

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61801**

**DATE: March 11, 2010**

**PLACE: Lyle Shields Meeting Room  
1776 East Washington Street**

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

**Urbana, IL 61802**

**MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric Thorsland, Paul Palmgren

**MEMBERS ABSENT :** Roger Miller

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

**OTHERS PRESENT :** Scott Lambright, Larry Lambright, Diane Lambright, Jeff Johnson, Jeff Scott, Alicia Helmick, Joshua Helmick

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**1. Call to Order**

The meeting was called to order at 6:34 p.m.

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

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

**3. Correspondence**

None

**4. Approval of Minutes (February 25, 2010)**

**Mr. Thorsland moved, seconded by Mr. Palmgren to approve the February 25, 2010, minutes as submitted. The motion carried by voice vote.**

**Mr. Thorsland moved, seconded by Mr. Courson to re-arrange the agenda and hear Case 662-S-10 prior to Case 657-V-09. The motion carried by voice vote.**

**5. Continued Public Hearing**

**Case 657-V-09 Petitioner: Larry and Diane Lambright and Scott Lambright. Request as amended on February 11, 2010, authorize the use of an existing two story detached accessory storage building with a second story deck with a side yard of nine feet in lieu of the required ten feet side yard for accessory**

1 **structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the**  
2 **maximum allowed 15 feet average height for residential accessory structures on lots less than one acre**  
3 **in area in the AG-2 Agriculture Zoning District. Location: Lot 1 of Cook’s Replat of Tract B of the**  
4 **K.D. Headlee Subdivision in Section 14 of Mahomet Township and commonly known as the house at**  
5 **206B Lake of the Woods Road, Mahomet.**  
6

7 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone  
8 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of  
9 hands for those who would like to cross examine and each person will be called upon. He requested that  
10 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
11 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
12 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
13 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
14 from cross examination.  
15

16 Mr. Hall distributed a Supplemental Memorandum dated March 11, 2010, to the Board for review. He  
17 clarified that staff has added new evidence to the Summary of Evidence supporting the argument that there  
18 are limited locations on the subject property where the petitioner could place the building without disturbing  
19 the existing easement or other things that were already on the property. He said that this evidence is  
20 necessary to support whether or not the variance should be granted but whether or not the evidence is  
21 sufficient is up to the Board. He said that he did not want to leave the Board with the impression that the  
22 evidence should lead them to a conclusion. He said that the new memorandum indicates that the finding that  
23 was adopted on December 17, 2009, could be re-opened to be modified. He said that the current finding of  
24 fact consists of one finding that indicates that the variance should be denied. He said that the variance  
25 cannot be approved if one of the findings is worded negatively. He said that if the Board is inclined to  
26 change the finding, even after seeing all of the new evidence, it could be made clear in the minutes and re-  
27 adopt the findings. He said that in order to approve the variance the existing findings will need to be re-  
28 opened and change those which are worded for a denial.  
29

30 Mr. Hall stated that the Supplemental Memorandum dated March 11, 2010, adds a new condition. He said  
31 that staff spoke to the State’s Attorney about the new condition and they thought that it was a good idea. He  
32 read the new Item 13.D as follows: The Shared Well Easement specifies that the “grantor” (the petitioner)  
33 “...will not obstruct or interfere with the Grantee...” (the neighbor). The neighbor (grantee) has testified  
34 that the deck on the subject accessory building will make it very difficult to maintain the well. If it is  
35 determined that the deck does in fact obstruct any maintenance that may ultimately be required on the well,  
36 the terms of the Shared Well Easement appear to require the petitioner (grantor) to remove the deck to allow  
37 for maintenance. Another special condition clarifies that in that situation the deck can be rebuilt. The  
38 following special condition is intended to make clear that the requested variance, if approved, is not  
39 intended to change any rights or obligations established by the Shared Well Easement:  
40

41 **This variance does not change any rights or obligations established in the Shared**  
42 **Well Easement that applies to the water well on the subject property.**  
43

44 The special condition stated above is necessary to ensure the following:

**The variance is not intended to change any rights or obligations established in the Shared Well Easement.**

Mr. Hall stated that whatever rights and obligations that are established in the Shared Well Easement, if the Board approves the variance, it is not the intention of the Board to change any of those rights or obligations. He said that he does not know if this will help the petitioner and the neighbor to come to terms over the building and the well and the other things that they have at issue but it does make clear that the Board is not intending to come down on either side in regards to the Shared Well Easement.

Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

Mr. Courson stated that there are special conditions, trees and easements, which exist in regards to the side yard.

Mr. Hall stated yes.

Mr. Courson asked Mr. Hall what special conditions existed in regards to the height.

Mr. Hall stated that this may be a good question for the petitioner. He said that by building a two-story building there does not have to be as much footprint on the ground and in the building's current location, if it were made only one-story, it would not fit without cutting down one or both trees. He said that the height variance is only for six inches and trees, when in full foliage, screen the height of the building pretty well. He said he is not saying that these factors merit an approval but they are some of the factors that exist. He said that if these factors do not appear compelling to the Board then it is their call for approval or denial.

Mr. Courson stated that the petitioner built the structure larger than what was indicated on the approved permit and he built a two story structure rather than the indicated one-story.

Mr. Hall stated that Mr. Courson is correct. He said that if the logic that staff outlined does not support two-stories originally then the height variance cannot be approved. He cautioned the Board to keep in mind that if they deny the request for variance they need to understand that even though staff recommends that the Board not consider the costs of the improvements there is such a thing as an unreasonable denial of a variance.

