

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: February 15, 2018

PLACE: Lyle Shields Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 6:30 p.m.

MEMBERS PRESENT: Frank DiNovo, Ryan Elwell, Jim Randol, Brad Passalacqua

MEMBERS ABSENT: Catherine Capel, Debra Griest, Marilyn Lee.

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Sharon Weller, Daryl Mowry, Jesse Rednour, Pam Smith, Tom Smith, Gordon Green, Steve Mathine

1. Call to Order

The meeting was called to order at 6:33 p.m.

Mr. Hall informed the Board that due to the absence of Catherine Capel, Chair, an Acting Chair needs to be appointed for tonight's meeting.

Mr. Passalacqua moved, seconded by Mr. Randol, to appoint Frank DiNovo as Acting Chair for tonight's meeting. The motion carried by voice vote.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with three members absent.

Mr. DiNovo 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.

3. Correspondence

None

4. Approval of Minutes (March 30, 2017; September 28, 2017; and October 12, 2017)

Mr. DiNovo stated that due to the absence of Ms. Capel and Ms. Griest, both who attended the September 28th meeting, and two Board members who are present tonight abstaining from tonight's vote, the approval

1 of the September 28, 2017, minutes should be deferred to the March 1, 2018, special meeting.

2
3 **Mr. Randol moved, seconded by Mr. Elwell, to defer the approval of the September 28, 2017, minutes**
4 **to the March 1, 2018, special meeting. The motion carried by voice vote.**

5
6 Ms. Burgstrom stated that on February 14th Mr. DiNovo emailed his edits to the March 30, 2017, and
7 October 12, 2017, minutes. She read the changes as follows: March 30, 2017: page 36, line 36 change
8 “honor” to “accommodate”; page 38, line 5 insert “a” between “in” and “rural”; October 12, 2017: page 2,
9 lines 6, 8, 19, and 20 place quotation marks before “She” and after “employed.”

10
11 Mr. DiNovo asked the Board if there were any additional edits for the March 30, 2017, and October 12,
12 2017, minutes, and there were none.

13
14 Mr. DiNovo entertained a motion to approve the March 30, 2017, and the October 12, 2017, minutes, as
15 amended.

16
17 **Mr. Passalacqua moved, seconded by Mr. Randol, to approve the March 30, 2017, and October 12,**
18 **2017, minutes, as amended. The motion carried by voice vote.**

19
20 **5. Continued Public Hearing**

21 None

22
23
24 **6. New Public Hearings**

25
26 **Case 890-V-17 Petitioner: Daryl Mowry and Sharon Weller Request to authorize the following**
27 **Variances in the AG-2 Agriculture Zoning District: Part A: A detached shed with a side yard of 0**
28 **feet in lieu of the minimum required 10 feet for accessory structures, per Section 7.2.3 A.2.; and Part**
29 **B: A minimum lot area of 12,350 square feet in lieu of the minimum required 20,000 square feet, and**
30 **an average lot width of 95 feet in lieu of the minimum required 100 feet, per Section 5.3 of the Zoning**
31 **Ordinance. Location: Lot 74 of Woodard’s Heather Hills 4th Subdivision in Section 2 of St. Joseph**
32 **Township and commonly known as the residence at 2243 Churchill Drive, St. Joseph.**

33
34 Mr. DiNovo informed the audience that Case 890-V-17 is an Administrative Case and as such, the
35 County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he
36 will ask for a show of hands for those who would like to cross-examine and each person will be called
37 upon. He requested that anyone called to cross-examine go to the cross-examination microphone to ask
38 any questions. He said that those who desire to cross-examine are not required to sign the witness
39 register but are requested to clearly state their name before asking any questions. He noted that no new
40 testimony is to be given during the cross-examination. He said that attorneys who have complied with

1 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
2
3 Mr. DiNovo informed the audience that anyone wishing to testify for any public hearing tonight must
4 sign the witness register for that public hearing. He reminded the audience that when they sign the
5 witness register they are signing an oath. He asked the audience if anyone desired to sign the witness
6 register and there was no one.
7
8 Mr. DiNovo asked staff if there was any additional information for the Board tonight regarding this case.
9
10 Mr. Hall stated that staff has no additional information for this case. He noted that somehow page 10 of
11 the Finding of Fact was omitted from the mailing packet; therefore, staff has distributed page 10 of the
12 Finding of Fact to the Board.
13
14 Mr. DiNovo asked the petitioners if they would like to make a statement regarding their case.
15
16 Mr. Daryl Mowry and Ms. Sharon Weller stated that they reside at 2243 Churchill Drive, St. Joseph.
17
18 Mr. DiNovo asked the petitioners to explain their request and why they feel it is justified.
19
20 Mr. Mowry stated that he would like to construct an 18' by 30' garage to store his boat. He said that the
21 placement of the detached shed is limited due to the location of the existing septic tank, leach field, three
22 mature trees, and a utility easement on the west side.
23
24 Mr. DiNovo asked Ms. Weller if she has anything to add to Mr. Mowry's testimony.
25
26 Ms. Weller stated that she did not.
27
28 Mr. DiNovo asked staff if there were any questions regarding the petitioner's statement.
29
30 Mr. Hall stated no.
31
32 Mr. DiNovo asked Mr. Mowry to indicate the extent of the leach field on the lot.
33
34 Mr. Mowry stated that the leach field is located in the middle of the back yard and is 25' by 40'.
35
36 Mr. DiNovo asked Mr. Mowry if the leach field runs north and south on the lot.
37
38 Mr. Mowry stated no, the leach field runs east and west.
39
40 Mr. Passalacqua asked Mr. Lowry if the leach field is off the indicated septic tank on the site plan.

