

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

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

**DATE: December 28, 2023 PLACE: Shields-Carter Meeting Room  
1776 East Washington Street  
Urbana, IL 61802**

**MEMBERS PRESENT:** Brian Andersen, Cynthia Cunningham, Ryan Elwell, Chris Flesner, Jim Randol, Lee Roberts

**MEMBERS ABSENT:** Thaddeus Bates

**STAFF PRESENT:** John Hall, Susan Burgstrom, Stephanie Berry

**OTHERS PRESENT:** Michael Moynihan, Penny Moynihan, Earl Smith, Flint Pellett, Ed Sexton, Tony Studer, Erin Studer, Chris Mackey

**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 – November 30, 2023**

**Mr. Randol moved, seconded by Mr. Roberts, to approve the November 30, 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 123-V-23**

**Petitioner: James Webster, d.b.a. JHW Properties LLC, and Chris Mackey**

**Request: Authorize the following variance in the R-2 Single Family Zoning District on the subject property described below:**

**Part A: A proposed lot with a lot area of 19,621 square feet in lieu of the minimum required 27,000 square feet, per Section 4.3.4 of the Zoning Ordinance.**

**Part B: A non-conforming duplex with a front yard of 15 feet and a setback from the street centerline of Willow Road of 45 feet in lieu of the minimum required 25 feet and 55 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.**

**Part C: A non-conforming duplex with a side yard of 4.48 feet in lieu of the minimum required 5 feet, per Section 5.3 of the Zoning Ordinance.**

Location: **Lot 3 of L & J Mackey First Subdivision in the Southeast Quarter of the Northeast Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, with an address of 3421 Willow Rd, Urbana.**

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

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

Mr. Chris Mackey, 3417 Willow Rd, Urbana, said the property in question his dad had built a long time ago, it was a two-acre strip. He said the front half-acre was two duplexes, and the back 1.5 acres Mr. Mackey built his home on. He said they had a family contract. He said his brother bought the duplexes, but he ran into some hard times and lost the front duplex and Mr. Webster purchased it. He said his dad had a contract drawn up that said Mr. Mackey had the full use of the pasture plus one if they ever decided to sell it. He said when he went to have solar panels put in, the company said they couldn't put them in because it wasn't his property. He said he told them he had a contract, so he checked with his attorney and explained the situation, and his attorney asked if it was ever recorded. He said he asked his dad, and his dad said it was a family contract and his attorney didn't tell him to have it recorded. He said that's what kind of started the whole ball rolling. He said he talked to Mr. Webster, and he allowed Mr. Mackey to purchase some of it from him. He said it's a narrow strip that's pretty much not good for anything; it's 40 feet wide and runs the full length of the pasture, but he's only asking for 117 feet, which is the west property line of the other duplex. He said that way he will square off his property, and also where the 40 feet starts on Mr. Webster's property is about 30 feet from his barn. He said they've had the property in the family for the last 50 or 60 years. He said even though Mr. Webster has no plans to do anything with it, it is an investment and by the time he would sell it and somebody else would want to purchase it, and they could run goats out there or horses or whatever within 30 feet of his garage. He said they moved out into the country to not have neighbors right next to them and the 117 feet would just square the property off.

Mr. Elwell thanked Mr. Mackey and asked if there were any questions from the Board or Staff. Seeing none, he asked Mr. Mackey if he had already purchased the property from Mr. Webster.

1 Mr. Mackey said that's what the variance is dependent upon. He said they are planning to put solar panels  
2 on. He said Illinois Power has stuck it to them; last December his power bill was the highest it has ever  
3 been, about \$200. He said in January, the bill hit \$495. He said they said they would do budget billing at  
4 \$272, which lasted about six months, and right now it's at \$441. He said he's really needing to get the  
5 solar panels put in. He said he knows everyone is wanting to go green anyway.

6  
7 Mr. Elwell asked if there were any more questions from the Board or Staff. He asked Ms. Burgstrom if  
8 they would still have to come to the Board for the solar panels.

9  
10 Ms. Burgstrom said they do not have to come to the ZBA for the solar panels; it's just a Zoning Use Permit  
11 through the office. She said she had a correction she wanted to make. She said on Part B of the requested  
12 variance, it says a distance of 58 feet to the street centerline, but that should read 55 feet.

13  
14 Mr. Elwell asked if there were any more questions from Staff.

15  
16 Mr. Hall told Mr. Mackey that they've talked several times about how the City of Urbana would need to  
17 approve this change in lot lines. He asked Mr. Mackey if he could give them an update on how that's  
18 going.

