said he has a problem
34 with that, plus the owner not having a signature. He said he thinks that would probably be the simplest
35 way, because going through the City of Champaign could be a pain. He said if Mr. Lemke proves to him
36 that all of his property is on the lot that he's wanting to create, there's nothing more that we could really
37 ask for.
38

39 Mr. Lemke said we're not creating new lots, we're just using the existing lots.
40

41 Mr. Elwell said correct, but we don't have that information. He said the information that we have in front
42 of us is that there's potentially four feet onto the other parcel and he's not comfortable with Mr. Lemke's
43 property being on a separate PIN. He said that's where he stands. He said if that's the case, where would
44 we be meeting wise.
45

46 Mr. Hall said he didn't think these things could be resolved by the next meeting date, which is June 29th;
47 he just wouldn't feel comfortable assuming that's going to be resolved. He said he knows we can get the
48 signature of Mrs. Lemke tomorrow, but he thinks these other things are going to take longer. He said he
49 wouldn't want to see the Board continue this any earlier than to the July 13th meeting where right now we

1 have one petitioner with two cases, so his recommendation would be July 13th. He asked Ms. Burgstrom
2 if she agreed.

3
4 Ms. Burgstrom said yes.

5
6 Mr. Lemke said he has an issue with that because he won't be in town from the 13th through the 16th.

7
8 Mr. Hall said the next meeting after that is July 27th, would Mr. Lemke be back by that time.

9
10 Mr. Lemke said he would be in town, but he will be working. He said he works with concerts all through
11 the summer, and that is their busy time of year, starting from July 13th through the end of July he has
12 something going on mainly on the weekends, just on those two particular dates they start on Wednesdays
13 and go through the weekend.

14
15 Mr. Hall asked about August 17th.

16
17 Mr. Lemke said that's a possibility, but he might be out of town that day too. He said if there's a surveyor
18 who could come out and get stuff done, he doesn't have a problem getting stuff done for June 29th.

19
20 Mr. Hall said Mr. Lemke wouldn't get a surveyor out there in a week this time of year, it's just not going
21 to happen, unless he knows a surveyor who would do it as a friend.

22
23 Mr. Lemke said he knows some people just from his years in construction that if they're still doing it, yes
24 he can possibly get that to happen, which he would have already had done if he knew they were going to
25 need it.

26
27 Mr. Hall said when we schedule cases for the Board, Staff doesn't know what the Board is going to say
28 in any given case. He said we can give you advice, but generally people don't want to follow our advice
29 because they want the property line where they want it, not where the Zoning Department wants it.

30
31 Mr. Lemke said which is what the majority of the people out in that neighborhood are doing, just doing
32 whatever they want to and then asking about it later, and here he is following the rules.

33
34 Mr. Hall said Mr. Lemke took the time to check with them, so he feels bad about that.

35
36 Mr. Lemke said there's been a whole lot of stuff going on out there.

37
38 Mr. Hall said our State's Attorney has spent a lot of time out there, he knows it doesn't show, but he has.
39 He asked Mr. Lemke if he wanted to try to get this done by June 29th.

40
41 Mr. Lemke said if he can get a surveyor or he can find the one his dad had already had done, then he
42 doesn't have a problem trying to get it done on that one, and even June 29th he's only going to be up in
43 Melvin working a show, but if he can get down here for that, get it done and get out of here then that's
44 what he'll have to do. He said or technically, it wouldn't even have to be him here, since according to
45 what they're saying it's his mother's property, so technically she's the one who should be here, is that
46 correct.

47
48 Mr. Hall said that's correct but is Mr. Lemke going to be in town to get these things done that need to get
49 done – is he going to be working out of town.

1 Mr. Lemke said not between here and there, that time. He said there’s a couple of days but that’s on the
2 weekend, so not a problem.

3
4 Mr. Hall said if the Board wants to fit it on June 29th there’s room; we can hope and pray that everything
5 gets done in time.