1
2 Mr. Mowry stated that six feet of tile that runs south to the leach field that runs east and west.
3
4 Mr. Passalacqua asked Mr. Mowry to indicate how close the proposed shed is to the leach field.
5
6 Mr. Mowry stated that the east end of the leach field is 5' from the proposed building.
7
8 Mr. Passalacqua asked Mr. Mowry if the proposed shed will have a gabled roof.
9
10 Mr. Mowry stated yes.
11
12 Mr. Passalacqua asked Mr. Mowry to indicate the direction of the ridgeline.
13
14 Mr. Mowry stated that the direction of the ridgeline will be north and south.
15
16 Mr. Passalacqua stated that half of the roof will be draining towards the property line. He asked Mr.
17 Mowry if there would be a way of constructing the shed so that the drainage would only run towards Mr.
18 Mowry's property.
19
20 Mr. Mowry stated that the shed would look odd next to the other buildings. He said that the next-door
21 neighbor is present tonight and the Board could request his preference.
22
23 Mr. Passalacqua stated that if the building was the style of a typical shed, the runoff would drain onto
24 Mr. Mowry's property.
25
26 Mr. DiNovo noted that the neighbor to the east submitted a written response and it is included in the
27 Board's materials. He asked Mr. Mowry if he had considered purchasing the strip of land from the
28 neighbor.
29
30 Mr. Mowry stated that he did, but nothing came out of that consideration so they decided to try for the
31 variance.
32
33 Mr. DiNovo asked Mr. Mowry if he had located his property pins.
34
35 Mr. Mowry stated no.
36
37 Mr. DiNovo stated that a variance for a side yard of 0 feet always sets off alarm bells, because if there
38 are repairs required along the back side of the building, there must be a good relationship now and in the
39 future with the neighbor. He said that he presumes that Mr. Mowry currently has a good relationship
40 with the neighbor, but that may not be the case in the future, and in ten to twelve years from now there

1 could be different people living on the two properties. He said that without knowing the location of the
2 property pins there could be an unintended encroachment on the adjacent property. He asked Mr.
3 Mowry if he or the neighbor constructed the fence along the property line.
4

5 Mr. Mowry stated that the fence was constructed by the previous owner and he and the neighbor
6 determined where the property line was located and the fence was placed on that determined property
7 line. He noted that he is not wanting to build on the property line, but two feet away from the property
8 line with a zero clearance. He said that the shed will only have a one-foot overhang; therefore, the shed
9 will totally be on his property and there will be no trespass by the eave.

10
11 Mr. DiNovo asked Mr. Mowry if the posts will be two feet from the property line and the eave will be
12 one foot from the wall.
13

14 Mr. Mowry stated yes. He said that the 18' x 30' slab for the property will be two feet from the property
15 line.
16

17 Mr. DiNovo asked the Board and staff if there were any additional questions.
18

19 Mr. Hall explained that the case that has been presented to the Board is for the shed to be located on the
20 property line. He asked Mr. Mowry if he is prepared to change the request to a two-foot side yard in lieu
21 of the minimum required 10 feet for accessory structures.
22

23 Mr. Mowry stated that he has not built the shed yet; therefore, he can build it wherever the Board tells
24 him he can. He said that he does not have the room to build the proposed shed if he had to abide by the
25 10 feet setback.
26

27 Mr. Hall stated that he agrees with Mr. DiNovo's concerns regarding construction on the property line,
28 and Mr. Mowry has indicated that he too agrees with that concern. He said that Mr. Mowry has
29 indicated that the proposed building will be constructed two feet from the property line; therefore, Mr.
30 Hall recommended that the Board make note that the petition has been revised for a two feet side yard in
31 lieu of the minimum 10 feet for accessory structures.
32

33 Mr. Passalacqua asked Mr. Hall if the two feet is measured from the foundation wall or the eave.
34

35 Mr. Hall stated that staff always measures from the foundation wall.
36

37 Mr. Passalacqua asked Mr. Hall if the Board is going to struggle with an incomplete site plan, because
38 the current site plan does not indicate the location of the septic system and leach field and it does not
39 indicate the revised two feet side yard.
40

1 Mr. Hall stated that the dimensions of the septic system and leach field allows for the adjustment on the
2 site plan.
3
4 Mr. Passalacqua stated that the Board does not have an accurate site plan to approve tonight.
5
6 Mr. Mowry stated that he does not have a diagram of the leach field as to when it was installed, but he
7 did probe it.
8
9 Mr. Passalacqua stated that Mr. Mowry could revise the site plan tonight.
10
11 Mr. DiNovo stated that it would be simple enough to revise the site plan with respect to the setback. He
12 asked Mr. Mowry if the 16' dimension is the measurement between the deck and the shed.
13
14 Mr. Mowry stated no, it is the measurement of the recent addition to the home.
15
16 Mr. Passalacqua asked Mr. Mowry to indicate the dimension between the proposed shed and the house.
17
18 Mr. Mowry stated that it is 14 feet, six inches from the eastern corner of the house to the property line
19 and the proposed shed will be three feet from the southern portion of the house towards the new family
20 room. He said that it is an oversized one-car garage that will have one garage door so that he can back
21 the boat directly into it. He noted that due to the septic field location, the family room is 14' by 20' not
22 16' by 24' as noted on the site plan.
23
24 Mr. DiNovo asked the Board and staff if there were any additional questions for Mr. Mowry.
25
26 Mr. DiNovo asked the audience if anyone desired to cross-examine Mr. Mowry or Ms. Weller, and there
27 was no one.
28
29 Mr. DiNovo asked the audience if anyone desired to sign the witness register and present testimony
30 regarding this case, and there was no one.
31
32 Mr. Randol asked staff if there was a formal change required for the variance request indicating the 2
33 feet side yard in lieu of the advertised 0 feet.
34
35 Mr. DiNovo stated that the Board and staff can keep track of the change in the Findings of Fact and
36 Final Determination.
37
38 Mr. Hall asked Mr. Mowry if he found the septic field.
39
40 Mr. Mowry stated that he found the end of one row.

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Mr. Hall asked Mr. Mowry if he is comfortable in saying that his septic field is working correctly.

Mr. Mowry stated yes. He said that he has owned the property for ten years.

Mr. Hall noted that due to the location of the addition to the house and the proposed shed it will be difficult to correct issues with the septic field.

Mr. Mowry stated that if there are any issues, the septic field would still be accessible from the other side of the house.

Mr. Hall stated that he only wanted to make sure that Mr. Mowry had considered that concern.

Mr. DiNovo closed the witness register.

Mr. DiNovo stated that the description of the variance should be changed to indicate a side yard of 2 feet in lieu of the minimum 10 feet. He said that the change would need to be evident in item 5.D.

Mr. Hall stated that item 10.B should be revised to reflect the amount of variance is 80%.