19  
20 Mr. Mackey said if it was just strictly a lease, he wouldn't need anything from anybody. He said he spoke  
21 with Kevin Garcia at the City of Urbana, and he never gave Mr. Mackey a direct answer. He said he talked  
22 to Ed Clancy at Berns Clancy and Associates, and he said Champaign County is tough; he said Vermilion  
23 County, Douglas County, any other county they would drop two pins and be done, \$400-500. He said Mr.  
24 Clancy said it just depends on what day of the week it is, you never know. He said Mr. Clancy said one  
25 time it would be simply dropping two pins, but if they want the full subdivision he's talking \$5,000. He  
26 said he needs to talk to Kevin Garcia, but he wanted to get the variance first, he didn't want to get the cart  
27 before the horse before he could talk to Kevin to see what he wants. He said they will get whatever he  
28 needs.

29  
30 Mr. Hall said he's sorry to hear that Mr. Clancy thinks that our rules change day to day because they don't,  
31 and he knows that. He said the reason he brought that up is normally if they know there's an outstanding  
32 approval on a variance we have a special condition to make it explicit that the petitioner has to get that  
33 approval. He thinks because he had spoken with Mr. Mackey so much about getting the approval from  
34 City of Urbana he neglected to have that put on as a special condition. He asked Mr. Mackey if he  
35 understands that is a requirement.

36  
37 Mr. Mackey said yes.

38  
39 Mr. Hall said okay, they can leave it to the Board; he can cobble up a special condition here if they want,  
40 but he's discussed this, he's actually lost track of how many times, because Mr. Mackey has been diligent  
41 about keeping them updated on the status of this variance. He said he'd leave it up to the Board whether  
42 they want a special condition or not. He said Staff can still enforce it as a condition of approving the permit  
43 for the solar array, which hasn't happened yet, so he thinks we're in good condition either way.

44  
45 Mr. Elwell asked if there were any more questions from the Board or Staff. Seeing none, he asked if  
46 anyone would like to cross-examine Mr. Mackey. Seeing no one, he called Mr. Flint Pellett to testify.

47  
48 Mr. Flint Pellett, 3411 Willow Rd, Urbana, said given what he's heard, he doesn't know if there's a reason  
49 for him to testify. He said he has a question. He said he is about three houses down from the subject

1 property. He said his main concern with coming here was to make sure that we don't have anything going  
2 on in the changing of the setback that might affect the drainage in the area. He said there is already a  
3 drainage problem and would anything exacerbate that. He said given that it's a solar installation he can't  
4 imagine that is the case.

5  
6 Mr. Elwell said as of this evening it's just the outline of the property itself. He said that Ms. Burgstrom  
7 answered the question of not having to come before the Board for the solar array, so with that he doesn't  
8 think there's an answer for drainage with the solar tonight. He said it's his understanding that the square  
9 footage of the lot is going to be changing hands.

10  
11 Mr. Pellett said that's his understanding and he doesn't have any concerns in that case.

12  
13 Ms. Burgstrom said she wanted to add that Parts B and C of the variance are for the non-conforming  
14 duplex and how far back it sits from the road. She said what happens with this particular kind of variance  
15 is that it is allowing, should that building ever be destroyed, this structure to be rebuilt at the same location.  
16 She said hopefully that never happens, but that is something that can come from this variance.

17  
18 Mr. Pellett said okay, he has no problem with that, and he certainly has no problem with the solar array;  
19 he's glad that Mr. Mackey is doing that.

20  
21 Mr. Elwell thanked Mr. Pellett and asked if there were any questions from the Board or Staff. Seeing none,  
22 he asked if anyone would like to cross-examine Mr. Pellett. Seeing no one, he asked if anyone else would  
23 like to testify in this case.

24  
25 Ms. Burgstrom said she received a phone call from a neighbor on December 19<sup>th</sup> who lives a couple doors  
26 down from the duplex, and he mentioned that the duplex was too close to the road and that tenants park  
27 in the ditch or on the road. She said if that's something the Board wanted to take into consideration, then  
28 that's a comment Staff received.

29  
30 Mr. Mackey said he knows the person who parked in the ditch was a tenant of the front duplex a couple  
31 of years ago, and he didn't want to move the car. He said they got a hold of the sheriff's department, and  
32 they finally towed it. He said he was the only one that's ever parked in the ditch.

33  
34 Mr. Elwell asked for a motion to close the Witness Register for case 123-V-23.

35  
36 **Mr. Flesner moved, seconded by Mr. Roberts, to close the Witness Register for Cases 123-V-23. The**  
37 **motion passed by voice vote.**

38  
39 Mr. Elwell asked how the Board felt about the special condition that Mr. Hall mentioned.

40  
41 Ms. Cunningham said she thinks they're fine to proceed without it.

42  
43 Mr. Elwell said he agreed.