6
7 Mr. Elwell entertained a motion to continue Case 092-V-23 to June 29th.

8
9 **Mr. Randol moved, seconded by Mr. Roberts, to continue Case 092-V-23 to June 29, 2023. The**
10 **motion carried by voice vote.**

11
12 Mr. Lemke said he would let Staff know if he is not able to get that stuff done so it can be taken off that
13 agenda and we can figure out the other day, that way nobody is wasting time on this if we don’t have to.

14
15 Mr. Hall said the Board has to continue to a date certain, so it will be on the agenda, but if we can’t get it
16 done and he has other things to do, the Board won’t require him to be here.

17
18 Mr. Lemke said okay.

19
20 **Case 094-AM-23**

21 Petitioner: **Kenwood Sullivan**

22
23 Request: **Amend the Zoning Map to allow for the development of three single family residential**
24 **lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay**
25 **(RRO) Zoning District in conjunction with related County Board Special Use Permit**
26 **Case 095-S-23.**

27
28 Location: **Three proposed lots on one 5.13-acre tract and one 10.27-acre tract in the Northwest**
29 **Quarter of the Southeast Quarter of Section 21, Township 22 North, Range 8 East of**
30 **the Third Principal Meridian in East Bend Township, and commonly known as the**
31 **farmland located northeast of Greenwood Lake Subdivision, Dewey.**

32
33 **Case 095-S-23**

34 Petitioner: **Kenwood Sullivan**

35
36 Request: **Authorize a Special Use Permit for a Rural Residential Overlay (RRO) Zoning**
37 **District for three single family residential lots in conjunction with related map**
38 **amendment Case 094-AM-23 that is also required for an RRO.**

39
40 Location: **Three proposed lots on one 5.13-acre tract and one 10.27-acre tract in the Northwest**
41 **Quarter of the Southeast Quarter of Section 21, Township 22 North, Range 8 East of**
42 **the Third Principal Meridian in East Bend Township, and commonly known as the**
43 **farmland located northeast of Greenwood Lake Subdivision, Dewey.**

44
45 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
46 the witness register for that public hearing. He reminded the audience that when they sign the witness
47 register, they are signing an oath.

48
49 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows

1 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
2 show of hands from those who would like to cross-examine, and each person will be called upon. He said
3 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
4 state their name before asking any questions. He noted that no new testimony is to be given during the
5 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
6 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request
7 prior to introducing evidence.
8

9 Mr. Kenwood Sullivan, 3262 Greenwood Drive, Dewey, said he currently lives on Greenwood Lake, and
10 he has a large lot there. He said in 2001 he purchased adjacent farmland; the Knox family was proposing
11 their own subdivision in that area at the time, so prior to their subdivision he purchased this land from
12 them. He said at this time he wishes to downsize his outdoor workload and wants to build another house,
13 so he has this ten-acre lot that encompasses the pond if you're looking at the map and a five-acre parcel
14 that is just along Greenwood Drive. He said he wants to replat this so that the five-acre parcel that he is
15 going to build on comes off of Greenwood Drive and has pond access. He said there would be one other
16 five-acre parcel off of Greenwood Drive that would have pond access and then the third five-acre parcel
17 would lie on the north side of the pond.
18

19 Mr. Wood asked if there was a county road on the north side of Lot 100.
20

21 Mr. Sullivan said no there is not – it's a farm road.
22

23 Mr. Wood said it's a farm road, so it's owned by somebody else.
24

25 Mr. Sullivan said right, Mr. Shields.
26

27 Mr. Bates referred to Attachment D, and asked Mr. Sullivan if he was looking to build on Lot 101.
28

29 Mr. Sullivan said that's correct.
30

31 Mr. Bates asked if there is an easement between the property line and Lot 102 to get you back to Lot 100.
32

33 Mr. Sullivan said what is proposed is on the east side of Lot 102 there is a 60-foot easement that goes back
34 to Lot 100.
35