Mr. DiNovo stated that item 5.A. should be revised to indicate one leach field which is approximately 25' by 40'.

Mr. DiNovo asked the Board and staff if there were any additional changes to the Summary of Evidence or Documents of Record, and there were none.

FINDINGS OF FACT FOR CASE 890-V-17:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 890-V-17 held on February 15, 2018, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the lot size, and the location of the septic tank and leach field

1 limit the location for the proposed shed.

2

3 Mr. DiNovo stated that the lot, with its current dimensions, came into existence as a separate zoning lot
4 in 1975.

5

6 Mr. Elwell noted that mature trees exist on the property limiting the location for the proposed shed.

7

8 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations
9 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
10 structure or construction.**

11

12 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
13 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
14 structure or construction because the lot size and the location of the large trees, septic tank and
15 leach field limit the location for the proposed shed.

16

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

19

20 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
21 NOT result from actions of the applicant because the property was developed before the current owner
22 purchased it, and the septic and the house were placed by others.

23

24 **4. The requested variance IS in harmony with the general purpose and intent of the
25 Ordinance.**

26

27 Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of
28 the Ordinance.

29

30 Mr. DiNovo stated that even with a variance, the overall lot coverage will be less than the maximum
31 permitted in the district, so the use of the lot falls within the standards of the ordinance.

32

33 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise
34 detrimental to the public health, safety, or welfare.**

35

36 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
37 detrimental to the public health, safety, or welfare because the neighbors have stated that they do not
38 have a problem with the proposed structure, and there have been no responses from the Fire Department
39 with any issues with the structure.

40

1 **6. The requested variance IS the minimum variation that will make possible the reasonable**
2 **use of the land/structure.**

3
4 Mr. Passalacqua stated that the requested variance IS the minimum variation that will make possible the
5 reasonable use of the land/structure.

6
7 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

8
9 Mr. Hall asked the Board to review Finding of Fact #1. He said that it is his understanding that the lot
10 was not created in 1975. He said that the lot was created prior to 1975 and was in common ownership.

11
12 Mr. DiNovo stated that the lot came into existence as a separate zoning lot in 1975. He said that Finding
13 of Fact #1 should be revised to reflect that revision.

14
15 Mr. DiNovo entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
16 Fact, as amended.

17
18 **Mr. Passalacqua moved, seconded by Mr. Elwell, to adopt the Summary of Evidence, Documents of**
19 **Record and Findings of Fact, as amended. The motion carried by voice vote.**

20
21 Mr. DiNovo stated that currently the Board has three members absent; therefore, it is at the petitioners'
22 discretion to either continue Case 890-V-17 until a full Board is present or request that the present Board
23 move to the Final Determination. He informed the petitioners that four affirmative votes are required for
24 approval.

25
26 Mr. Mowry and Ms. Weller requested that the present Board proceed to the Final Determination for Case
27 890-V-17.

28
29 Mr. DiNovo entertained a motion to proceed to the Final Determination for Case 890-V-17.

30
31 **Mr. Randol moved, seconded by Mr. Elwell, to proceed to the Final Determination for Case 890-V-7.**
32 **The motion carried by voice vote.**

33
34 **Final Determination for Case 890-V-17:**

35
36 **Mr. Passalacqua moved, seconded by Mr. Randol, that the Champaign County Zoning Board of**
37 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
38 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
39 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**
40 **of Champaign County finds that:**

The Variances requested in Case 890-V-17 are hereby GRANTED to the petitioners, Daryl Mowry and Sharon Weller, to authorize the following variances in the AG-2 Agriculture Zoning District:

- Part A: A detached shed with a side yard of 2 feet in lieu of the minimum required 10 feet for accessory structures, per Section 7.2.3 A.2.; and
- Part B: A minimum lot area of 12,350 square feet in lieu of the minimum required 20,000 square feet, and an average lot width of 95 feet in lieu of the minimum required 100 feet, per Section 5.3 of the Zoning Ordinance.

Mr. DiNovo requested a roll call vote.

The roll was called as follows:

Capel – absent	DiNovo – yes	Elwell-yes
Griest – absent	Lee – absent	Passalacqua – yes
Randol – yes		

Mr. DiNovo stated that the necessary revisions to the site plan can be made during permitting.

Mr. Hall informed the petitioners that they have received an approval for their variance requests, and Ms. Burgstrom will be contacting them regarding the revisions to the site plan and the required Land Disturbance and Zoning Use Permit Application for the proposed shed.

Mr. Mowry and Ms. Weller thanked the Board and staff for their time.

Case 891-V-17 Petitioner: Jesse Rednour Request: Part A: Authorize the construction and use of an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance; and Part B: Authorize the construction and use of an addition to an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet in the AG-1 Agriculture Zoning District, per Section 7.2.1 B. of the Zoning Ordinance. Location: A 1.77 acre lot that is part of Lots 2 and 3 of a subdivision of the Northeast Quarter of the Northeast Quarter of Section 36, Township 18 North, Range 7 East of the Third Principal Meridian, in Colfax Township and commonly known as the residence at 589 CR 700N, Sadorus.

Mr. DiNovo informed the audience that Case 891-V-17 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 for those who would like to cross-examine and each person will be called upon. He requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. He said that those who desire to cross-examine are not required to sign the witness

1 register but are requested to clearly state their name before asking any questions. He noted that no new
2 testimony is to be given during the cross-examination. He said that attorneys who have complied with
3 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
4

5 Mr. DiNovo informed the audience that anyone wishing to testify for any public hearing tonight must
6 sign the witness register for that public hearing. He reminded the audience that when they sign the
7 witness register they are signing an oath. He asked the audience if anyone desired to sign the witness
8 register and there was no one.
9

10 Mr. DiNovo asked the petitioner if he would like to make a statement regarding his request.
11

12 Mr. Jesse Rednour, who resides at 589 CR 700 North, Sadorus, stated that he desires to construct an
13 addition to an existing shed that was constructed by the previous owner. He said that the current shed is
14 roughly 8 feet from the property line and he would like to opportunity to keep the addition consistent
15 with the existing wall.
16

