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2
3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 1776 E. Washington Street
6 Urbana, IL 61801

7
8
9 **DATE:** January 6, 2011 **PLACE:** Lyle Shields Meeting Room
10 1776 East Washington Street
11 **TIME:** 6:30 p.m. **Urbana, IL 61802**

12 **MEMBERS PRESENT:** Catherine Capel, Roger Miller, Melvin Schroeder, Eric Thorsland

13
14 **MEMBERS ABSENT :** Thomas Courson, Paul Palmgren

15
16 **STAFF PRESENT :** Connie Berry, John Hall

17
18
19 **OTHERS PRESENT :** Susie Roderick, Virgil Roderick, Christina Garrett, Derrick Garrett, Homer
20 Kirby, Mike Roderick, Herb Schildt, Sherry Schildt, Pam Dempsey, Stan
21 James, Steve Burdin

22
23
24 **1. Call to Order**

25
26 The meeting was called to order at 6:35 p.m.

27
28 **2. Roll Call and Declaration of Quorum**

29
30 The roll was called and a quorum declared present with two members absent.

31
32 **3. Correspondence**

33
34 None

35
36 **4. Approval of Minutes (December 16, 2010)**

37
38 Mr. Thorsland stated that at tonight's meeting a complete version of the December 16, 2010, minutes were
39 distributed to the Board for review. He said that the Board should have adequate time to review the
40 distributed minutes therefore he suggested that approval of the December 16, 2010, minutes be completed at
41 the January 20, 2011, public hearing.

42
43
44 **5. Continued Public Hearing**

45
46 **Case 665-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
47 **Ordinance by revising paragraph 4.3.3G. as follows: A. Increase the maximum fence height allowed**
48 **in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on**

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1 residential lots less than five acres in area in the AG-1 and AG-2 Zoning Districts; and B. Require
2 fencing that is higher than four feet tall to be at least 50% transparent when located in the following
3 areas: (1) In Residential Zoning Districts, all fencing that is in the front yard; and (2) On residential
4 lots less than five acres in area in the AG Districts, only fencing between the dwelling and the
5 driveway within 25 feet of the dwelling. C. Increase the maximum allowed height of all fencing to
6 allow up to three inches of ground clearance.

7
8 Mr. Hall stated that this case was continued from the December 16, 2010, public hearing. He said that the
9 minutes for this case are attached to the Supplemental Memorandum dated December 30, 2010. He said that
10 also attached to the memorandum is an updated municipal comparison table of the municipal fence height
11 limits showing that transparency is required in the front yard, basically above three feet, for the City of
12 Champaign, City of Urbana, Village of Rantoul and the Village of St. Joseph. He said that based on a
13 reading of the minutes from the December 16, 2010, meeting staff revised the draft ordinance as best they
14 could. He recommended that Case 665-AT-10 be continued to the January 20, 2011, public hearing. He
15 said that hopefully there will be enough Board members at the January 20th meeting that the case can receive
16 final action.

17
18 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
19 regarding Case 665-AT-10 and there was no one.

20
21 Mr. Thorsland asked the Board if there were questions or comments for staff and there were none.

22
23 **Mr. Schroeder moved, seconded by Mr. Miller to continue Case 665-AT-10 to the January 20, 2011,**
24 **public hearing. The motion carried by voice vote.**

25
26
27 **Case 666-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
28 **Ordinance by revising Subsection 6.1 and paragraph 9.1.11.D.1. to clarify that the standard**
29 **conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind**
30 **are subject to waiver by the Zoning Board of Appeals or County Board.**

31
32 Mr. Thorsland stated that at the December 16, 2010, public hearing Case 666-AT-10 was closed although a
33 motion is required to re-open the case so that the revised Finding of Fact attached to the December 30, 2010,
34 Supplemental Memorandum, can be approved.