36 Mr. Bates said for clarification, is that an easement or is it part of Lot 100.
37

38 Mr. Sullivan said it is part of Lot 100.
39

40 Mr. Bates said they would own that as a drive, correct.
41

42 Mr. Sullivan said correct, his engineer calls that a flag lot.
43

44 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
45 anyone would like to cross-examine this witness. Seeing no one, he entertained a motion to close the
46 Witness Register.
47

48 **Mr. Roberts moved, seconded by Mr. Bates, to close the Witness Register. The motion carried by**
49 **voice vote.**

1 Mr. Elwell asked how the Board would like to proceed. He asked Ms. Burgstrom if there were special
2 conditions for Case 094-AM-23.

3
4 Ms. Burgstrom said there were conditions for both cases.

5
6 Mr. Elwell told Mr. Sullivan that he would be reading from the back page of tonight’s memo. He said he
7 would read each special condition and if he is in agreement please state in the affirmative.

8
9 Mr. Elwell said the following special condition is proposed for the Map Amendment:

10
11 A. **The owners of the subject property hereby recognize and provide for the right of**
12 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
13 **Resolution 3425 (see attached).**

14 The special condition stated above is required to ensure the following:
15 **Conformance with Land Resource Management Plan Policy 4.2.3.**

16
17 Mr. Elwell asked if Mr. Sullivan agreed.

18
19 Mr. Sullivan said yes.

20
21 Mr. Elwell said the following special conditions are proposed for the Special Use:

22
23 A. **The Special Use is subject to the approval of Case 094-AM-23.**
24
25 The special condition stated above is required to ensure the following:
26 **That the Special Use is consistent with the intent of the Zoning Ordinance and**
27 **ZBA recommendations.**

28
29 Mr. Elwell asked if Mr. Sullivan agreed.

30
31 Mr. Sullivan said yes.

32
33 B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
34 **issue a Zoning Compliance Certificate on the subject property until the lighting**
35 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**
36
37 The special condition stated above is required to ensure the following:
38 **That any future exterior lighting installations meet the requirements**
39 **established for Special Uses in the Zoning Ordinance.**

40
41 Mr. Elwell asked if Mr. Sullivan agreed.

42
43 Mr. Sullivan said yes, and he has a question about that. He said he just wanted to clarify does that just
44 mean when he turns in his building plans, he needs to submit a lighting plan that meets these standards.

45
46 Ms. Burgstrom said yes.

47
48 Mr. Elwell entertained a motion to move to Summary Findings of Fact for Case 094-AM-23.

49

1 **Mr. Randol moved, seconded by Mr. Herbert, to move to the Findings of Fact for Case 094-AM-23.**
 2 **The motion carried by voice vote.**

3
 4 **FINDINGS OF FACT FOR CASE 094-AM-23**

5 From the documents of record and the testimony and exhibits received at the public hearing conducted on
 6 **June 15, 2023**, the Zoning Board of Appeals of Champaign County finds that:

- 7
 8 1. The proposed RRO map amendment **IS** suitable for the development of the specified maximum
 9 number of residences because: Compared to “common conditions” found at rural sites in
 10 Champaign County, the subject property is similar to the following (see individual RRO factor
 11 evidence starting at Item 18):
- 12 A. “Ideal or Nearly Ideal” conditions for three factors:
 - 13 (1) RRO Factor G: Availability of water supply
 - 14 (2) RRO Factor J: Effects on sensitive natural areas
 - 15 (3) RRO Factor K: Natural or manmade hazards
 - 16
 17 B. “Much Better Than Typical” conditions for three factors:
 - 18 (1) RRO Factor C: Effects of nearby farms
 - 19 (2) RRO Factor D: LESA score
 - 20 (3) RRO Factor E: Effects on drainage
 - 21
 22 C. “More or Less Typical” conditions for five factors:
 - 23 (1) RRO Factor A: Adequacy and Safety of Roads
 - 24 (2) RRO Factor B: Effects on farms
 - 25 (4) RRO Factor H: Emergency services
 - 26 (5) RRO Factor I: Flood hazard status
 - 27 (6) RRO Factor L: Land converted from agricultural uses
 - 28
 29 D. “Much Worse Than Typical conditions for one factor:
 - 30 (1) RRO Factor F: Septic suitability
 - 31
 32 E. “Worst or Nearly Worst” conditions for no factors.
- 33
 34 2. The proposed RRO map amendment **WILL** be compatible with surrounding agriculture because:
- 35 A. Overall, the subject property and proposed RRO are comparable to “more or less typical”
 36 conditions for Champaign County in terms of effects on nearby farmland and farm
 37 operations, because driveways for the proposed lots will abut an existing subdivision street,
 38 and there should be no significant changes to drainage.
 - 39
 40 B. A special condition has been added regarding the Right to Farm Resolution.
- 41
 42 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource
 43 Management Plan because:
- 44 A. Regarding Goal 4:
 - 45 (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the
 46 fragmentation of farmland, conservation of farmland, and stringent development
 47 standards on Best Prime Farmland because it will **HELP ACHIEVE** the following:
 - 48 a. Policy 4.1.6 requiring that the use, design, site and location are consistent
 49 with policies regarding suitability, adequacy of infrastructure and public

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services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 34.A.(1)).

b. Policy 4.1.8 requiring the County to consider the LESA rating for farmland protection when making land use decisions regarding discretionary development (see Item 34.A.(2)).

(2) It will **HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it will **HELP ACHIEVE** the following:

a. Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 34.B.(1)).

b. Policy 4.2.3 requiring that each proposed discretionary development explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 34.B.(2)).

c. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 34.B.(3)).

(3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it will **HELP ACHIEVE** the following:

a. Policy 4.3.1 requiring a discretionary development to be suited overall (see Item 34.C.(1)).

b. Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 34.C.(2)).

c. Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 34.C.(3)).

(4) It will **HELP ACHIEVE** Objective 4.7 requiring the right to farm because a special condition has been added regarding Right to Farm Resolution 3425 (see Item 34.D).

(5) Based on achievement of the above Objectives and Policies, the proposed map amendment will **HELP ACHIEVE** Goal 4 Agriculture.

B. Regarding Goal 6:

(1) The proposed RRO will **HELP ACHIEVE** Objective 6.1 because it will **HELP ACHIEVE** or will **NOT IMPEDE** the following:

a. Policy 6.1.1 requiring the County to establish lot requirements that provide ample and appropriate areas for wastewater and septic systems (see Item 36.A.(1)).

b. Policy 6.1.2 requiring that the County will ensure that the proposed wastewater disposal and treatment systems of discretionary development will

not endanger public health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality (see Item 36.A.(2)).

(2) Based on achievement of the above Objective and Policies, the proposed map amendment will **HELP ACHIEVE** Goal 6 Public Health and Safety.

C. Regarding Goal 8:

(1) The proposed RRO will **HELP ACHIEVE** Objective 8.1 because it will **HELP ACHIEVE** the following:

a. Policy 8.1.1 requiring adequate supply of water for a proposed discretionary development (see Item 38.A.(1)).

(2) The proposed RRO will **HELP ACHIEVE** Objective 8.2 because it will **HELP ACHIEVE** the following:

a. Policy 8.2.1 requiring adequate supply of water for a proposed discretionary development (see Item 38.B.(1)).

(3) Based on achievement of the above Objective and Policies, the proposed map amendment will **HELP ACHIEVE** Goal 8 Natural Resources.

D. The proposed RRO will **NOT IMPEDE** the following LRMP goal(s):

- Goal 1 Planning and Public Involvement
- Goal 2 Governmental Coordination
- Goal 3 Prosperity
- Goal 5 Urban Land Use
- Goal 7 Transportation
- Goal 9 Energy Conservation
- Goal 10 Cultural Amenities

E. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource Management Plan.