Ms. Capel stated that the real question is if the variance had been brought before the Board first, would the Board have made the same decision.

Mr. Hall stated that the evidence that staff has provided is to be used by the Board as a guide but the Board should not approve the variance because the structure is already there. He said that if the Board cannot find some justification for the variance and the petitioner has not made the case that the need has been there all along then the indication would be that it should be a denial. He said that he does have this legal concern regarding an unreasonable denial.

1 **Ms. Capel moved to re-open the December 17, 2009, findings for review and reconsideration.**

2  
3 Mr. Thorsland stated that the average height of the structure is 15.5 feet therefore the height variance is for  
4 ½ foot. He said that the petitioner wanted enough head room for the second story and if the variance had  
5 come before the Board first it probably would have been approved.  
6

7 Mr. Hall stated that this case has been a nightmare and staff has been put through the ringer. He said that  
8 this case has been before the Board several times and staff receives several calls daily regarding the subject  
9 property. He said that he cannot speak for the petitioner but he believes that the petitioner has also been put  
10 through the ringer. He said that if the Board does not feel that the evidence supports approving the  
11 variances then that is the Board's call. He said that there is a motion on the floor to re-open the findings.  
12

13 Mr. Bluhm asked the Board if there was a second to Ms. Capel's motion.

14  
15 Mr. Thorsland stated that he would appreciate it if the motion was tabled until the petitioner and the  
16 audience submitted testimony.  
17

18 Ms. Capel agreed.

19  
20 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.  
21

22 Mr. Bluhm called Mr. Larry Lambright to testify.  
23

24 Mr. Larry Lambright, who resides at 2110 Pheasant Ridge, Mahomet stated that, with all due respect, it is  
25 his opinion that this has nothing to do with any of the violations that have been brought forth but the fact  
26 that the Helmicks want to use his driveway to turn their cars around, which he has no problem with because  
27 they have an easement. He said that Helmicks also want to use the circular drive that runs around his house  
28 and they constantly harass him about the ability to use that drive. He said that he has spent over \$15,000 in  
29 attorney fees on this issue. He said that he has a number of pictures, which he would like to submit as  
30 evidence, of the property that is east of the Helmick's property which has numerous violations and there has  
31 been no mention about that property. He said that he does not know what else to do to satisfy his neighbors  
32 so that they stop the continuous harassment.  
33

34 Mr. Bluhm informed Mr. Lambright that the photographs of the neighboring property are not relevant to this  
35 case.  
36

37 Mr. Lambright stated that he understood that the photographs were not relevant. He said that he just wanted  
38 to show the Board that there is another property adjacent to the Helmick's property which has numerous  
39 violations and there is no mention of those violations. He said that the Helmick's continuously harass his  
40 family about the denied use of the circular drive. He said that Ms. Helmick runs a daycare which produces  
41 traffic in and out of the drive and he is concerned about the safety of his grandkids. He said that it is his  
42 understanding that Mrs. Helmick does not have a license with the County for the daycare that is run out of  
43 their home. He said that he would just like see this whole thing go away.  
44

1 Mr. Bluhm asked the Board if there were any questions for Mr. Lambright.

2  
3 Mr. Thorsland asked Mr. Lambright if he could make the Board feel confident that the requested variance  
4 for the additional ½ foot in height is necessary.

5  
6 Mr. Lambright stated that the paperwork that he received from the office indicated a height of 15 feet and it  
7 is obvious that he misunderstood its meaning. He said that he is not a contractor which builds homes but  
8 only remodels kitchens and bathrooms. He said that 80% of the items that are stored in the shed are  
9 personal items.

10  
11 Mr. Thorsland asked Mr. Lambright to describe what the shed was place upon and could it be moved.

12  
13 Mr. Lambright stated that the shed was built on 6' x 6' timbers and it would be extremely costly to move it  
14 because it would require the use of a crane.

15  
16 Mr. Bluhm asked the Board if there were any additional questions for Mr. Lambright and there were none.

17  
18 Mr. Bluhm asked if staff had any questions for Mr. Lambright and there were none.

19  
20 Mr. Bluhm asked the audience if there were any questions for Mr. Lambright and there were none.

21  
22 Mr. Bluhm called Ms. Alicia Helmick to testify.

23  
24 Ms. Alicia Helmick, who resides at 206A South Lake of the Woods Road, Mahomet stated she and her  
25 husband are not harassing the Lambrights. She said that over two years ago they started calling staff about  
26 all of the junk that is located on the property. She said that there is a lot of room on the property to relocate  
27 the shed. She submitted a photograph, of what the property used to look like before the Lambrights  
28 purchased the property. She said that the site plan which was submitted with the original, approved permit  
29 indicated where the subject structure would be located and that is not where Mr. Lambright placed it. She  
30 said that if Mr. Lambright would have come to the Board for a variance at the time of the shed's original  
31 construction the variance would have been for the location that was approved on the permit's site plan. She  
32 said that if the Board were to have approved the variance at the time then where would we be at right now  
33 because that is not the location that he placed the shed. She said that Mr. Lambright is a contractor which  
34 does different things other than kitchen and bathroom remodeling. She said that Mr. Lambright brings  
35 rubbish from other sites and brings it to his property. She said that he is a contractor and she does not care  
36 which way it is described he is a contractor. She said that if someone is a contractor then he should know  
37 the ordinances in Champaign County because they are readily available. She said that she has a copy of the  
38 Champaign County Zoning Ordinance and she has read it many times and picked it apart because they have  
39 dealt with this issue for the past two years. She said that she and her husband have been put through the  
40 ringer as well and they would like it to go away also. She said that she believes that the only reason why  
41 Mr. Lambright has cleared up all of his violations, which she does not believe that he has done, is because of  
42 this variance request. She asked why the Zoning Ordinance was adopted if people can just go and violate  
43 the ordinances of Champaign County. She said that she called staff about this property in January 2008 and  
44 that complaint had nothing to do with the driveway whatsoever but all of the stuff that Scott had brought to