17 Mr. Hall asked Mr. Rednour if the distance to the property line is 8 feet or 7 feet, 6 inches. He said that
18 the thing about a variance is that, if the side yard variance is approved for 8 feet and it is only 7 feet, 6
19 inches, the 8 feet the approval isn't adequate. He asked Mr. Rednour if he was confident that the
20 distance from the shed wall to the side yard was 8 feet, or would he like to revise his request to 7 feet, 6
21 inches at tonight's meeting.
22

23 Mr. Rednour stated that he is confident that the distance to the property line is 8 feet. He said that he
24 strung a line from the two posts and measured it and staff visited the subject property and found the
25 same distance to the property line. He said that if the neighbors believe that the distance is 7 feet, 6
26 inches, then to appease the neighbors he would be happy to change the request tonight, but he still
27 believes the distance is 8 feet.
28

29 Mr. DiNovo asked the Board if there were any questions for the petitioner, and there were none.
30

31 Mr. DiNovo stated that staff distributed Supplemental Memorandum #1, dated February 15, 2018, to the
32 Board for review. He said that memorandum includes a letter from Thomas and Pamela Smith, owners
33 of the 13.56 acres property west of the subject property. He said that the Smiths request that the ZBA
34 deny the proposed 8 feet setback for the proposed detached garage addition and they provided a list of
35 adverse impacts that have occurred since the building of the existing garage and tree planting.
36

37 Mr. DiNovo asked Mr. Rednour if the existing building was constructed sometime between 2005 and
38 2006.
39

40 Mr. Rednour stated yes, that is his understanding.

1
2 Mr. DiNovo asked Mr. Rednour to indicate when he purchased the property.
3
4 Mr. Rednour stated that he purchased the property approximately 8 years ago.
5
6 Mr. Elwell asked Mr. Rednour to indicate his intent for limiting the rainwater runoff onto the neighbor's
7 property.
8
9 Mr. Rednour stated that he intends to install gutters on the addition and allow the rainwater to drain onto
10 the ground. He said that he is not an irrigation expert so he does not know how much water will come
11 off the roof and become a problem, but he has been there for 8 years and the area has never been prone
12 to flooding and there is not standing water in the ditches, or anywhere else except for the pond. He said
13 that he did not anticipate there being a water problem, but if there is he would certainly be open to
14 alleviating that problem.
15
16 Mr. Elwell asked Mr. Rednour to indicate the location of the underground power line.
17
18 Mr. Rednour stated that it was his understanding that the power company bored the power line
19 underground from the post directly down the property line, which he assumes is standard practice. He
20 said that once the power company got past the existing garage they trenched the line to the house.
21
22 Mr. DiNovo asked Mr. Rednour if the survey that is included in the mailing packet was prepared when
23 he purchased the property.
24
25 Mr. Rednour stated that he did not have the survey done.
26
27 Ms. Burgstrom stated that the survey was completed in 2002.
28
29 Mr. Elwell asked Mr. Rednour if the property pin has been located indicating the property boundary.
30
31 Mr. Rednour stated that there is a wooden post and a property pin on the north end of the property line
32 and there is a steel t-post on the south end where there is possibly another property pin located, but he is
33 not sure.
34
35 Mr. DiNovo asked Mr. Rednour to indicate the overall dimensions of the proposed shed.
36
37 Mr. Rednour stated that the overall dimensions of the proposed shed are 30' by 45'.
38
39 Mr. DiNovo asked Mr. Rednour to indicate the overall dimensions of the existing shed.
40

1 Mr. Rednour stated that he is not sure, but he could check his documents.
2
3 Mr. Hall stated that the dimensions of the existing shed are 20' by 24'. He said that the proposed
4 addition is three times as large as the existing shed, so staff will generally ask if there is a floor plan
5 indicating the reason why it is important to leave the wall line straight. He asked if the reason for
6 wanting the walls consistent is because of aesthetics or is it due to a specific interior floor plan.
7
8 Mr. Rednour stated that the addition will be easier to construct if the wall line is consistent, because he
9 would not have to construct an offset and additional trim work. He said that he cannot think of any
10 functional reason why the wall could not be offset other than it will aesthetically look bad and the shed
11 will overlap the front of the house and will decrease the approach for coming into the garage.
12
13 Mr. DiNovo asked Mr. Rednour to explain the photograph indicating the posts adjacent to the existing
14 shed.
15
16 Mr. Rednour stated that the photograph indicating the posts is a view of the lean-to that was located off
17 the existing shed, but it has since been removed.
18
19 Mr. DiNovo stated that he is not pleased in not having a site plan indicating the entire property and
20 existing and proposed structures.
21
22 Mr. Elwell asked Mr. Rednour if the proposed addition will be placed on a slab or gravel.
23
24 Mr. Rednour stated that the addition will be a post-frame construction with a concrete floor.
25
26 Mr. Elwell asked Mr. Rednour if that type of construction is like the existing structure.
27
28 Mr. Rednour stated yes.
29
30 Mr. Passalacqua asked Mr. Rednour if the roofline of the proposed addition would be higher than the
31 existing shed or will it just be tied in to the existing roofline.
32
33 Mr. Rednour stated that the proposed addition's roofline will be higher.
34
35 Ms. Burgstrom stated that site plan that was submitted is a current aerial with dimensions indicated,
36 although it is difficult to distinguish them.
37
38 Mr. DiNovo asked Mr. Rednour to indicate the functional reason for connecting the two buildings.
39
40 Mr. Rednour stated that he would like to have the addition heated; therefore, connecting the two