4. The proposed Zoning Ordinance map amendment **IS** consistent with the LaSalle and Sinclair factors because of the following:

A. The proposed RRO **IS** consistent with the LaSalle factor regarding the existing uses and zoning of nearby property because the RRO is proposed for residential use and surrounding land is residential in use or in agricultural production.

B. The proposed RRO **IS** consistent with the LaSalle factor regarding the extent to which property values are diminished by the particular zoning restrictions because without the proposed RRO, the proposed residential lots could not be created, which would have a reduced property value compared to agricultural land in production.

C. The proposed RRO **IS** consistent with the LaSalle factor regarding the extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public because:

(1) There has been no evidence submitted regarding property values.

(2) If the petitioners are denied the RRO map amendment and special use permit, the

property can still be used for agricultural production.

D. The proposed RRO **IS** consistent with the LaSalle factor regarding the relative gain to the public as compared to the hardship imposed on the individual property owner because:

(1) The relative gain to the public is insignificant, while not permitting the RRO would not allow the subject property owner to realize a greater economic value that establishing residential lots would create and would not allow the petitioner to reduce their property maintenance area.

E. The proposed RRO **IS** consistent with the LaSalle factor regarding the suitability of the subject property for the zoned purposes because:

(1) The proposed RRO adds three residential lots. Additional lots would require a future application for an RRO.

(2) The RRO does not require additional public infrastructure or services.

(3) The RRO does not conflict with surrounding agricultural activities or agricultural infrastructure.

F. The proposed RRO **IS** consistent with the LaSalle factor regarding the length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property:

(1) The subject property has been in agricultural production in the AG-1 Agriculture Zoning District for decades.

G. The proposed RRO **IS** consistent with the **Sinclair** factor regarding the need and demand for the use:

(1) The petitioner perceives demand for residential lots in this area.

H. The proposed RRO **IS** consistent with the **Sinclair** factor regarding the extent to which the use conforms to the municipality’s comprehensive planning.

(1) The ZBA has recommended that the proposed RRO will **HELP ACHIEVE** the Champaign County Land Resource Management Plan.

5. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because:

A. The proposed RRO should have no significant effect on the value of nearby properties (Purpose 2.0 (b) - see Item 42.B.)

B. The proposed RRO will not increase traffic volumes significantly (Purpose 2.0(c) - see Item 42.C.).

C. The proposed RRO **WILL** reduce hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters (Purpose 2.0 (d) - see Item 42.D.).

D. Establishing the RRO will **NOT IMPEDE** the protection the most productive agricultural lands from haphazard and unplanned intrusions of urban uses ((Purpose 2.0 (n) – see Item 42.I).

E. The proposed RRO **WILL NOT AFFECT** protect natural features such as forested areas

and watercourses (Purpose 2.0 (o) – see Item 42.J).

F. The proposed RRO **WILL** minimize the cost of development of public utilities and public transportation facilities (Purpose 2.0 (p) – see Item 42.K).

G. The proposed RRO **WILL** encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities (Purpose 2.0 (q) – see Item 42.L).

H. The proposed RRO **WILL NOT** hinder the development of renewable energy sources (Purpose 2.0(r) – see Item 42.M).

6. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR MAP AMENDMENTS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

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

Conformance with Policy 4.2.3 of the Land Resource Management Plan.

Mr. Wood moved, seconded by Mr. Bates, to adopt the Summary of Evidence, Documents of Record, and Finding of Fact as amended for Case 094-AM-23 as presented. The motion carried by voice vote.

Mr. Wood moved, seconded by Mr. Roberts, to move to Findings of Fact for Case 095-S-23. The motion carried by voice vote.

Mr. Elwell told Mr. Sullivan he would be reading from Attachment M, page 37 of 40.