1 the property from his previous property. She said that five acres of junk cannot fit onto a one-half acre lot.  
2 She said that Mr. Lambright should not have purchased the property to begin with because it is too small for  
3 his desired use. She said that it is her opinion that the shed should not have been allowed to be built in the  
4 first place because it looks like a barn that should be on some farmland rather than a residential area.  
5

6 Mr. Bluhm reminded Ms. Helmick that the property is located in the AG-2 Agricultural Zoning District and  
7 is not a residential zoning district.  
8

9 Ms. Helmick stated that she understands the zoning of the area. She said that the Item #4.B. of the summary  
10 of Evidence states that land to the north of the subject property is zoned CR Conservation-Recreation and is  
11 in use for single family dwellings. She said that the land to the north of the subject property is a park and  
12 not a single family dwelling it is Lake of the Woods Park.  
13

14 Mr. Thorsland asked Ms. Helmick if her property is the single family dwelling with a daycare being  
15 operated as an unregistered Neighborhood Home Occupation.  
16

17 Ms. Helmick stated that since Mr. Thorsland brought this subject to light she would like to address his  
18 question. She said that before she became a licensed daycare provider she called Champaign County  
19 Planning and Zoning and did not state her name or her address but asked if she needed to register with the  
20 County. She said that the woman that answered the phone asked her what she was doing and she told her  
21 that she was a licensed daycare provider operating out of her home. Ms. Helmick stated that the female staff  
22 person told her that she did not have to register unless a complaint was filed with the office. She said that  
23 after the lawsuit occurred her attorney told her to call the Champaign County Planning and Zoning office  
24 again and ask if she needed to register with the County and when she did she was again told the same thing.

25 She said that a few weeks ago she received a letter from Jamie Hitt, Zoning Officer, informing her that she  
26 was in violation for not registering her home daycare with the County. She said that she immediately filled  
27 out the paperwork and called Ms. Hitt informing her that she was not happy about receiving her threatening  
28 letter. She said that she has had no complaints filed on her home daycare operation and was previously told  
29 that she did not need to register with the County unless a complaint was filed. She said that she informed  
30 Ms. Hitt that not only had she called her office once but called twice and was told the exact same thing.  
31

32 Mr. Bluhm informed Ms. Helmick that her registering with the County for her home daycare operation is not  
33 related to this case.  
34

35 Mr. Thorsland stated that the whole reason why everyone is present tonight is due to the shed. He asked Ms.  
36 Helmick if the shed was six inches shorter would she be happy with it.  
37

38 Ms. Helmick stated no, due to the location of the shed. She said that the shed is right next to her well. She  
39 asked the Board how they would feel if someone built a structure right next to their well.  
40

41 Mr. Thorsland stated that the well is in an unfortunate location, to say the least.  
42

43 Ms. Helmick stated that what irritates her and her husband is that there are laws for Champaign County and  
44 those laws are what people are supposed to follow but as we can see people do not like following those laws.

- 1 She said that if people can obtain variances every time they don't follow the laws then why have the laws in  
2 the first place.  
3
- 4 Mr. Bluhm stated that the Zoning Ordinance allows variances.  
5
- 6 Ms. Helmick stated that Mr. Lambright is a contractor and he built the shed too tall. She said that he  
7 indicated on the approved permit that he was building a one-story building at a different location and he  
8 knew what was approved. She said that she believes that Mr. Lambright knew what he was doing and tried  
9 to get away with it and even went as far as adding a two-story deck without obtaining a permit.  
10
- 11 Mr. Courson asked Ms. Helmick if she has spoken to a well person about access to the well and the amount  
12 of distance that is needed for maintenance.  
13
- 14 Ms. Helmick stated that she has not. She said that Mr. Knight spoke to someone and they indicated that five  
15 to ten feet is required for access.  
16
- 17 Mr. Courson stated that there are actually two opinions and one indicated two feet and one indicated ten  
18 feet. He said that currently the building is two and one-half inches away from meeting the two foot access.  
19
- 20 Ms. Helmick stated that it was indicated that the distance between the building and well is 21-1/2". She said  
21 that she wants Mr. Lambright to move the shed to the location that was originally approved.  
22
- 23 Mr. Courson stated that he understands that she does not want the shed on the property at all and asked her if  
24 she has an issue with the height also.  
25
- 26 Ms. Helmick stated yes.  
27
- 28 Mr. Courson stated that the shed is six inches taller than what is allowed. He asked Ms. Helmick again if  
29 she has an objection to the shed's current height.  
30
- 31 Ms. Helmick stated yes.  
32
- 33 Mr. Thorsland asked Mr. Knight to describe the minor violations that are still on the property.  
34
- 35 Mr. Knight stated that there is a dresser sitting next to a trailer and the upper story of the shed has a window  
36 that is covered with plastic.  
37
- 38 Mr. Hall noted that the window that is covered with plastic is not a violation.  
39
- 40 Mr. Knight stated that Ms. Hitt spoke to Mr. Scott Lambright and he indicated that the dresser is going to be  
41 removed next weekend. Mr. Knight stated that the only reason he mentioned the window is because the  
42 plastic covering is supposed to be a temporary thing.  
43
- 44 Mr. Thorsland stated that the minor violations are very minimal. He informed Ms. Helmick that the Board