1 buildings would eliminate the need for two HVAC systems. He said that running a separate electrical
2 system to the addition would be cost prohibitive.
3
4 Mr. Elwell stated that there was a question asked about the resetting of the property pin.
5
6 Mr. Rednour stated that this question was presented by the neighbors, but as far as he knows the property
7 pin has always been in the same location. He said that Mr. Smith might be able to elaborate on his
8 question during his testimony.
9
10 Mr. Elwell asked Mr. Rednour if the property pin would be removed during the construction of the
11 proposed addition.
12
13 Mr. Rednour stated no.
14
15 Mr. DiNovo asked the Board and staff if there were any additional questions for Mr. Rednour.
16
17 Mr. Passalacqua stated that Mr. Rednour indicated that if the proposed addition is required to be offset
18 from the existing building, it will overlap the street side of the house, but the site plan indicates that the
19 existing shed is doing that already.
20
21 Mr. Rednour stated that two identical photographs submitted indicating “preferred” and “not preferred.”
22
23 Mr. Passalacqua stated that he is reviewing the “not preferred” photograph.
24
25 Mr. Rednour stated that the “not preferred” photograph would meet the 10 feet required setback.
26
27 Mr. Passalacqua asked if that includes the offset.
28
29 Mr. Rednour stated yes.
30
31 Mr. DiNovo asked the audience if anyone desired to cross-examine Mr. Rednour. He noted that cross-
32 examination can only pertain to testimony provided by the petitioner. He informed the audience that
33 they will have the opportunity to present their own testimony during the public hearing.
34
35 Mr. DiNovo called Tom and Pam Smith to testify.
36
37 Mr. and Mrs. Tom Smith, stated that they reside at 1306 Greenridge Drive, Champaign.
38
39 Mr. Tom Smith stated that the post where the property pin should be located has been beaten over and its
40 location should be 6 inches to the west and 6 inches to the north of the wooden post. He said that he was

1 present when the property was surveyed and Mr. Smith’s tenant farmer requested that the pins be marked
2 with a post so that he does not trespass onto someone’s property. He said that he placed a wooden post
3 on the front and the back of the property and he made sure that it was a type of post that would not get
4 knocked around and he set the wooden post exactly 6 inches from the property pin. He said that he
5 wanted to confirm what he thought so he went out to the property with a transit and that is when he
6 noticed that the post had been beaten over. He said that when he shot it he still came up with 7 feet, six
7 inches, but he did not use the center of the wood post. He said that he called Berns, Clancy and
8 Associates (BCA) thinking that they could come out and reset the post, but BCA indicated that they
9 could not come to the property for two weeks, and it would cost \$700 to reset the post. Mr. Smith said
10 that he told BCA that he was concerned about the post getting knocked over again, so BCA informed
11 him that for another \$50 they would put the post in concrete, which he would like to do. He said that he
12 might want to build a fence along the property line or maybe a house on the property one day.

13
14 Ms. Smith asked Mr. Rednour if the grade would change.

15
16 Mr. Rednour stated that he does not plan on moving a lot of dirt during the construction.

17
18 Ms. Smith asked Mr. Rednour if he would build the area for the addition up, or would it be flush with
19 the ground.

20
21 Mr. Rednour stated that for the most part it will be flush with the ground, but the concrete slab will be
22 above grade so that water doesn’t seep in.

23
24 Ms. Smith noted that she and her husband do not begrudge Mr. Rednour for his intended shop, but they
25 are very concerned about their cropland that is adjacent to his property. She said that there are four
26 properties that abut their farmland, and each one of those properties have pins. She said that she and her
27 husband placed wooden posts at the location of those pins so that the property lines are clearly marked.
28 She said that along Mr. Rednour’s property they have had issues with trees being overgrown and their
29 tenant farmer’s equipment becoming snagged in those overgrown trees. She said that she and her
30 husband had an agreement with their tenant farmer to install a grass strip to provide a buffer between the
31 two properties. She said that the buffer protects their tenant farmer’s equipment and Mr. Rednour from
32 overspray, but there continues to be a problem with the downspout from the existing shed pointing to the
33 farm ground which may have caused damage to their crops. She said that they are concerned that if
34 people are not kept off the property line and are not required to maintain the 10 feet setback, they will
35 continue to creep closer and closer and it will become a continual problem, not just with Mr. Rednour
36 but also with the other properties along their field.

37
38 Ms. Burgstrom stated that Attachment B., page 4 of 8, indicates a photograph of the ponding area that
39 Ms. Smith is referring to during her testimony.

40

1 Ms. Smith stated that the 10 feet setback is very important to them and they would appreciate the Board
2 requiring that it be maintained. She said that they did not have the opportunity to speak to anyone when
3 the existing shed was constructed.
4
5 Mr. Smith stated that he spoke to the person who was constructing the shed, not the owner, and he asked
6 him if he had obtained his permit, and he indicated yes. He said that another neighbor told him that she
7 was concerned about how close the existing shed was to his property, and he agreed, so he measured the
8 distance with a transit and determined that it was only 7 feet, six inches from the property line. He said
9 that he called the County and he was told that he could come to the office to file a complaint and the
10 property owner could be fined. Mr. Smith said that a fine wasn't going to do him any good, because the
11 concrete was already poured and the building was already constructed. He said that a little building that
12 is 20 feet long is a lot different than a 70 feet building and there is no way that it will work if the
13 variance is requested. He said that 10 feet is bad enough because there will still be a lot of runoff and
14 there will be no air or sun until later in the day.
15
16 Mr. DiNovo asked Mr. Smith if he called the zoning office in 2005 or 2006.
17
18 Mr. Smith stated yes.
19
20 Mr. DiNovo asked Mr. Smith if he stopped short of filing a complaint with the zoning office.
21
22 Mr. Smith stated that he wasn't trying to impose anyone any hardships, but he is very particular about
23 setbacks. He said that he worked construction and if the requirement is 10 feet, then it better be built at
24 10 feet, one inch. He said that he knew the person who constructed the existing shed and he took him at
25 his word, but he did call the zoning office to inquire about existing shed and its location on the property.
26 He said that he is not slamming anyone, but sometimes you call places and you get ahold of someone
27 who does not know what they are talking about, but regardless the building would not have been moved.
28
29 Mr. DiNovo asked Mr. Rednour if the proposed addition will be post-frame construction.
30
31 Mr. Rednour stated yes.
32
33 Mr. DiNovo asked Mr. Rednour if the proposed addition would be structurally independent of the
34 existing shed and would have its own structural posts.
35
36 Mr. Rednour stated yes.
37
38 Mr. DiNovo stated that to the extent that there is a practical reason for not building the addition at the
39 required 10 feet setback, other than the aesthetic reasons, is because of the distance of the driveway.
40