FINDINGS OF FACT FOR CASE 095-S-23

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **095-S-23** held on **June 15, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:

Mr. Wood said the requested Special Use Permit IS necessary for the public convenience at this location because the petitioner believes there is demand in this area for residential lots, and there is.

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 / WILL}* 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 / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.

1 Mr. Herbert said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
2 visibility.

3

4 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:**

5

6 Mr. Randol said emergency services availability is ADEQUATE because: the subject property is located
7 approximately 5.9 road miles from the Sangamon Valley Fire Protection District station in Fisher; the Fire
8 Chief has been notified of this request for an RRO, and no comments have been received.

9

10 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:**

11

12 Mr. Herbert said the Special Use WILL be compatible with adjacent uses because: there are other large-
13 lot residential properties in the area.

14

15 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

16

17 Mr. Wood said surface and subsurface drainage will be ADEQUATE because: surface drainage patterns
18 should not be altered by development of the proposed lots.

19

20 Mr. Elwell asked if this was factually correct – wouldn't any development alter the drainage patterns.

21

22 Mr. Wood said you have fairly large lots that would allow for percolation of anything that comes off of
23 roofs or sump pumps or anything like that, plus you have a lake there that can also absorb a fair amount
24 of water as well, so he doesn't see that it would affect drainage.

25

26 Mr. Roberts said it is all downhill to the Sangamon River.

27

28 Mr. Herbert said if he's not mistake it all grades downhill.

29

30 **e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

31

32 Mr. Herbert said public safety will be ADEQUATE because: there is sufficient capacity on the adjacent
33 roadway for three additional residential lots.

34

35 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

36

37 Mr. Randol said the provisions for parking will be ADEQUATE.

38

39 Mr. Wood said the requested Special Use Permit will NOT be injurious to the district in which it shall be
40 located or otherwise detrimental to the public health, safety, and welfare.

41

42 **3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
43 ***HEREIN* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the**
44 **DISTRICT in which it is located.**

45

46 Mr. Randol said the requested Special Use Permit DOES conform to the applicable regulations and
47 standards of the DISTRICT in which it is located.

48

1 **3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
2 ***HEREIN* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which**
3 **it is located because:**

4 **a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant**
5 **County ordinances and codes.**

6
7 Mr. Randol said the Special Use will be designed to CONFORM to all relevant County ordinances and
8 codes.

9
10 **b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.**

11
12 Mr. Randol said the Special USE WILL be compatible with adjacent uses.

13
14 **c. Public safety will be *{ADEQUATE / INADEQUATE}*.**

15
16 Mr. Randol said public safety will be ADEQUATE.

17
18 Mr. Randol said the requested Special Use Permit DOES preserve the essential character of the DISTRICT
19 in which it is located.

20
21 **4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
22 ***HEREIN* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance**
23 **because:**

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

25
26 **b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience**
27 **at this location.**

28
29 Mr. Wood said the requested Special Use Permit IS necessary for the public convenience at this location.

30
31 **c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS***
32 ***IMPOSED HEREIN* is so designed, located, and proposed to be operated so that it**
33 ***{WILL / WILL NOT}* be injurious to the district in which it shall be located or**
34 **otherwise detrimental to the public health, safety, and welfare.**

35
36 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
37 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
38 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
39 and welfare.

40
41 **d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS***
42 ***IMPOSED HEREIN* *{DOES / DOES NOT}* preserve the essential character of the**
43 **DISTRICT in which it is located.**

44
45 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
46 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

47 Mr. Wood said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
48 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

1 5. The requested Special Use IS NOT an existing nonconforming use.