44  
45 Mr. Elwell entertained a motion to move to the Summary Draft Findings of Fact for Case 123-V-23.

46  
47 **Mr. Randol moved, seconded by Mr. Roberts, to move to the Draft Summary Findings of Fact for**  
48 **Case 123-V-23. The motion passed by voice vote.**

1 Mr. Elwell referred to Attachment F, page 11 of 13.

2  
3 **SUMMARY DRAFT FINDINGS OF FACT FOR CASE 123-V-23**

4 **From the documents of record and the testimony and exhibits received at the public hearing for**  
5 **zoning case 123-V-23 held on December 28, 2023, the Zoning Board of Appeals of Champaign**  
6 **County finds that:**

7 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land or**  
8 **structure involved, which are not applicable to other similarly situated land and structures**  
9 **elsewhere in the same district because:**

10  
11 Ms. Cunningham said special conditions and circumstances DO exist which are peculiar to the land or  
12 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
13 the same district because: regarding variance Part A, the L & J First Subdivision was approved in 1989  
14 when the standard for lot area was a total of 27,000 square feet for a lot with two dwellings. The  
15 subdivision was approved with a lot area of less than 27,000 square feet, so the proposed variance will  
16 bring the lot into compliance. Regarding variance Parts B and C, the duplex was constructed prior to  
17 adoption of the Zoning Ordinance on October 10, 1973.

18  
19 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**  
20 **sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of**  
21 **the land or structure or construction because:**

22  
23 Mr. Randol said practical difficulties or hardships created by carrying out the strict letter of the regulations  
24 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or  
25 construction because: without the proposed variance, the petitioners would be unable to transfer the land  
26 from Lot 3 to Lot 1 to accommodate a proposed solar array for use by the residence on Lot 1. Regarding  
27 Parts B and C of the proposed variance for front yard, setback, and side yard: without the proposed  
28 variance, the non-conforming duplex could not be rebuilt in the same location should it be destroyed. The  
29 property was laid out and built before current zoning.

30  
31 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}**  
32 **result from actions of the applicant because:**

33  
34 Ms. Cunningham said the special conditions, circumstances, hardships, or practical difficulties DO NOT  
35 result from actions of the applicant because: the lot size when the subdivision was approved in 1989 was  
36 already smaller than the Champaign County Zoning Ordinance required. The proposed lot size is less  
37 conforming, but both landowners agree that the proposed lot size is acceptable. Regarding the variance  
38 for front yard, setback, and side yard, the duplex was constructed prior to adoption of the Zoning  
39 Ordinance on October 10, 1973.

40  
41 **4. The requested variance {IS / IS NOT} in harmony with the general purpose and intent of the**  
42 **Ordinance because:**

43  
44 Mr. Randol said the requested variance IS in harmony with the general purpose and intent of the Ordinance  
45 because: there is adequate light and air on the subject property, and sufficient distance to prevent  
46 conflagration.

47  
48 **5. The requested variance {WILL / WILL NOT} be injurious to the neighborhood or otherwise**  
49 **detrimental to the public health, safety, or welfare because:**

1 Ms. Cunningham said the requested variance WILL NOT be injurious to the neighborhood or otherwise  
2 detrimental to the public health, safety, or welfare because: relevant jurisdictions have been notified of the  
3 variance, and no comments have been received. Neighboring landowners were notified of the variance,  
4 and no comments have been received.

5  
6 **6. The requested variance {IS / IS NOT} the minimum variation that will make possible the**  
7 **reasonable use of the land/structure because:**  
8

9 Mr. Randol said the requested variance IS the minimum variation that will make possible the reasonable  
10 use of the land/structure because: the proposed lot area to be transferred is the minimum required for  
11 installation of the proposed solar array. The variance for front yard, setback, and side yard of the duplex  
12 is the minimum variation required without moving the duplex.

13  
14 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**  
15

16 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings  
17 of Fact, as amended.  
18

19 **Mr. Roberts moved, seconded by Mr. Flesner, to adopt the Summary of Evidence, Documents of**  
20 **Record, and Findings of Fact, as amended. The motion passed by voice vote.**  
21

22 Mr. Elwell told Mr. Mackey that they do not have a full Board tonight; a full Board would be seven  
23 members. He said four affirmative votes are needed to approve the case. He said Mr. Mackey has the  
24 option of postponing the vote until there is a full Board or they can continue to the vote tonight. He said  
25 that the findings in the Draft Summary Findings of Fact were all in the affirmative.  
26

27 Mr. Mackey said he is comfortable with having a vote tonight.  
28

29 Mr. Elwell entertained a motion to move to Final Determination for Case 123-V-23.  
30

31 **Mr. Roberts moved, seconded by Mr. Andersen, to move to Final Determination. The motion passed**  
32 **by voice vote.**  
33