35
36 **Ms. Capel moved, seconded by Mr. Miller to re-open Case 666-AT-10. The motion carried by voice**
37 **vote.**

38
39 Mr. Hall stated that this case was continued from the December 16, 2010, meeting because the petitioner
40 requested that a vote not be taken until a full Board was present. He said that the December 30, 2010,
41 Supplemental Memorandum included an updated and corrected Finding of Fact. He said that the updates
42 and corrections are indicated with underline. He said that the December 30, 2010, Supplemental

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1 Memorandum is the last memorandum that will be required for this case and since the case has been re-
2 opened he would not want to request final action for the case at tonight's public hearing. He requested that
3 the case remain open and continued to the January 20, 2011, public hearing.

4
5 Mr. Thorsland asked the Board if there were questions or comments for Mr. Hall and there were none.

6
7 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
8 regarding Case 666-AT-10, and there was no one.

9
10 **Mr. Schroeder moved, seconded by Mr. Miller to continue Case 666-AT-10 to the January 20, 2011,**
11 **public hearing. The motion carried by voice vote.**

12
13
14 **Case 675-AT-10 Petitioner: Zoning Administrator Amend the Champaign County Zoning Ordinance**
15 **as follows: Part A: 1. In the first four un-numbered paragraphs of Section 8 clarify that**
16 **nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as**
17 **authorized herein; and 2. Revise subsection 8.1.2 to authorize that once two or more contiguous lots**
18 **or combination of lots and portions of lots that individually do not meet any dimensional, geometric,**
19 **lot access or other standards are brought into common ownership, that portions of said lots may be**
20 **used separately or conveyed to a different owner provided that a variance is granted. Part B: 1.**
21 **Revise paragraph 8.2.1 B. as follows: a. Limit applicability to the total expansion since October 10,**
22 **1973; and b. Revise the limit on expansion of a nonconforming single family dwelling as follows: (1) A**
23 **nonconforming single family dwelling which had less than 1,200 square feet of building floor area may**
24 **expand up to a total floor area of 1,500 square feet provided that a variance is required if there is**
25 **more than one principal use on the lot and the lot area is less than required in Section 4.3.4 and: (2) A**
26 **nonconforming single family dwelling which had more than 1,200 square feet of building floor area**
27 **may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided**
28 **that a variance is required if there is more than one principal use on the lot and the lot area is less**
29 **than required in Section 4.3.4; and (3) Eliminate the limit on the amount of accessory buildings; and**
30 **2. Revise paragraph 8.2.1C so that the limit on expansion applies to the total expansion since October**
31 **10, 1973; and 3. Revise subsection 8.2.2 to provide that nonconforming a nonconforming dwelling may**
32 **be moved on the lot as authorized in subsection 8.4.1; and 4. In subsection 8.2.3 clarify "ceases". Part**
33 **C. 1. Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if**
34 **authorized by variance; and 2. Revise subsection 8.3.3 to authorize that a nonconforming structure**
35 **may be moved without conforming to the regulations and standards of the district provided that the**
36 **new location is authorized by variance. Part D 1. Revise Subsection 4.4.1 as follows: a. Authorize that**
37 **a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 as provided that a**
38 **variance is required if there is more than one principal use on the lot and the lot area is less than**
39 **required in Section 4.3.4; and b. Authorize that a nonconforming dwelling may be reconstructed in**
40 **the existing location if authorized by zoning use permit or a different location if authorized by**
41 **variance provided that a variance is required if there is more than one principal use on the lot and the**
42 **lot area is less than required in Section 4.3.4; and c. Authorize that expansion of a nonconforming**

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1 dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction; and 2. In
2 Subsection 8.4.5 clarify “abandoned” and “discontinued”. Part E: 1. Revise Subsection 8.6 as
3 follows: a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection
4 8.2.1 or reconstructed as authorized in subsection 8.4.1; and b. Authorize that a nonconforming
5 dwelling has no limit on the value of repair or replacement that may occur within a 365 day period
6 and that may include bearing walls. Part F: 1. In paragraph 9.1.2C require that for a Zoning Use
7 Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning
8 district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide
9 notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in
10 general what types of principal uses are authorized as either business uses or industrial uses.

11
12 Mr. Thorsland stated that by statute the repetitive citing of the lengthy description for Case 675-AT-10 is not
13 necessary at each public hearing. He said that the full description included on the agenda will be included in
14 the minutes.