1 does not discriminate based on the occupation of the petitioner requesting the variance. He said that if a  
2 variance is requested or required the Board tries to work it out. He asked Mr. Knight if the deck had been  
3 modified yet.  
4  
5 Mr. Knight stated no.  
6  
7 Mr. Thorsland asked Ms. Helmick if once the deck is shortened will there still be an issue.  
8  
9 Ms. Helmick stated that her biggest objection is the location.  
10  
11 Mr. Courson asked Ms. Helmick if she would be satisfied if the shed was moved two and one-half inches  
12 from the well.  
13  
14 Ms. Helmick stated that she cannot say yes or no. She said that she would have to have a well person come  
15 out to view the area so that he knows exactly what she is dealing with before he gives an opinion.  
16  
17 Mr. Courson stated that this was requested at the last meeting.  
18  
19 Ms. Helmick stated that it was her understanding that staff would be contacting well people. She said that  
20 she would like an actual well person to visit the property to see first hand what is being discussed.  
21  
22 Mr. Thorsland stated that he is happy with the information that Mr. Knight received. He said that the  
23 minutes indicate that the well is not the Helmick's primary source of water.  
24  
25 Ms. Helmick stated that the minutes are correct however they do use the well for their swimming pool.  
26  
27 Mr. Thorsland stated that the time that it would take to remove the deck for repair of the well for swimming  
28 would not prevent the Helmick's from having their primary source of water because the well is not their  
29 primary source. He said that there is a condition regarding removal of the deck for maintenance of the well  
30 and it is unfortunate that their well is located in an awkward location on another property.  
31  
32 Ms. Helmick stated that she is not knowledge about wells but she is concerned about the lawnmowers which  
33 are stored in the shed leaking into the well.  
34  
35 Mr. Bluhm asked the Board if there were any additional questions for Ms. Helmick and there were none.  
36  
37 Mr. Bluhm asked if staff had any questions for Ms. Helmick and there were none.  
38  
39 Mr. Bluhm asked the audience if anyone had any questions for Ms. Helmick and there were none.  
40  
41 Mr. Bluhm asked Mr. Hall if the 15-1/2 foot height versus the required maximum 15 foot height requirement  
42 could have been treated as an Administrative Variance, in a normal situation.  
43  
44 Mr. Hall stated yes.

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Mr. Bluhm asked Mr. Hall if the 9 foot side yard in lieu of the required 10 foot side yard could also have been treated as an Administrative Variance.

Mr. Hall stated yes. He said that it has always been the practice of the Zoning Administrator that two Administrative Variances makes one full variance. He said that this practice is not written into the Zoning Ordinance but is administrative practice. He said that the only thing that the Ordinance states about Administrative Variances is deviation of 10% or less of the regulations or standards related to the location of structures or bulk requirements. He said that the Zoning Administrator has always been conservative and taken the approach were if there is more than one Administrative Variance then a full variance is required before the Board at a public hearing. He said that in this case if these were Administrative Variances the Lambrights would have been before the Board anyway because all it takes is one neighbor to oppose for whatever reason.

Mr. Bluhm stated that he was trying to make the point that both of the variances are 10% or less of the requirements of the Zoning Ordinance. He reminded the Board that they have seen similar cases in the past.

Mr. Palmgren asked how far off is the shed's current location from the location indicated on the original site plan

Mr. Hall stated that the original site plan was attached to the December 17, 2009, Supplemental Memorandum. He said that the footprint of the enclosed portion of the shed is accurate but it does not include the deck and the proximity to the well is off by approximately ten feet. He said that the trees are not indicated on the site plan, which they very seldom are indicated, but the circular drive is indicated. He said that the easement is indicated on the site plan but it is not dimensioned.

**Mr. Schroeder moved, seconded by Mr. Thorsland to recess the meeting for a five minute break.**

**The Board recessed at 7:50p.m.**

**The Board resumed at 7:57p.m.**

Mr. Bluhm asked the Board if there were any other questions or comments regarding this case.

**Mr. Thorsland seconded Ms. Capel's original motion to re-open the December 17, 2009 findings for review and reconsideration. The motion carried by voice vote.**

Mr. Lambright requested the opportunity to address the Board.

Mr. Bluhm allowed Mr. Lambright the opportunity to address the Board.

Mr. Lambright stated that in regards to the height variance of six inches he could bring the grade around the building up six inches therefore eliminating the need for the height variance. He said that he could also bring the deck back three feet so that it is 10 feet off of the property line therefore eliminating the need for the side yard variance. He said that perhaps this will make it easier on the Board.