34 Mr. Elwell told Mr. Mackey he would be reading from Attachment F, page 13 of 13.  
35

36 **FINAL DETERMINATION FOR CASE 123-V-23**

37 **Ms. Cunningham moved, seconded by Mr. Randol, that the Champaign County Zoning Board of**  
38 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
39 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the**  
40 **authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning**  
41 **Board of Appeals of Champaign County determines that:**  
42

43 **The Variance requested in Case 123-V-23 is hereby GRANTED to the petitioners, James**  
44 **Webster, d.b.a. JHW Properties LLC, and Chris Mackey, to authorize the following variance**  
45 **in the R-2 Single Family Zoning District on the subject property described below:**  
46

47 **Part A: A proposed lot with a lot area of 19,621 square feet in lieu of the minimum required**  
48 **27,000 square feet, per Section 4.3.4 of the Zoning Ordinance.**  
49

1 **Part B: A non-conforming duplex with a front yard of 15 feet and a setback from the street**  
2 **centerline of Willow Road of 45 feet in lieu of the minimum required 25 feet and 55 feet,**  
3 **respectively, per Section 4.3.2 of the Zoning Ordinance.**

4  
5 **Part C: A non-conforming duplex with a side yard of 4.48 feet in lieu of the minimum**  
6 **required 5 feet, per Section 5.3 of the Zoning Ordinance.**

7  
8 Mr. Elwell requested a roll call vote.

9  
10 The vote was called as follows:

11	<b>Andersen – Yes</b>	<b>Bates – absent</b>	<b>Cunningham – Yes</b>	<b>Elwell – Yes</b>
12	<b>Flesner – Yes</b>	<b>Randol – Yes</b>	<b>Roberts – Yes</b>	

13  
14  
15 **The motion passed.**

16  
17 Mr. Elwell told Mr. Mackey that he received the four minimum affirmative votes and said that Staff would  
18 be in communication with him.

19  
20 **Case 124-V-23**

21 Petitioner: **Michael Moynihan**

22  
23 Request: **Authorize a variance in the AG-1 Agriculture Zoning District for an existing detached**  
24 **shed with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section**  
25 **7.2.1 of the Zoning Ordinance.**

26  
27 Location: **A 2.16-acre parcel in the Northeast corner of Section 8, Township 22 North, Range**  
28 **10 East of the Third Principal Meridian in Harwood Township, with an address of**  
29 **1995 CR 3500N, Ludlow.**

30  
31 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign  
32 the witness register for that public hearing. He reminded the audience that when they sign the witness  
33 register, they are signing an oath.

34  
35 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows  
36 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a  
37 show of hands from those who would like to cross-examine, and each person will be called upon. He said  
38 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly  
39 state their name before asking any questions. He noted that no new testimony is to be given during the  
40 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
41 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request.

42  
43 Mr. Michael Moynihan, 1995 CR 3500N, Ludlow, said about seven years ago, he put a shed on the  
44 property, and he guessed he had some bad information because he thought a shed without a foundation  
45 could be put on the property line, so that’s where he put it. He said he didn’t realize he needed a permit  
46 either for a yard shed. He said he had a letter from the landowner that he thinks the Board received that  
47 states the farmer that farms for him doesn’t have a problem with where the shed is. He said he’d like to  
48 get a variance so he doesn’t have to move the shed ten feet. He said it doesn’t seem to be a problem for  
49 anybody.

1 Mr. Elwell asked if there were any questions from the Board or Staff.

2  
3 Mr. Hall asked Mr. Moynihan if he said there is electrical in the shed, so moving it he would have to  
4 change the electrical.

5  
6 Mr. Moynihan said there's electrical, there's his little dish for the computer, and he also has a burglar  
7 alarm hardwired to it, so that would be a problem as far as moving it. He said if you look at the aerial  
8 photo of where the shed is, the farmer is actually 16 feet away from the shed. He said the farmer could  
9 come a lot closer if he wanted to, but he stays back anyhow so he can't see where it's bothering the farmer.

10  
11 Mr. Elwell asked if there were any other questions from the Board or Staff.

12  
13 Mr. Hall said he thinks it's interesting to note that when Mr. Moynihan first moved there, he had a half-  
14 acre, but over time he's managed to buy land on both the east and west sides of the original lot, and that's  
15 from the same landowner that owns it today, right.

16  
17 Mr. Moynihan said yes.

18  
19 Mr. Hall said so he's had a good relationship with Mr. Hood.