1 Mr. Rednour stated yes, the driveway and the building would overlap the house.
2
3 Mr. Passalacqua asked Mr. Rednour if he would match the grade of the floor level for the addition equal
4 to the floor level of the existing shed.
5
6 Mr. Rednour stated that he would make it as close as he can.
7
8 Mr. Passalacqua asked Mr. Rednour if he wanted a step where the two buildings connect.
9
10 Mr. Rednour stated that there will be a step inside, but he would try to match the concrete that is already
11 along the drive so that there is not an edge to drive over.
12
13 Mr. Passalacqua asked Mr. Rednour if there was a pond in the back yard.
14
15 Mr. Rednour stated yes.
16
17 Mr. Passalacqua asked Mr. Rednour if he would be willing to run a tile from the downspouts for the
18 sheds to the pond.
19
20 Mr. Rednour stated that he could do that, and the previous owner did that with the downspouts from the
21 house.
22
23 Mr. Passalacqua asked Mr. and Mrs. Smith if they would be agreeable to that.
24
25 Mr. Smith stated that he doesn't want the shed constructed at 7 feet, six inches from his property line.
26
27 Ms. Smith stated that they would agree, if the downspouts which are connected to a tile to the pond
28 would keep the water off their farm ground.
29
30 Mr. Smith stated that personally, he does not want the shed there at all, but if Mr. Rednour does build the
31 shed it should maintain the 10 feet side yard. He said that it appears that the proposed addition will have
32 18 feet walls, but he does not know the height to the peak.
33
34 Mr. Passalacqua stated that there is no variance requested for the height of the building.
35
36 Mr. Hall stated that the height limit for accessory structures on parcels that are larger than one acre is 25
37 feet, to the mid-point of the gable, regardless of the height of the principal structure.
38
39 Mr. Passalacqua asked Mr. Rednour to indicate the height of the proposed building.
40

1 Mr. Rednour stated that the height to the eave is 14 feet and the roof has a 4/12 pitch. He said that he
2 does not have the height to the peak, but he is sure that he could calculate it if he needs to.

3
4 Mr. DiNovo asked Mr. and Mrs. Smith if they had additional information to present to the Board.

5
6 Mr. Smith stated that the existing building already causes water runoff onto his property, and any
7 structure in this area limits the air flow and sunlight which causes issues for the crops. He said that the
8 same area has been divided, much like Mr. Rednour's property, for a single-family home, but there is no
9 doubt in his mind that no one will want to construct a house on that property with the proposed shed
10 being built in this location. He said that it appears that Mr. Rednour is taking one building and butting it
11 up to the existing building and Mr. Rednour's concern about the building not having a consistent wall
12 line doesn't make sense, because most people would want that offset. He said that the only person who
13 will see the offset is Mr. Smith, as there is a field adjacent to it. He said that the only way Mr. Rednour
14 could see the offset from his house is if he stood perpendicular from the house, and if he moved one foot
15 he wouldn't see it.

16
17 Mr. DiNovo asked Mr. Rednour if he had any additional comments.

18
19 Mr. Rednour stated no.

20
21 Ms. Smith stated that the current structure drains onto their farm ground. She asked the Board and Mr.
22 Rednour if there was a plan to correct it.

23
24 Mr. Rednour stated that the water for the existing shed drains onto his property and he does not know
25 how to measure how much water drains onto the Smith's property.

26
27 Ms. Smith stated that the downspout is pointed directly to their property.

28
29 Mr. Rednour stated that is how downspouts are made.

30
31 Ms. Smith asked Mr. Rednour if he is indicating that he is not going to do anything.

32
33 Mr. Rednour stated that if he thought it was a problem then he would do something, but the crops that
34 are stunted or die are not near the downspouts.

35
36 Mr. Hall asked Ms. Smith to explain her concern regarding overspray from Mr. Rednour's property.

37
38 Ms. Smith stated that she is not sure what happened on the area of Mr. Rednour's property, but their
39 tenant farmer thought that the crops were damaged by some type of overspray. She said that the ground
40 on Mr. Rednour's property was black and was perhaps from him burning off weeds, but the damage to

1 the crops could have been from the heat of that fire. She said that they are only going by what their
2 tenant farmer indicated. She said that there was a large area south of the existing shed where the crops
3 were damaged or died, and it wasn't the first time that this happened. She said that there are other
4 homes along the property line and they have not had any problems.

5
6 Mr. DiNovo asked the Board and staff if there were any additional questions for Mr. and Mrs. Smith or
7 Mr. Rednour.

8
9 Mr. Elwell asked the Smiths if the Board decides to approve the variance, would they be satisfied with
10 the conversation regarding the tile from the downspouts to the pond.

11
12 Ms. Smith stated that she does not believe that anything will be done regarding the drainage. She said
13 that there does not appear to be any willingness from Mr. Rednour to alleviate their concerns, and their
14 next step may be to either appeal the Board's decision or hire a lawyer. She said that they had not
15 documented through photographs or anything else regarding the crop damage, because they figured that
16 this is what happens when residential uses are mixed with agriculture. She said that from this day
17 forward she will keep better records and take photographs of the crop damage so that they have a good
18 record of the pattern of damage. She said that the damage to their crops is a financial implication of
19 their field.

20
21 Mr. Elwell asked Mr. Rednour if he knew how much work it would be to tie in the existing and the
22 proposed shed's downspouts into a tile that drains to the pond.

23
24 Mr. Rednour stated that he is fine with digging trenches and installing tile attached to all the downspouts
25 so that the water drains to the pond, but the Smiths have indicated that they still want the required 10
26 feet side yard. He said that either way he is still agreeable with draining the downspouts to the pond.

27
28 Ms. Smith stated that they would like to see the tile from the downspouts to the pond along with the
29 required 10 feet side yard. She said that due to the size of the buildings, the tile would be necessary.

30
31 Mr. DiNovo stated that the Champaign County Zoning Board of Appeals has no authority to require
32 construction of the tile when the variance is denied. He said that the tile could be imposed as a special
33 condition of the variance, but without the variance there is no leverage to force Mr. Rednour to install
34 the tile. He asked the Smiths if they would rather have the variance with the tile, or have no variance and
35 no tile.