1  
2 Mr. Thorsland stated that those modifications would make it a lot easier on the Board  
3  
4 Mr. Courson asked Mr. Lambright if those modifications would cause any changes to the drainage.  
5  
6 Mr. Lambright stated no.  
7  
8 Mr. Thorsland stated that the Board must be assured that the new grade will not cause an issue with the well.  
9  
10 Mr. Lambright stated that he spoke to the previous owner and he informed him that he had never seen the  
11 well work and didn't believe that it did work. He said that he also spoke to Mr. Jeff Blackford, Non-Food  
12 Program Coordinator for the Environmental Health Division of the Champaign County Public Health  
13 District of the Champaign County Health Department about the well and he indicated that even though he  
14 has no jurisdiction over the well he saw no problem with the location of the well where it was located from  
15 the building.  
16  
17 Mr. Bluhm asked Mr. Lambright if raising the grade would interfere with the back door.  
18  
19 Mr. Lambright stated that the door is on the front of the building.  
20  
21 Mr. Thorsland asked staff if the grade was raised and the deck was shortened three feet will the Board be  
22 revisiting all of this or just dismiss the case.  
23  
24 Mr. Hall stated that he will have to see the grade raised and the deck brought back and then there would be  
25 no variances needed. He recommended that the Board not dismiss the case until there is absolute evidence  
26 that there is no need for a variance. He said that if the Board is willing to continue the case until these  
27 modifications are complete then the Board should ask Mr. Lambright what a reasonable expectation would  
28 be for completion. He said that previously the shortening of the deck was a condition for approval of the  
29 variance but once both of the modifications are done there is no need for a variance but if the Board  
30 dismisses the case tonight the Board will have no leverage. He said that he believes that the case should be  
31 continued so that the modifications can be made and staff can report to the Board that there indeed is no  
32 need for a variance.  
33  
34 Mr. Thorsland stated that there was a proposed condition requiring removal of the deck for maintenance of  
35 the well.  
36  
37 Mr. Bluhm stated that maintenance of the well is covered under the easement.  
38  
39 Mr. Thorsland stated that the only thing that the Board would have to fall back on is the well agreement. He  
40 said that the situation is unfortunate in that this is an agricultural area with houses and there are different  
41 notions as to what should and should not be allowed. He said that the only reason that he is comfortable  
42 about raising the grade and shortening the deck is because the well is not the primary water resource for the  
43 Helmicks.  
44

3-11-10

AS APPROVED APRIL 15, 2010

ZBA

1 Mr. Courson asked Mr. Hall if a new Zoning Use Permit and fees would need to be submitted by the  
2 Lambrights.

3  
4 Mr. Hall stated yes. He stated that he would still recommend that the case be continued to a later date to  
5 assure that the modifications were complete and that the property is in compliance.

6  
7 Mr. Bluhm stated that the Board could continue the case to the 100 day limit.

8  
9 Mr. Hall stated that 100 days is receipt of 100 more calls regarding this property but staff can handle it.

10  
11 Mr. Thorsland stated that 100 days may also give both parties the opportunity to cool off and attempt to  
12 make things amendable. He said that it may be an overused phrase but we should all really try to get along  
13 with our neighbors.

14  
15 Mr. Bluhm stated that the 100 day limit would be June 17, 2010.

16  
17 Mr. Lambricht asked Mr. Hall if the grade could be considered gravel so that it drains a lot better rather than  
18 dirt.

19  
20 Mr. Hall stated that the grade in the driveway is the grade of the gravel.

21  
22 Mr. Lambricht stated that gravel would alleviate any drainage concerns.

23  
24 Mr. Hall stated that the definition of grade in the Zoning Ordinance is as follows: The average of the  
25 elevations of the surface of the ground measured at all corners of building. He said that the keyword there is  
26 ground therefore the soil.

27  
28 Mr. Bluhm stated that one-half foot of slope is nothing so it probably does refer to dirt.

29  
30 Mr. Palmgren asked Mr. Lambricht if he was concerned about the runoff from the roof.

31  
32 Mr. Lambricht stated no. He said that Mr. Courson asked him about changing the drainage therefore he  
33 thought that he would use gravel to alleviate that concern.

34  
35 Mr. Courson asked Mr. Lambricht if 100 days is acceptable.

36  
37 Mr. Lambricht stated yes and assured the Board that he will keep in contact with Mr. Hall.

38  
39 **Mr. Courson moved, seconded by Mr. Thorsland to continue Case 657-V-09 to the June 17, 2010,**  
40 **meeting. The motion carried by voice vote.**

41  
42 **6. New Public Hearing**

43  
44 **Case 662-S-10 Petitioner: Illinois District Council of the Assemblies of God, Gary Blanchard,**

1 **Assistant Superintendent and Jeff Scott, Station Manager. Request to convert a use from a**  
2 **warehouse to a Radio Station as a Special Use in the I-1 Light Industry Zoning District. Location: Lot**  
3 **11 in Westwood Trace Subdivision in Section 9 of Champaign Township and commonly known as the**  
4 **building at 4101 Fieldstone Road, Champaign.**

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6 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone  
7 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of  
8 hands for those who would like to cross examine and each person will be called upon. He requested that  
9 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
10 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
11 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
12 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
13 from cross examination.

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15 Mr. Hall distributed a new Supplemental Memorandum dated March 11, 2010, to the Board for review. He  
16 said that the new memorandum reviews the issues that staff would have raised in regards to concerts. He  
17 said that staff's final recommendation in regards to concerts is a condition to make it clear that no concerts  
18 could take place on the subject property without a new special use permit. He said that staff was contacted  
19 by staff from the City of Champaign regarding some concerns that they had about the concerts and requested  
20 an opportunity to present this case to the City Council for comments. He said that staff informed the City's  
21 staff that if concerts were allowed there would not be an anticipated decision at tonight's meeting. He said  
22 that if no concerts were allowed then there would be no need for the City of Champaign to present this case  
23 to their City Council for comments. He said that Bruce Knight, Planning Director for the City of  
24 Champaign sent a letter dated March 11, 2010, indicating the subject property has been under an annexation  
25 agreement with the City of Champaign until just recently. He said that Mr. Knight's letter warns staff that  
26 the subject property may not be within the boundaries of any fire protection district, although the Bondville  
27 Fire Department, Inc. has provided service to some properties in the area. Mr. Hall stated that Mr. Knight  
28 spoke to the petitioner this afternoon and the petitioner indicated that they do have an agreement with the  
29 Bondville Fire Department until the end of 2010 therefore they do have fire protection services.