20  
21 Mr. Elwell asked if anyone would like to cross-examine Mr. Moynihan. Seeing no one, he asked if anyone  
22 else would like to testify in this case. Seeing no one, he asked for a motion to close the Witness Register  
23 for Case 124-V-23.

24  
25 **Mr. Roberts moved, seconded by Mr. Andersen, to close the Witness Register for Case 124-V-23.**  
26 **The motion passed by voice vote.**

27  
28 Mr. Randol said in thinking about this a little bit, there are no special conditions, but we probably should  
29 make it a special condition that if something would happen with this storage shed that it would be  
30 destroyed, that it would be put within the legal limits and boundary of the property line, not to be put back  
31 where it currently is.

32  
33 Mr. Hall said he and Ms. Burgstrom discussed this, and his view on that condition is they will propose it  
34 when it involves a right-of-way, which would be a public issue and he thinks it's a fair point to consider  
35 then. He said in this case, it's a neighbor who has supported the requested variance and it's up to the  
36 Board, but from his viewpoint, if a neighbor has no objection, he's prepared for that shed to stay there and  
37 he doesn't see that we need to deviate from that. He said it is up to the Board.

38  
39 Mr. Randol said he has no problem with that, he was just curious about others' thoughts on that issue.

40  
41 Mr. Earl Smith, 106 E Plum St, Gifford, said he is the multi-township assessor in northeast Champaign  
42 County. He asked when a yard building is put in, if it's on skids, what size building does it have to be to  
43 get a permit from the County. He said as assessors, they do not assess a building on skids.

44  
45 Mr. Hall said the Zoning Ordinance requires a permit for anything over 150 square feet in area.

46  
47 Mr. Smith said they do not do anything like that in the Village of Gifford.

48



1 Mr. Hall said even if it is less than 150 square feet in area, it still needs to meet the required yards. He said  
2 even if it were 10 feet by 10 feet, it should still be the proper distance from the property line. He said this  
3 is confusing because then they don't have to get a permit and they may never find that out and that's the  
4 cause of a lot of problems.

5  
6 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 124-V-23.

7  
8 **Mr. Flesner moved, seconded by Mr. Andersen, to move to the Draft Summary Findings of Fact for**  
9 **Case 124-V-23. The motion passed by voice vote.**

10  
11 Mr. Elwell told Mr. Moynihan he would be reading from Attachment F, page 9 of 11.

12  
13 **SUMMARY DRAFT FINDINGS OF FACT FOR CASE 124-V-23**

14 **From the documents of record and the testimony and exhibits received at the public hearing for**  
15 **zoning case 124-V-23 held on December 28, 2023, the Zoning Board of Appeals of Champaign**  
16 **County finds that:**

17 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land or**  
18 **structure involved, which are not applicable to other similarly situated land and structures**  
19 **elsewhere in the same district because:**

20  
21 Ms. Cunningham said special conditions and circumstances DO exist which are peculiar to the land or  
22 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
23 the same district because: Mr. Moynihan applied for a Zoning Use Permit for a solar array on November  
24 20, 2023. He added a small strip of land to the south side of his property to accommodate the proposed  
25 solar array and recorded that land transfer on November 22, 2023. During review of the application, P&Z  
26 Staff noted that an existing shed in the southwest corner of the lot was on the west side property line. Since  
27 Mr. Moynihan had just finished the process of finalizing the land transfer, he decided to apply for the  
28 variance and hope for its approval rather than investing more time and money in acquiring another piece  
29 of land. In a letter received December 4, 2023, Mr. Hood, owner of the land to the south and west of the  
30 shed needing the variance, stated that he has no concerns with the location of the shed, and his farmer  
31 likewise has expressed no concerns. The shed is 16 feet away from the cultivation line.

32  
33 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**  
34 **sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of**  
35 **the land or structure or construction because:**

36  
37 Mr. Randol said practical difficulties or hardships created by carrying out the strict letter of the regulations  
38 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or  
39 construction because: without the proposed variance, the petitioner would have to buy more land or shift  
40 the shed 10 feet north, which would entail some expense. There is a hedge to the north that would limit  
41 how much the shed could be moved. Electrical, satellite, and security systems would all have to be  
42 relocated if the shed must be moved.

43  
44 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}**  
45 **result from actions of the applicant because:**

46  
47 Ms. Cunningham said the special conditions, circumstances, hardships, or practical difficulties DO NOT  
48 result from actions of the applicant because: the petitioner did not know that a movable shed required a  
49 permit and did not know that a movable shed has a minimum yard requirement.