36
37 Mr. Smith stated that he would rather have the required 10 feet side yard. He said that their tenant
38 farmer has already moved over 6 feet so that he does not impose upon Mr. Rednour's property, and they
39 have a 6 feet grass strip between the two properties. He said that he has 10 acres that is farmed and it is
40 hard to find someone to farm it because no one wants to mess with a 10-acre field. He said that when

1 the power line was buried, the tenant farmer was not keen on continuing farming the 10-acre field
2 because he didn't want to get into the underground electrical line.
3
4 Mr. Passalacqua asked Mr. Smith to indicate how far the tenant farmer operates from the property line.
5
6 Mr. Smith stated that they farm 6 feet off Mr. Rednour's side of the property line.
7
8 Mr. Passalacqua asked Mr. Smith if they still have crop damage even though they farm 6 feet from the
9 property line. He informed Mr. Smith that he has the right to farm up to the property line.
10
11 Mr. Smith stated that the tenant farmer will not farm up to the property line.
12
13 Mr. Passalacqua stated that he understands what the tenant farmer prefers, but his point is that after
14 staying 6 feet from the property line, they are still having crop damage from Mr. Rednour's property.
15
16 Mr. Smith stated that he helped the tenant farmer cut corn out of the beans, and the area of damage that
17 he saw was in line with the pond. He said that the beans only grew so far and stopped.
18
19 Mr. Passalacqua stated that the Smiths are not farming up to their property line and they are still having
20 damage to their crops.
21
22 Ms. Smith stated yes.
23
24 Mr. Randol asked the Smiths if they had spoken with their tenant farmer about trimming the trees that
25 overhang onto their property to alleviate some of the crop damage.
26
27 Mr. Smith stated that he was told by an attorney, and he is not sure that this is correct, that if a tree from
28 an adjacent property overhangs onto your property you have the right to cut it straight up and take the
29 limbs, but he hasn't had time to do it. He said that trimming the trees is an option.
30
31 Mr. Elwell asked Mr. Smith if trimming the trees would provide the tenant farmer more room to farm
32 the property.
33
34 Mr. Smith stated yes. He said that the tenant farmer is the type of person who worries about things like
35 getting into the buried cable, the overhanging trees, etc.
36
37 Mr. DiNovo stated that trees are not regulated by zoning and the Board does not have jurisdiction over
38 trees and any conflict between neighbors regarding trees must be handled outside of this venue.
39
40 Mr. DiNovo asked the Smiths if they had any additional questions for Mr. Rednour, and there were

1 none.

2
3 Mr. DiNovo stated that due to the absence of any additional audience members, he would close the
4 witness register.

5
6 Mr. DiNovo asked the Board if there were additional special conditions required for this case, especially
7 in respect to the drainage tile from the downspouts.

8
9 Mr. Randol stated that he would prefer that the proposed addition be required to meet the minimum side
10 yard of 10 feet, because it would alleviate more problems in the area.

11
12 Mr. Passalacqua stated that he agreed. He said that the style of construction and the amount of
13 additional material and difficulty of flashing the two buildings together for the 2 feet offset is
14 manageable. He said that what he does not believe is manageable is meeting the slabs, but he does not
15 see an undue hardship with shifting forward to achieve compliance on the side yard. He said that there is
16 always a problem with water in the rural areas and generally it is from the farm ground to the residence
17 and not the residence to the farm ground. He said that it is a marriage of convenience for the pond being
18 present on the property, because he has a small pond on his property and he wishes he had something
19 feeding it. He said that trenching is not free, but it would be the good neighborly thing to do and it
20 would be good for the owner to not have wet spots around the slab.

21
22 Mr. DiNovo informed the petitioner that an approval would require a unanimous vote from the present
23 Board members. He said that the petitioner can choose to continue the case until a full Board is present,
24 and it is possible that the Board members who are absent tonight might choose to abstain from the vote.
25 He said that four affirmative votes are required for an approval. He asked Mr. Rednour how he would
26 like to proceed.

27
28 Mr. Rednour stated that he would prefer to proceed tonight because he has already waited over three
29 months for this hearing.

30
31 Mr. DiNovo asked the Board if they desired to impose any new special conditions.

32
33 Mr. Passalacqua stated that from the previous discussion, the Board cannot impose any special
34 conditions regarding the drainage.

35
36 Mr. Hall stated that if the Board is inclined to approve the variance, the Board could impose a special
37 condition regarding the drainage. He said that some might say that leaving the unauthorized building in
38 its current location may merit some drainage improvements, but that is a gray area.

39
40 Mr. Passalacqua asked Mr. Hall if he is indicating that for simplicity sake, if the Board approves the

1 variance with special conditions, the neighbors would have some form of recourse by filing a complaint
2 because the drainage requirement is not being adhered to.

3
4 Mr. DiNovo stated that there are two variances, one for the existing building, and one for the proposed
5 addition. He said that the Board could separate the two variances and make separate findings and
6 determinations for Parts A and Part B. He said that it would make sense to require a special condition
7 regarding the drainage of the downspouts on the existing garage and would not apply to the downspouts
8 on the addition.

9
10 Mr. Hall stated that it would not apply to the addition if the 10 feet side yard is required.

11
12 Mr. DiNovo stated that if the variance for the addition is denied or is no longer required then no special
13 conditions can be imposed. He said that the Board should move forward to consider the findings with
14 respect to Part A, which is the existing building.

15
16 Mr. DiNovo asked the Board if they desired special conditions regarding Part A. only.

17
18 **Mr. Passalacqua moved, seconded by Mr. Elwell, that a special condition be imposed for Part A.**
19 **of Case 891-V-17 stipulating that the drainage tile be required, and prepare separate findings and**
20 **determinations for Part A. and Part B. The motion carried by voice vote.**

21
22 Mr. Passalacqua stated that he is only concerned about the west side of the existing building that faces
23 the Smith's property and does not expect the downspouts on the east side of the existing building to be
24 connected to the drainage tile.

25
26 Mr. DiNovo asked Mr. Elwell if he agreed with Mr. Passalacqua's concern.

27
28 Mr. Elwell stated yes.

29
30 **The motion carried by voice vote.**

31
32 Mr. Hall stated that the petitioner must agree to the special condition.

33
34 Mr. Rednour stated that if the variance for Part B. is denied, then he does object to the special condition
35 for Part A.

36
37 Mr. Hall clarified that if Mr. Rednour objects to the special condition for Part A., the Board would be in
38 the position where they could deny Part A. He said that it sounds like the Board is inclined to deny Part
39 B., and if they deny Part A. Mr. Rednour would have to modify the existing shed. He informed Mr.
40 Rednour that he could file an appeal with the courts if the case is denied. He asked Mr. Rednour if he

1 still objected to the proposed special condition for Part A.