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31 Mr. Hall stated that the Supplemental Memorandum dated March 11, 2010, includes proposed new evidence  
32 for the Summary of Evidence. He said that a revised Item #3 should read as follows: The subject property  
33 is located within the one-and-one half mile extraterritorial jurisdiction (ETJ) of the City of Champaign.  
34 Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they  
35 do receive notice of such cases and they are invited to comment. Comments have been received from the  
36 City of Champaign, as follows: (1) On March 10, 2010, Lorrie Pearson, Land Development Manager with  
37 the City of Champaign, in a phone conversation with J.R. Knight, Associate Planner, indicated that the City  
38 wished to provide formal comments on the proposed Special Use Permit, but City staff has not yet had a  
39 chance to present this case to the City Council. However, she also indicated that the City's comments were  
40 concerned with the concerts on the subject property; and (2) On March 11, 2010, Lorrie Pearson, Land  
41 Development Manager with the City of Champaign, in a phone conversation with J.R. Knight, Associate  
42 Planner, indicated that the City Council would not be reviewing the proposed Special Use but that she would  
43 be providing a letter with staff comments; and (3) In a letter received on March 11, 2010, Bruce Knight,  
44 Planning Director for the City of Champaign, indicated that the subject property is not located within the

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1 boundaries of any fire protection district, although the Bondville Fire Department has provided services to  
2 some properties in this area in the past. The city is uncertain that the Bondville Fire Department will  
3 continue to provide service in this area. He also indicates that the City can provide fire protection if the  
4 petitioners should choose to enter into a fire service contract with the City. Mr. Hall stated that the  
5 following evidence should be added to Item 5.3.(3)(c): The petitioner's architect, Jeff Johnson, with BLDD  
6 indicated in an e-mail received on March 5, 2010, that the primary transmitter for the proposed Radio  
7 Station is a 10" satellite dish, and there will be a small backup tower on a skid on the roof. He said that the  
8 following evidence should be added to Item #8.D: Regarding fire protection of the subject property: (1) The  
9 subject property is within the protection area of the Bondville Fire Protection district and is located  
10 approximately three road miles from the fire station. The Fire Protection District Chief has been notified of  
11 this request, but no comments have been received at this time; and (2) In a letter received on March 11,  
12 2010, Bruce Knight, Planning Director for the City of Champaign, indicated that the subject property is not  
13 located within the boundaries of any fire protection district, although the Bondville Fire Department has  
14 provided services to some properties in this area in the past. The City is uncertain that the Bondville Fire  
15 Department will continue to provide service in this area. He also indicates that the City can provide fire  
16 protection if the petitioners should choose to enter into a fire service contract with the City.  
17

18 Mr. Hall stated that before staff received the new information regarding fire protection services from the  
19 petitioner staff constructed a special condition so that the Board could take action. He said that the  
20 condition is not necessary at this point and the Board could eliminate the special condition because the  
21 petitioner has asserted that they are covered by the Bondville Fire Protection District for the remained of  
22 2010.  
23

24 Mr. Hall stated that the following evidence should be added to Item #8.J: The petitioners have indicated that  
25 they may wish to have concerts at the subject property in the future. They have no specific plans at this  
26 time, so a special condition has been provided that makes it clear that there should be no concerts on the  
27 subject property until authorized by a future Special Use Permit. He said that the following evidence should  
28 be added to Item #8.K: Regarding the presence of a broadcast or repeater tower on the subject property, Jeff  
29 Johnson, the petitioner's architect, indicated in an e-mail received on March 5, 2010, that the primary  
30 transmitter for the proposed Radio Station is a 10" satellite dish, and there will be a small backup tower on a  
31 skid on the roof. He said that the following evidence should be added to Item #9.B.(2)(e): Paragraph  
32 7.4.2C.5 establishes the required number of loading berths for commercial uses and paragraph 7.4.2D.5  
33 establishes that industrial uses require the same number of loading berths as commercial uses. The total  
34 floor area for the existing building is 13,000 square feet as established by ZUPA 223-88-01. According to  
35 paragraph 7.4.2C.5. the building requires two 10' by 40' loading berths. There appears to be room to  
36 accommodate two loading berths of the required size in the rear parking area.  
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38 Mr. Hall asked Mr. Knight if he verified that there is adequate necessary screening for the loading berths.  
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40 Mr. Knight stated that based on his review of the requirements for screening it appears that there is no  
41 screening requirement for the subject property.  
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43 Mr. Hall stated that the following special conditions of approval should be added as revised Items #12.A.  
44 and new Items #12. B, #12.C, and #12.D:

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**12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees and a complete site plan within 30 days of the Zoning Board of Appeals approval of Case 662-S-10.**

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

**The Radio Station complies with the approval in Case 662-S-10 in a reasonable and timely matter.**

Mr. Hall stated that staff sent this case to the Board before a complete site plan was received. He said that it was believed that staff would have a complete site plan before tonight’s meeting although that is not the case. He said that staff has been able to review by the use of a survey that was attached to the Preliminary Memorandum dated March 8, 2010, and a 2008 aerial photograph that the property appears to comply with all of the necessary setbacks and yards. He said that it is still necessary and a good idea to have a complete site plan therefore #12.B.has been proposed.