2
3 6. SPECIAL CONDITIONS ARE IMPOSED HEREIN AND ARE REQUIRED TO ENSURE
4 COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE
5 PARTICULAR PURPOSES DESCRIBED BELOW:
6

7 A. The Special Use is subject to the approval of Case 094-AM-23.

8
9 The special condition stated above is required to ensure the following:

10 That the Special Use is consistent with the intent of the Zoning Ordinance and
11 ZBA recommendations.
12

13 B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or
14 issue a Zoning Compliance Certificate on the subject property until the lighting
15 specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.
16

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

18 That any future exterior lighting installations meet the requirements
19 established for Special Uses in the Zoning Ordinance.
20

21 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the
22 Findings of Fact as amended.
23

24 Mr. Herbert moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of
25 Record, and Findings of Fact as amended. The motion carried by voice vote.
26

27 Mr. Elwell entertained a motion to move to Final Determination for Case 094-AM-23.
28

29 Mr. Roberts moved, seconded by Mr. Wood, to move to Final Determination for Case 094-AM-23.
30 The motion carried by voice vote.
31

32 Mr. Elwell informed the petitioner that he was going to be reading from page 39 of 40 from Attachment
33 M, Final Determination for Case 094-AM-23.
34

35 **FINAL DETERMINATION FOR CASE 094-AM-23**

36 Mr. Wood moved, seconded by Mr. Randol, that pursuant to the authority granted by Section 9.2
37 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
38 recommends that:
39

40 The Map Amendment requested in Case 094-AM-23 should *BE ENACTED* by the County
41 Board in the form attached hereto.
42

43 **SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

44 A. The owners of the subject property hereby recognize and provide for the right of
45 agricultural activities to continue on adjacent land consistent with the Right to Farm
46 Resolution 3425.
47

48 Mr. Elwell requested a roll call vote.
49

50 The vote was called as follows:

1	Randol- Yes	Roberts- Yes	Anderson- Yes	Herbert- Yes
2	Elwell- Yes	Wood- Yes	Bates- Yes	

3
4 Mr. Elwell entertained a motion to move to Final Determination for Case 095-S-23.

5
6 **Mr. Randol moved, seconded by Mr. Bates, to move to Final Determination for Case 095-S-23. The**
7 **motion carried by voice vote.**

8
9 Mr. Elwell informed the petitioner that he was going to be reading from page 40 of 40 from Attachment
10 M.

11
12 **FINAL DETERMINATION FOR RRO SPECIAL USE PERMIT CASE 095-S-23**

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

17
18 **The Special Use requested in Case 095-S-23 be *GRANTED WITH SPECIAL CONDITIONS***
19 **to the applicant, Kenwood Sullivan, to authorize the following as a Special Use Permit:**

20
21 **Authorize a Special Use Permit for a Rural Residential Overlay (RRO) Zoning**
22 **District for three single family residential lots in conjunction with related map**
23 **amendment Case 094-AM-23 that is also required for an RRO.**

24
25 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 26
27 **A. The Special Use is subject to the approval of Case 094-AM-23.**
- 28
29 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
30 **issue a Zoning Compliance Certificate on the subject property until the lighting**
31 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

32
33 Mr. Elwell requested a roll call vote.

34
35 The vote was called as follows:

36	Randol- Yes	Roberts- Yes	Anderson- Yes	Herbert- Yes
37	Elwell- Yes	Wood- Yes	Bates- Yes	

38
39 Mr. Elwell congratulated the petitioner on receiving all seven affirmative votes on both cases and said
40 Staff would be in touch with next steps.

41
42 **8. Staff Report - None**

43
44 **9. Other Business**

45 **A. Review of Docket**

46
47 Mr. Elwell asked if there would be any absences coming up.

48
49 Mr. Bates said he would be gone June 30th through July 14th.

1 **10. Adjournment**

2

3 Mr. Elwell entertained a motion to Adjourn.

4

5 **Mr. Randol moved, seconded by Mr. Bates, to adjourn the meeting. The motion carried by voice**
6 **vote.**

7

8 The meeting adjourned at 8:10 pm.

9

10 Respectfully Submitted,

11

12

13 Secretary of the Zoning Board of Appeals

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