15
16 Mr. Hall distributed a new Supplemental Memorandum dated January 6, 2011, for the Board’s review. He
17 said that attached to the memorandum is a comparison table of the requirements for nonconformities with
18 those for McLean County, Peoria County, and Sangamon County. He said that these counties are the
19 counties that Champaign County generally compares itself. He said that he had considered obtaining
20 information from Rock Island County, Macon County, and Kankakee County but was unsuccessful at this
21 time and would like to know if the Board would like to see a comparison to those three counties. He said
22 that anytime a table like this is constructed it is hard for many people to understand therefore a summary was
23 included in the memorandum.

24
25 Mr. Hall stated that the memorandum reviews five comparisons that are relevant to Case 675-AT-10. He
26 noted that the Supplemental Memorandum dated December 30, 2010, had added accessory buildings to the
27 proposed amendment. He said that the additional text was a suggestion by Mr. Tom Lemke. Mr. Hall stated
28 that none of the other counties referred to in the table discuss accessory uses in regards to what can be done
29 with a nonconforming dwelling.

30
31 Mr. Hall stated that Champaign County does not currently allow nonconforming dwellings to be
32 reconstructed. The other three counties reviewed all allow nonconforming dwellings to be reconstructed to
33 some degree. He said that McLean County allows a nonconforming dwelling to be reconstructed for any
34 reason and without either a variance or a special use permit (see note M3 in the table) and Peoria County
35 requires a special use permit to allow a nonconforming dwelling to be reconstructed (see note P4 in the
36 table). He said that Sangamon County only allows nonconforming dwellings to be reconstructed if damaged
37 due to catastrophe and if the dwelling is owner occupied (see notes S4, S5 and S7 in the table). He said that
38 Champaign County is the most restrictive and McLean County is the least restrictive.

39
40 Mr. Hall stated that in regards to repair and remodeling of nonconforming dwellings Champaign County
41 currently limits the dollar value of remodeling authorized for nonconforming dwellings to no more than 10%
42 in any one year. He said that the other three counties reviewed do not limit the amount of repair authorized

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1 on nonconforming dwellings. He said that McLean County does not limit the value of remodeling for a
2 nonconforming dwelling and does not require either a variance or a special use permit (see note M3). He
3 said that Peoria county does not limit the value of remodeling for a nonconforming dwelling provided that a
4 special use permit is granted (see note P4 in the table) and Sangamon County does not limit the value of
5 remodeling for a nonconforming dwelling and does not require either a variance or a special use permit (see
6 not S8). He said that both McLean County and Sangamon County do not have a limit on the amount of
7 repair authorized on nonconforming dwelling and no special approval is required although Peoria County
8 requires a special use permit.

9
10 Mr. Hall stated that in regards to expansion of nonconforming dwellings Champaign County currently limits
11 the expansion of nonconforming dwellings to 25%. He said that McLean County and Peoria County do not
12 limit the amount of expansion. He said that McLean County, which has the least restrictive approach, does
13 not limit the amount of expansion of a nonconforming dwelling provided that no additional dwelling or
14 lodging unit results and does not require either a variance or a special use permit (see not M3). He said that
15 Peoria County requires a special use permit to allow a nonconforming dwelling to expand but there is no
16 established limit on the expansion (see note P4 in the table). He said that Sangamon County requires a
17 variance to allow a nonconforming dwelling to expand and also limits the expansion to 25% of the area
18 occupied on the effective date of the Ordinance or amendment (see note S3). He said that Sangamon County
19 could be considered somewhat more restrictive than Champaign County because if the original dwelling was
20 a small home (or small mobile home) of no more than 800 square feet the 25% limit is comparable or less
21 than the current Champaign County limit of 200 square feet and the variance requires a public hearing
22 however, for nonconforming dwellings that were originally larger than 800 square feet this will result in a
23 greater square footage expansion than currently allowed by Champaign County.