1 **4. The requested variance *{IS / IS NOT}* in harmony with the general purpose and intent of the**  
 2 **Ordinance because:**  
 3

4 Mr. Randol said the requested variance IS in harmony with the general purpose and intent of the Ordinance  
 5 because: in general, the side yard is presumably intended to ensure adequate light and air, separation of  
 6 structures to prevent conflagration, and aesthetics. The subject property is in residential use. The  
 7 surrounding properties are in agricultural production. The subject property is within the Ludlow Fire  
 8 Protection District and the station is approximately 2.6 road miles from the subject property. There are no  
 9 structures on adjacent properties. The closest structure on the property is the house, which is about 35 feet  
 10 away. The farmer has no objection to the location of the shed.  
 11

12 **5. The requested variance *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise**  
 13 **detrimental to the public health, safety, or welfare because:**  
 14

15 Ms. Cunningham said the requested variance WILL NOT be injurious to the neighborhood or otherwise  
 16 detrimental to the public health, safety, or welfare because: relevant jurisdictions were notified of this  
 17 variance, and no comments have been received.  
 18

19 **6. The requested variance *{IS / IS NOT}* the minimum variation that will make possible the**  
 20 **reasonable use of the land/structure because:**  
 21

22 Mr. Randol said the requested variance IS the minimum variation that will make possible the reasonable  
 23 use of the land/structure because: the requested variance is the minimum variation without attempting to  
 24 move the structure or invest time and money in purchasing more land.  
 25

26 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**  
 27

28 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings  
 29 of Fact, as amended.  
 30

31 **Mr. Roberts moved, seconded by Mr. Andersen, to adopt the Summary of Evidence, Documents of**  
 32 **Record, and Findings of Fact, as amended. The motion passed by voice vote.**  
 33

34 Mr. Elwell told Mr. Moynihan that they do not have a full Board tonight; a full Board would be seven  
 35 members. He said four affirmative votes are needed to approve the cases. He said Mr. Moynihan has the  
 36 option of postponing the vote until there is a full Board or they can continue to the vote tonight. He said  
 37 that the findings in the Draft Summary Findings of Fact were all in the affirmative.  
 38

39 Mr. Moynihan said they could continue with the vote tonight.  
 40

41 Mr. Elwell entertained a motion to move to Final Determination.  
 42

43 **Mr. Roberts moved, seconded by Mr. Randol, to move to Final Determination. The motion passed**  
 44 **by voice vote.**  
 45

46 Mr. Elwell told Mr. Moynihan he would be reading from Attachment F, page 11 of 11.  
 47

48 **FINAL DETERMINATION FOR CASE 124-V-23**

49 **Mr. Randol moved, seconded by Mr. Roberts, that the Champaign County Zoning Board of Appeals**

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

5  
6 The Variance requested in Case 124-V-23 is hereby GRANTED to the petitioner, Michael  
7 Moynihan, to authorize the following:

8  
9 Authorize a variance in the AG-1 Agriculture Zoning District for an existing detached shed  
10 with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 7.2.1 of the  
11 Zoning Ordinance.

12  
13 Mr. Elwell requested a roll call vote.

14  
15 The vote was called as follows:

16  
17 Andersen – Yes                      Bates – absent                      Cunningham – Yes                      Elwell – Yes  
18 Flesner – Yes                      Randol – Yes                      Roberts – Yes

19  
20 The motion passed.

21  
22 Mr. Elwell told Mr. Moynihan that he received the four minimum affirmative votes and said that Staff  
23 would be in communication with him.

24  
25 Mr. Moynihan thanked the Board and Staff.

26  
27 Case 125-V-23

28 Petitioner: Tony and Erin Studer

29  
30 Request: Authorize a variance in the AG-1 Agriculture Zoning District for an existing detached  
31 garage with a front yard of 25 feet in lieu of the minimum required 35 feet adjacent  
32 to US 45 North, per Section 4.3.2 of the Zoning Ordinance.

33  
34 Location: A 2.58-acre parcel in the Northeast Quarter of the Southeast Quarter of Section 14,  
35 Township 22 North, Range 9 East of the Third Principal Meridian in Ludlow  
36 Township, with an address of 3327 CR 1700E, Ludlow.

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 Anthony and Erin Studer gave their address as 3327 CR 1700E, Ludlow. Mr. Studer said this spring they  
2 had a tornado come through their property and take out multiple sheds, the barn and a garage. He said they  
3 rebuilt the garage in the same spot not realizing the previous garage was out of compliance that was built  
4 20 or so years before they moved onto the property. He said the current garage is 25 feet instead of 35 feet  
5 from the property line and that restriction is due to them having two roads with access coming from 1700E  
6 on the east side and US 45 on the west side.

7  
8 Mr. Elwell thanked Mr. Studer and asked if there were any questions from the Board or Staff. He told  
9 them that it's a really nice garage, and he bets there would be some expense incurred if they Board said  
10 they had to move it.