**12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.**

The above special condition is necessary to ensure the following:

**There is no unreasonable risk to public safety caused by on street parking.**

Mr. Hall stated that proposed Item #12.C. regarding fire protection service is no longer necessary because the petitioner has indicated that they have an agreement with the Bondville Fire Protection District. He recommended that the Summary of Evidence includes this latest information from the petitioner therefore Item #8.D. of the Summary of Evidence should be revised.

Mr. Hall stated proposed Item # 12.D. makes it very clear that no concerts are authorized on the subject. He said that Item #12.D reads as follows:

**12.D. No concerts are authorized on the subject property**

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

**There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.**

Mr. Hall stated that parking is probably one of the worst portions of the Zoning Ordinance because a different approach is taken towards parking for industrial uses. He said that normally someone would not think of a radio station as an industrial use. He said that the difference in parking in the industrial district is that the Zoning Ordinance requires that the parking have an all weather surface. He said that the Board has seen a lot of special use permits where the extreme parking was allowed on the grass where no

1 improvements are necessary but that is not supposed to happen in an industrial use. He said that generally a  
2 different parking requirement is applied for warehouse areas and in this case the bay area that is in the  
3 subject structure is actually based on the number of employees which work in that area. He said that he  
4 assumes that the number of employees for the bay area would be zero or maybe one for a radio station. He  
5 said that if this was a business district, according to the Ordinance, the bay area would be calculated just like  
6 office area therefore requiring 1 parking space per 200 square feet in which case there would not be enough  
7 parking spaces currently. He said that this is an industrial use and the bay is treated separately therefore it  
8 appears that there is enough parking on all paved areas meeting all parking requirements for an industrial  
9 use. He said that if the entire bay was going to be used for concerts there may be a different situation in  
10 regards to parking but there would be also be other factors which would need to be considered.

11

12 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

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14 Mr. Bluhm called Mr. Jeff Scott to testify.

15

16 Mr. Jeff Scott, Station Manager thanked the Board for the opportunity to present their plans. He said that  
17 what attracted them to the building was the fact that it was built by the Hallbecks and they have a great  
18 reputation in the area for doing a great job. He said that this will be a phenomenal radio station and he does  
19 not know what the future of the warehouse looks like at this point which is one of the reasons why he  
20 wanted to hold off on any anticipated concerts for one to two years. He said that he would like to be able to  
21 come back to the Board with a plan so that he can get their blessings and move forward. He said that this  
22 will be a great facility for their use as a radio station.

23

24 Mr. Bluhm asked the Board if there were any questions for Mr. Scott and there were none.

25

26 Mr. Bluhm asked if staff had any questions for Mr. Scott.

27

28 Mr. Hall asked Mr. Scott to indicate the number of employees that will be in the bay area.

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30 Mr. Scott stated that if there is any rental of the bay area there could be two employees but if there is no  
31 rental there will be no employees in the bay area.

32

33 Mr. Hall stated that the last sentence in Item #9.B(2)(b) of the Summary of Evidence should be revised as  
34 follows: Mr. Jeff Scott, Station Manager testified at the public hearing on March 11, 2010, that there would  
35 be zero to two employees anticipated in the bay area.

36

37 Mr. Bluhm asked the audience if there were any questions for Mr. Scott and there were none.

38

39 Mr. Bluhm called Mr. Jeff Johnson, Architect for the Petitioner stated that he really had no new information  
40 to add. He said that they are very sensitive to the concerns regarding the warehouse area because there are a  
41 lot of issues to deal with.

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43 Mr. Bluhm asked the Board if there were any questions for Mr. Johnson and there were none.

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1 Mr. Bluhm asked if staff had any questions for Mr. Johnson and there were none.

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3 Mr. Bluhm asked the audience if there were any questions for Mr. Johnson and there were none.

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5 Mr. Bluhm asked the audience if anyone desired to sign the witness register at this time to present testimony  
6 regarding Case 662-S-10 and there was no one.

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8 Mr. Bluhm closed the witness register.

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10 Mr. Bluhm asked the Board if they desired to strike the special condition regarding the fire protection  
11 district.

12  
13 **The consensus of the Board was to strike proposed Special Condition #12.C and renumber proposed**  
14 **#12.D to new #12.C.**

15  
16 Mr. Hall stated that revised Item #8.D(3) should read as follows: Mr. Jeff Scott, Station Manager informed  
17 James R. Knight, Associate Planner on March 11, 2010, that the property is under a contract with the  
18 Bondville Fire Protection District. He said that a new Item #5 should be added to the Documents of Record  
19 as follows: Supplemental Memorandum for Case 662-S-10, with attachments dated March 11, 2010.

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21 Mr. Bluhm asked Mr. Scott if he agreed to the proposed special conditions #12.A; #12.B; #12.D, which  
22 were included in the March 11, 2010, Supplemental Memorandum. He noted that proposed special  
23 condition #12.C. was stricken by the Board.

24  
25 Mr. Scott stated that he agrees to the proposed special conditions.

26  
27 Mr. Bluhm requested a motion to approve the following special conditions:

28  
29 **12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of**  
30 **Use with fees and a complete site plan within 30 days of the Zoning Board of**  
31 **Appeals approval of Case 662-S-10.**

32  
33 The special condition stated above is required to ensure the following:

34  
35 **The Radio Station complies with the approval in Case 662-S-10 in a reasonable**  
36 **and timely matter.**

37  
38 **12.B: The petitioners shall ensure that no parking related to the special use permit**  
39 **shall occur in any public right-of-way.**

40  
41 The above special condition is necessary to ensure the following:

42  
43 **There is no unreasonable risk to public safety caused by on street parking.**

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12.C. No concerts are authorized on the subject property

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

**There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.**

Mr. Thorsland moved, seconded by Mr. Schroeder to accept the special conditions #12.A; #12.B; and #12.C. The motion carried by voice vote.