24
25 Mr. Hall stated that in regards to prohibited variances for nonconformities the only nonconformity for which
26 the Champaign County Zoning Ordinance authorizes a variance is for a nonconforming structure. He said
27 that a variance is not permissible for any other nonconformity. He said that none of the other three county
28 ordinances appear to prohibit variances in this way but staff needs to verify such with each of the Zoning
29 Administrators. He said that reading someone else's zoning ordinance and understanding it absolutely
30 correctly is often a very difficult task. He said that the Champaign County Zoning Ordinance does not allow
31 variances for use and in many respects allowing a nonconforming use to expand could be considered a
32 variance for the use.

33
34 Mr. Hall stated that the Champaign County Zoning Ordinance definition of "nonconforming" simply refers
35 to anything which does not conform to the requirements of the Ordinance. He said that, as the Board knows,
36 many times a nonconforming lot, building or use occurred after the Ordinance was adopted and under the
37 terms of the Ordinance it is still simply nonconforming. He said that Section 8 of the Ordinance makes it
38 very clear that it is talking about nonconformities that arose on the date of adoption or amendment and in the
39 case of nonconforming lots it refers to those as nonconforming lots of record and not simply a
40 nonconforming lot. He said that his greatest fear is that if someone took the County to court over a
41 nonconforming use the court would look at the poor way that Section 8 is written and find that the use is
42 actually permissible. He said that it is his recommendation that the Board consider clarifying

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1 “nonconforming” as part of the amendment and what would make most sense would be to amend the
2 Ordinance definition so that the definition of “nonconforming” simply refers to things that existed on the
3 effective date of the Ordinance or relevant amendment as being nonconforming and thus uses, buildings, or
4 lots which are created later and do not meet the Ordinance are not simply nonconforming but perhaps
5 noncompliant. He said that if the Board desires to include a change in the description then the case should
6 be re-advertised.

7
8 Mr. Hall stated that overall the comparison illustrates that the current Champaign County Zoning Ordinance
9 requirements for nonconformities are more restrictive than McLean, Peoria or Sangamon counties and the
10 McLean County ordinance will still be less restrictive than the proposed Champaign County ordinance based
11 on the text amendment because McLean County does not limit the expansion of nonconforming dwellings.
12 He said that if the Board believes that the amendment is not expansive enough then it could be changed and
13 included in the approved Finding of Fact so that is communicated to the County Board. He said that he
14 would hope to have a Draft Finding of Fact that refers to the comparisons included in the attached table so
15 that when the County Board reviews it they will not have to figure out the table on their own.

16
17 Mr. Thorsland asked the Board if there were questions or comments for Mr. Hall and there were none.

18
19 Mr. Thorsland called Mr. Michael Roderick to testify.

20
21 Mr. Michael Roderick, who resides at 201 Paul Avenue, Champaign, IL, stated that he, his dad and his
22 daughter were raised in the Wilber Heights area. He said that the City of Champaign exists on the back road
23 of the neighborhood, the County on the center road, and the State on the front road therefore anytime a repair
24 is requested on the roads no one wants to claim responsibility. He said that as a whole neighborhood, which
25 a large portion is elderly, they take care of their own area. He said that the Champaign-Urbana Mass Transit
26 District wanted to come into the area and it would take 500 votes to prevent it from happening. He said that
27 such prevention did not occur because there are less than 500 residents in the neighborhood of Wilber
28 Heights therefore the C-U MTD came in. He said that for many years he heard his parents complain about
29 paying taxes for city sewage without having the opportunity to connect. He said that if the neighborhood did
30 not stand together to take care of each other it would not exist. He said that he would agree that there are a
31 few places in the area which are not very good such as the property across from his home on which the State
32 of Illinois has seized the mobile home. He said that he and his brothers spent two days to clean up the
33 adjacent property, cutting trees and picking up trash, at no one else’s expense but their own. He said that the
34 inside of the seized mobile home has a great accumulation of rubbish inside and rodents exist on the
35 property. He said that it appears that no one wants to assist the neighborhood but that needs to change
36 because it is time that someone stood up for Wilber Heights.

37
38 Mr. Hall asked Mr. Roderick if he has had an opportunity to review the proposed amendment.