11  
12 Mr. Studer said that is correct.

13  
14 Mr. Elwell asked if there were any questions from Staff. Seeing none, he asked if anyone would like to  
15 cross-examine Mr. Studer. Seeing no one, he asked if anyone would like to testify in this case. Seeing no  
16 one, he asked for a motion to close the Witness Register for Case 125-V-23.

17  
18 **Mr. Roberts moved, seconded by Mr. Andersen, to close the Witness Register for Case 125-V-23.**  
19 **The motion passed by voice vote.**

20  
21 Mr. Hall said Mr. Randol asked in the previous case about the special condition not allowing  
22 reconstruction if damaged more than 51%. He said he mentioned right-of-way as something where they  
23 think that might be warranted. He said in this case, the right-of-way for US 45 is 230 feet; there are  
24 obviously no plans to widen it. He said the garage is at an angle, so 25 feet is the closest point. He said he  
25 thinks this is an instance where not requiring that condition would be perfectly reasonable, but that's up  
26 to the Board. He said as we all know, the right-of-way for US 45 is huge and he just can't see that it's ever  
27 going to have to be widened. He said that's for the Board to decide.

28  
29 Mr. Randol said he agreed with Mr. Hall.

30  
31 Ms. Cunningham said she also agreed with that, because God forbid another tornado comes through,  
32 whoever owns that is going to do the same thing; they're going to put it right back on that slab.

33  
34 Mr. Elwell entertained a motion to move to the Summary Draft Findings of Fact for Case 125-V-23.

35  
36 **Mr. Roberts moved, seconded by Mr. Flesner, to move to the Draft Summary Findings of Fact for**  
37 **Case 125-V-23. The motion passed by voice vote.**

38  
39 Mr. Elwell referred to Attachment E, page 9 of 11.

40  
41 **SUMMARY DRAFT FINDINGS OF FACT FOR CASE 125-V-23**

42 **From the documents of record and the testimony and exhibits received at the public hearing for**  
43 **zoning case 125-V-23 held on December 28, 2023, the Zoning Board of Appeals of Champaign**  
44 **County finds that:**

45 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land or**  
46 **structure involved, which are not applicable to other similarly situated land and structures**  
47 **elsewhere in the same district because:**

48  
49 Mr. Randol said special conditions and circumstances DO exist which are peculiar to the land or structure

1 involved, which are not applicable to other similarly situated land and structures elsewhere in the same  
 2 district because: the petitioners built a new, smaller garage on top of the existing foundation for a garage  
 3 that was destroyed by a tornado. A detached building in the AG-1 Agriculture Zoning District only  
 4 requires a 10 foot rear yard, but since the rear yard on this property fronts a federal highway, that is counted  
 5 as a frontage requiring 35 feet between the building and the right-of-way line.

6  
 7 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**  
 8 **sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of**  
 9 **the land or structure or construction because:**

10  
 11 Mr. Randol said practical difficulties or hardships created by carrying out the strict letter of the regulations  
 12 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or  
 13 construction because: without the variance, the petitioners would have to move the building 10 feet to the  
 14 east at great expense.

15  
 16 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}**  
 17 **result from actions of the applicant because:**

18  
 19 Ms. Cunningham said the special conditions, circumstances, hardships, or practical difficulties DO NOT  
 20 result from actions of the applicant because: the garage that was destroyed by the tornado was built without  
 21 a permit prior to the petitioners' ownership of the subject property. They used the existing concrete slab  
 22 to build the replacement garage. They were not aware that the previous building location was not in  
 23 compliance.

24  
 25 **4. The requested variance {IS / IS NOT} in harmony with the general purpose and intent of the**  
 26 **Ordinance because:**

27  
 28 Mr. Randol said the requested variance IS in harmony with the general purpose and intent of the Ordinance  
 29 because: US 45 has a 230-foot right-of-way. There are no known plans to widen US 45 North.

30  
 31 **5. The requested variance {WILL / WILL NOT} be injurious to the neighborhood or otherwise**  
 32 **detrimental to the public health, safety, or welfare because:**

33  
 34 Ms. Cunningham said the requested variance WILL NOT be injurious to the neighborhood or otherwise  
 35 detrimental to the public health, safety, or welfare because: relevant jurisdictions were notified of this  
 36 variance, and no comments have been received. Neighboring landowners were notified, and no comments  
 37 have been received. The closest structure on adjacent property is approximately 340 feet from the garage.

38  
 39 **6. The requested variance {IS / IS NOT} the minimum variation that will make possible the**  
 40 **reasonable use of the land/structure because:**

41  
 42 Mr. Randol said the requested variance IS the minimum variation that will make possible the reasonable  
 43 use of the land/structure because: the variance is the minimum variation without moving the existing  
 44 garage.