**Finding of Fact for Case 662-S-10:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 662-S-10 held on March 11, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 1. **The requested Special Use Permit, subject to the special conditions imposed herein, IS necessary for the public convenience at this location.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein IS necessary for the public convenience at this location because the radio station is currently in operation in the City of Champaign as an existing station and will be adjacent to similar uses and will compliment its existing sister station.

- 2. **The requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.**

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

Ms. Capel stated that the street has ADEQUATE traffic capacity because there will be no increase in traffic and the entrance location has ADEQUATE visibility.

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

Mr. Thorsland stated that emergency services availability is ADEQUATE because an agreement has been made for fire protection services.

- c. **The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**

Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

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**d. The Special Use WILL be compatible with adjacent uses.**

Ms. Capel stated that the Special Use will be compatible with adjacent uses.

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

Mr. Thorsland stated that public safety will be ADEQUATE.

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

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

Ms. Capel stated that the requested Special USE Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operates so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

**3a. The requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the District in which it is located.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the District in which it is located.

**3b. The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located because:**

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

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

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

Mr. Courson stated that the Special Use WILL be compatible with adjacent uses.

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

Mr. Palmgren stated that public safety will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

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4. The requested Special Use Permit, subject to the special conditions imposed herein IS in harmony with the general purpose and intent of the Ordinance.

a. The Special Use is authorized in the District.

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

Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this location.

c. The requested Special Use Permit, subject to the special condition imposed herein is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

d. The requested Special Use Permit, subject to the special condition imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

5. The requested Special Use IS NOT a nonconforming use.

Mr. Thorsland stated that the requested Special Use IS NOT a nonconforming use.

6. The special conditions imposed herein are required to ensure compliance with the criteria for special use permits and for the particular purposes described below:

**Change Zoning** 12.A: The petitioner shall submit a Zoning Use Permit Application for a of Use with fees and a complete site plan within 30 days of the Board of Appeals approval of Case 662-S-10.

The special condition stated above is required to ensure the following:  
The Radio Station complies with the approval in Case 662-S-10 in a reasonable and timely matter.

12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.

The above special condition is necessary to ensure the following:  
There is no unreasonable risk to public safety caused by on street parking.

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**12.C. No concerts are authorized on the subject property**

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

**There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.**

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

Mr. Palmgren moved, seconded by Mr. Courson to close the public hearing for Case 662-S-10. The motion carried by voice vote.

Mr. Bluhm informed Mr. Scott that one Board member is absent from tonight’s meeting therefore it is at his discretion to either continue Case 662-S-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed Mr. Scott that four affirmative votes are required for approval.

Mr. Scott requested that the present Board proceed to the final determination.

**Final Determination for Case 662-S-10:**

Mr. Thorsland moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony and other evidence received in this case, that the requirements of Section 9.1.11B. HAVE been met and pursuant to the authority granted by Section 9.1.6B of the *Champaign County Zoning Ordinance*, determines that the Special Use requested in Case 662-S-10 is hereby GRANTED WITH SPECIAL CONDITIONS to the petitioners Illinois District Council of Assemblies of God, Gary Blanchard, Assistant Superintendent, and Jeff Scott, Station Manager to authorize conversion of a use from a warehouse to a Radio Station as a Special Use in the I-1 Light Industry Zoning District, subject to the following special conditions:

**12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees and a complete site plan within 30 days of the Zoning Board of Appeals approval of Case 662-S-10.**

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

**The Radio Station complies with the approval in Case 662-S-10 in a reasonable and timely matter.**

**12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.**

The above special condition is necessary to ensure the following:

**There is no unreasonable risk to public safety caused by on street parking.**

**12.C. No concerts are authorized on the subject property**

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

**There is no unreasonable risk to public safety caused by concerts held**

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**on the subject property without proper approval.**

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The roll was called:

<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Miller-absent</b>
<b>Palmgren-yes</b>	<b>Schroeder-yes</b>	<b>Thorsland-yes</b>
<b>Bluhm-yes</b>		

Mr. Hall informed Mr. Scott that the special use has been approved and staff will contact him regarding the next step.

Mr. Bluhm stated that the Board will now hear Case 657-V-09.

**7. Staff Report**

Mr. Hall distributed the February, 2010 Monthly Report for the Board's review. He said that it appears that zoning cases are picking up but it may be due to the number of text amendments that were proposed to ELUC. He said that the top portion of the docket indicates that the text amendment for small wind went to the Committee of the Whole on February 1, 2010, but they were so pre-occupied that they deferred it without discussion. He said that the Committee of the Whole made a tentative recommendation to support the Board's recommendation regarding the RLA wind farm separation and this will go back for a full recommendation to the full County Board on April 6, 2010, with anticipation of adoption at the April full County Board meeting. He said that staff received direction from the Committee of the Whole to proceed with three text amendments at the March Committee of the Whole meeting. He said that staff hopes to also seek direction from the Committee of the Whole in April for another text amendment which will be a more difficult case.

**8. Other Business**

Mr. Bluhm reminded the Board that due to the change to Daylight Savings Time the March 25, 2010, meeting will begin at 7:00 p.m.

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

None

**10. Adjournment**

The meeting adjourned at 8:15 p.m.

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Respectfully submitted

Secretary of Zoning Board of Appeals

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