39
40 Mr. Roderick stated that he has not reviewed the proposed amendment.

41
42 Mr. Thorsland called Mr. Homer Kirby to testify.

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2 Mr. Homer Kirby, who resides at 312 Paul Avenue, Champaign, IL, stated that he had attended a meeting
3 with the City of Champaign and it was discussed that if the residents of Wilber Heights took in sewer lines
4 then the area would be annexed into the city limits. He said that this year, for the first time in many years,
5 the County fully plowed their roads off before he got out of bed and normally the County only removes the
6 slush from the road. He said that it appears that the City of Champaign desires to move north but are unable
7 to because of the existence of their neighborhood yet if the County moves more industrial uses in the area
8 then the County would receive more tax revenue. He said that years ago he spoke to one of the County road
9 employees while the road was being repaired and the employee indicated that the reason why the County
10 does not do anything in the area is because it doesn't receive enough revenue from the property taxes. Mr.
11 Kirby stated that he finds this odd because he pays his taxes every year. He said that it is his belief that the
12 City of Champaign and the County want to get rid of the neighborhood. He said that the City of Champaign
13 may come in and offer money for their properties to get them out of there and if they do not accept the offers
14 the City will condemn their property and take it anyway. He said that the value of the properties in the
15 neighborhood is going down because the homes and accessory buildings cannot be rebuilt or expanded. He
16 said that if the Zoning Board owned and lived on property in the Wilber Heights area they would agree with
17 the residents concerns. He said that he, like many of his neighbors, has no where else to go.

18
19 Mr. Hall asked Mr. Kirby if he has had the opportunity to review the proposed amendment or if he had any
20 suggestions as to how the amendment could be better.

21
22 Mr. Kirby stated that he has not reviewed the proposed amendment. He said that if a garage is destroyed by
23 fire then the County should allow the property owner to rebuild it. He said that no one is going to purchase
24 property in Wilber Heights if they are not able to rebuild a structure that is destroyed. He said that the
25 property owners in the neighborhood are in a no-win situation and it has been this way for years. He said
26 that no one wants to claim responsibility for the roads yet property taxes are collected for such services as
27 well as the C-U MTD collects a tax from property owners but does not offer services to the area.

28
29 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
30 regarding this case and there was no one.

31
32 Mr. Michael Roderick requested the opportunity to re-address the Board.

33
34 Mr. Thorsland called Mr. Roderick to testify.

35
36 Mr. Michael Roderick stated that the fire department exists on the road maintained by the State and it is in
37 such bad shape that the response time is slowed down because the fire trucks use the oil and chipped roads
38 for travel. He said that between the fire trucks and a trucking company, which utilizes the oil and chipped
39 pavement, the road's condition as deteriorated. He said that if the State would fix the road that they are
40 responsible for then the oil and chipped pavement would be saved. He said that this issue should be
41 addressed because there are a lot of lives at stake that depend on the services of the fire department.