45  
 46 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

47  
 48 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings  
 49 of Fact, as amended.

1 **Mr. Randol moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of**  
2 **Record, and Findings of Fact, as amended. The motion passed by voice vote.**

3  
4 Mr. Elwell told the Studers that they do not have a full Board tonight; a full Board would be seven  
5 members. He said four affirmative votes are needed to approve the cases. He said they have the option of  
6 postponing the vote until there is a full Board or they can continue to the vote tonight. He said that the  
7 findings in the Draft Summary Findings of Fact were all in the affirmative.

8  
9 Mr. Studer said they are comfortable with having a vote tonight.

10  
11 Mr. Elwell entertained a motion to move to Final Determination.

12  
13 **Mr. Randol moved, seconded by Mr. Roberts, to move to Final Determination. The motion passed**  
14 **by voice vote.**

15  
16 Mr. Elwell told the Studers he would be reading from Attachment E, page 11 of 11.

17  
18 **FINAL DETERMINATION FOR CASE 125-V-23**

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

24  
25 **The Variance requested in Case 125-V-23 is hereby GRANTED to the petitioners, Tony and**  
26 **Erin Studer, to authorize a variance in the AG-1 Agriculture Zoning District for an existing**  
27 **detached garage with a front yard of 25 feet in lieu of the minimum required 35 feet adjacent to**  
28 **US 45 North, per Section 4.3.2 of the Zoning Ordinance.**

29  
30 Mr. Elwell requested a roll call vote.

31  
32 The vote was called as follows:

33  
34 **Andersen – Yes                      Bates – absent                      Cunningham – Yes                      Elwell – Yes**  
35 **Flesner – Yes                         Randol – Yes                         Roberts – Yes**

36  
37 **The motion passed.**

38  
39 Mr. Elwell told the Studers that they received the four minimum affirmative votes and said that Staff  
40 would be in communication with them.

41  
42 Mr. Studer thanked the Board and Staff.

43  
44 **8. Staff Report**

45  
46 Ms. Burgstrom said she has accepted a job with a different part of the County and she anticipates her last  
47 day being toward the end of January. She said she also anticipates there being a transition period, so they'll  
48 probably see her for a while yet after she starts work with the Regional Planning Commission. She said  
49 it's been a great pleasure working with them. She said she accepted the position of Planning Manager,

1 which was basically the job she had prior to coming to the Zoning Department.

2  
3 Mr. Elwell asked what that job is about.

4  
5 Ms. Burgstrom said the Planning Manager deals with land use and transportation issues and potentially  
6 some zoning issues, but more inside the incorporated areas of Champaign County.

7  
8 Mr. Elwell said she will be sorely missed.

9  
10 Ms. Burgstrom said thank you.

11  
12 **9. Other Business**

13 **A. Review of Docket**

14  
15 Mr. Elwell asked if there would be any upcoming absences.

16  
17 Ms. Cunningham said she would be unable to attend February 29<sup>th</sup>.

18  
19 Ms. Burgstrom referred to the docket and said Staff went ahead and put the next available meeting out to  
20 February 29<sup>th</sup> because the upcoming cases on January 25<sup>th</sup> and February 15<sup>th</sup> are all solar farms, so even  
21 though there's just a couple of cases on each of those dates, Staff expects them to take a decent amount of  
22 time to get through those. She said if the Board wants them to open up those dates for another case, they  
23 can, but she doesn't recommend it.

24  
25 **B. 2024 ZBA Meetings Calendar**

26  
27 Ms. Burgstrom said the calendar for 2024 that was part of their packet is what is considered final; it  
28 includes all the final County Board meetings and ZBA meetings, and we need a motion to approve this.

29  
30 **Mr. Randol moved, seconded by Mr. Flesner, to remove the December 26, 2024 meeting from the**  
31 **2024 ZBA meeting calendar. The motion passed by voice vote.**

32  
33 Ms. Burgstrom said we received no cases in time to file a legal notice for the January 11, 2024 ZBA  
34 meeting and therefore we're looking for a motion to cancel the next meeting.

35  
36 **Mr. Randol moved, seconded by Mr. Andersen, to cancel the January 11, 2024 ZBA meeting. The**  
37 **motion passed by voice vote.**

38  
39 **10. Adjournment**

40  
41 Mr. Elwell entertained a motion to adjourn.

42  
43 **Mr. Roberts moved, seconded by Mr. Randol, to adjourn the meeting. The motion passed.**

44  
45 The meeting adjourned at 7:33 p.m.

46  
47 Respectfully Submitted,

48  
49 Secretary of the Zoning Board of Appeals