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1 Mr. Thorsland informed the audience that if they do not desire to speak at the public hearing but they do
2 have recommendations or concerns regarding the proposed amendment they are welcome to notify staff.
3
4 Mr. Thorsland asked the Board if there were any comments or questions for Mr. Hall.
5
6 Ms. Capel stated that the comparison table indicates that in Sangamon County the restriction is that the
7 property must be owner occupied. She asked what impact that would have if it were added to the proposed
8 amendment.
9
10 Mr. Hall stated that he would be at a loss in providing justification for such a limit.
11
12 Mr. Thorsland asked the Board if they would like to see further comparisons from other counties or is the
13 current table adequate.
14
15 Ms. Capel stated that she does not need to see any further comparisons.
16
17 Mr. Thorsland asked Mr. Hall where the new definition for “nonconforming” would appear.
18
19 Mr. Hall stated that the new definition would be included in Section 3 Definitions. He said that any time the
20 word “nonconforming” would appear in the Ordinance it would only refer to things that existed on October
21 10, 1973, or the date of the relevant amendment.
22
23 Mr. Thorsland stated that previous variances have been granted that were quite recent nonconformities
24 therefore he is not sure if he would want this Board to decide whether to make such a major change to the
25 definition. He said that the term “noncompliant” seems to be a lesser charge.
26
27 Mr. Hall stated that the Zoning Ordinance is inaccurate in Section 8 and currently the phrase that is used is
28 “illegally nonconforming” appears to leave the realm of zoning and refer to a more threatening situation. He
29 said that the County could stay with the current definition because no one has ever tried to use this definition
30 as a defense in an enforcement case.
31
32 Ms. Capel stated that staff’s recommendation regarding the term “nonconforming” provides alot of clarity
33 because there is a distinction which can be made between something that didn’t conform when the Zoning
34 Ordinance was adopted and something that has been created since that time.
35
36 Mr. Thorsland asked the Board if they were comfortable in directing Mr. Hall to work on the definitions. He
37 noted that the case will require re-advertisement.
38
39 Mr. Hall stated that the case should be re-advertised and the cost of re-advertisement is the only cost
40 involved and it will not slow down the case. He said that this issue is not important enough to be a separate
41 case but to a certain extent there is always the advertisement cost. He said that he believes that the current
42 Ordinance is defective but if the Board does not agree then so be it.

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Mr. Thorsland stated that the small cost of re-advertisement is worth correcting a defective ordinance and he is sensing that the rest of the Board agrees.

Mr. Hall requested that Case 675-AT-10 be continued to the February 3, 2011, public hearing. He said that this time would give municipal staff the opportunity to submit feedback. He said that due to the lack of staffing the turn-around time will be a little bit longer but he will try to keep it as short as possible.

Ms. Capel moved, seconded by Mr. Miller to continue Case 675-AT-10 to the February 3, 2011, public hearing. The motion carried by voice vote.

Mr. Hall informed the audience that anyone who has signed the attendance sheet or witness record and has provided their address will receive notice of the next meeting regarding this case.

6. Staff Report

None

7. Other Business

A. ZBA Agenda mailing protocols

Mr. Thorsland stated that late receipt of the mailing packets has been discussed previously and it has been suggested that perhaps the packets could be sent out earlier or the procedure for the receipt of the packets could be changed. He said that perhaps staff could notify the Board that the packets have been posted on the County website for review rather than sending out a full packet. He said that revenue would be saved if the packets were viewed on-line and then a full hard copy of the packet would be distributed at the meeting. He asked the Board to present comments regarding this issue.

Ms. Capel stated that she would like to be notified by e-mail that the full packet is available on the County website. She said that at that point she has been reminded of the meeting and it is at her discretion whether or not to download the packet or just view it on the computer.

Mr. Thorsland stated that staff suggested that only the agenda, which will include a notation that the full packet is available for viewing on the County website, would be mailed out and a follow-up e-mail would be sent to the Board indicating the same.

Mr. Schroeder stated that at this time he would prefer that a hard copy be mailed to his residence although he will discuss the option with his wife and will notify staff of his final decision.

Mr. Miller stated that he would prefer notification via e-mail.

Mr. Thorsland stated that he would also prefer notification via e-mail so that he could view the packet

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1 electronically.

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3 Mr. Thorsland requested that the Board supply their current e-mail address to staff for all notifications.

4
5 Mr. Thorsland informed the Board that the ZBA By-Laws indicate that only a request by a Board member
6 and not a motion is required for a recess during a public hearing.

7
8 **B. December, 2010 Monthly Report**

9
10 Mr. Hall stated that the December, 2010 Monthly Report is not ready for review therefore it should be
11 included on the January 20, 2011, agenda.

12
13 **8. Audience Participation with respect to matters other than cases pending before the Board**

14
15 None

16
17 **9. Adjournment**

18
19 **Mr. Schroeder moved, seconded by Mr. Miller to adjourn the meeting. The motion carried by voice**
20 **vote.**

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22 The meeting adjourned at 7:17 p.m.

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27 Respectfully submitted

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32 Secretary of Zoning Board of Appeals
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DRAFT SUBJECT TO APPROVAL DRAFT

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