2
3 Mr. Rednour stated that he isn't sure that he fully understands all the legal ramifications involved, but it
4 sounds like the Board is holding all the cards, so yes, he still objects.

5
6 Mr. Hall informed Mr. Rednour that he could request a continuance so that he would have time to
7 discuss the case with an attorney.

8
9 Mr. Rednour stated that if Part B. is denied then there is no point.

10
11 Mr. Hall explained that if Part B. is denied, the proposed addition would have to meet the requirements
12 of the Ordinance, but if Part A. is denied, the existing shed will have to be modified to meet the
13 requirements of the Ordinance, or go to court.

14
15 Mr. Passalacqua stated that the Board does not want to set a bad tone. He said that the Board does not
16 have the predisposition to deny the requests, but the approval must work as best that it can for everyone.
17 He said that there is no ulterior motive to deny and the Board would like to say yes. He said that the
18 Board needs to design the yes vote so that it puts it on good grounds for Mr. Rednour and his neighbors.
19 He said that there is no inclination to deny the case, and when Mr. Hall indicates that an attorney may
20 need to be involved does not mean that he is being threatening, but is only suggesting an attorney to
21 make sure that everything is very clear.

22
23 **Mr. Passalacqua moved, seconded by Mr. Elwell, to recess the Board for a five-minute break. The**
24 **motion carried by voice vote.**

25
26 **The Board recessed at 7:56 p.m.**

27 **The Board resumed at 8:02 p.m.**

28
29 Mr. DiNovo asked the Board how they wished to proceed. He said that there is some question as to
30 whether the Board is barred from imposing a special condition that the petitioner objects to, but Mr.
31 DiNovo thinks that the Board should move forward even though the petitioner does not agree. He asked
32 the Board for input. He said that the Board does not normally proceed without the petitioner's
33 agreement, but currently we are at an impasse.

34
35 Mr. Hall stated that he would be happy in moving forward with a special condition, although Mr.
36 Rednour has indicated that he objects to the special condition, and then if the Board would approve Part
37 A. and the special condition isn't complied with, it would become an enforcement issue and would be
38 sent to the State's Attorney. He said that once the enforcement issue was sent to the State's Attorney,
39 staff could obtain an opinion on whether a petitioner must agree to a special condition. He said that his
40 concerns about what he has been told should not restrict the Board regarding this instance and he is

1 comfortable with moving forward even though there is a disagreement between the petitioner and the
2 Board.
3
4 Mr. Passalacqua asked Mr. Rednour if he would be agreeable to tiling the new construction to the pond.
5
6 Mr. Rednour stated that, to be clear, he does not object to placing tile anywhere, but the whole reason
7 why he applied for the variance, paid the \$200 fee, and wasted over three months' time to be heard by
8 this Board, was because he needed to know if Part B. was going to be approved. He said that if Part B. is
9 not going to be approved, then he wasted his time and money. He said that he isn't trying to be a jerk,
10 and not install tile to alleviate the drainage problem that the neighbors believe is occurring due to the
11 existing shed. He said that if he knew that Part B. was going to be approved with the same special
12 condition regarding the tile, then he would be all for it, but at this point he has no leverage in knowing
13 what the Board's decision is going to be.
14
15 Mr. Passalacqua stated that the new construction is going to be larger and will create more water runoff.
16 He said that the neighbors testified that water is a problem due to the existing structure, and Mr.
17 Rednour testified that there is no water problem, and no one knows what type of water problem would
18 be created with the new construction. He said that Mr. Rednour could install one tile with multiple
19 outlets to alleviate the water concerns.
20
21 Mr. DiNovo stated that the Board should keep in mind how much the additional two feet will infiltrate
22 onto the petitioner's property before it reaches the adjacent property, and he is inclined to believe that
23 the additional two feet is not going to matter that much.
24
25 Mr. Passalacqua stated that Mr. DiNovo is referring to whether or not the addition is parallel or in line
26 with the existing structure.
27
28 Mr. DiNovo stated that if the addition is constructed at 8 feet or 10 feet, there will be downspouts
29 running into a tile to alleviate the water concerns.
30
31 Mr. Passalacqua stated that aesthetically it would look better if the walls matched, but if the side yard
32 setback is varied and tiled he would be able to give up the two feet. He said that being a person who
33 owns six large buildings that are pole construction on slab and have gutters that need repaired, he wishes
34 all the downspouts were tiled. He said that he is less inclined to require that the building be offset if the
35 tile would be run from the downspouts on the west side to the pond. He said that he does not know how
36 much permeation would be created by the additional 2 feet.
37
38 Mr. DiNovo asked Mr. Passalacqua if he wanted to combine Part A. and B. and consider the criteria
39 under one question.
40

1 Mr. Passalacqua stated that this is the result that the petitioner is looking for, and if the Board addressed
2 the drainage issue he is less concerned about the 2 feet.
3

4 Mr. DiNovo requested a motion to reverse the previous motion and combine the findings and
5 determination for Part A. and B.
6

7 Mr. Passalacqua asked Mr. Hall if the variances in Part A and B. should be revised to indicate 7 feet, six
8 inches. He said that one of the things that the Board struggles with is an accurate site plan because that
9 is what the variance is based upon. He said that he sympathizes with the petition regarding the amount
10 of time that it has taken to get to the Board and he cannot explain why it has taken three months, but this
11 is the first time that he has seen any information regarding this case and a good site plan has not been
12 submitted.
13

14 Mr. Hall stated that when someone submits a zoning case application, they are informed that there is no
15 guaranteed approval, and it could take at least one month to be heard and it is not unreasonable to expect
16 to have a longer wait during the holidays.
17

18 Mr. Passalacqua stated that he understands Mr. Rednour's frustration, but staff is clear regarding what is
19 necessary for the site plan and the submitted plan lacks some of those things.
20

21 Mr. DiNovo stated that the Department of Planning and Zoning does not have the funds to hire a
22 surveyor to establish the setbacks precisely.
23

24 Mr. Passalacqua stated that his statement was only in the interest to be accurate so that Mr. Rednour
25 receives what he is supposed to.
26

27 Mr. DiNovo stated that it is extremely difficult to measure something that is 150 feet from the property
28 pin.
29

30 Mr. Passalacqua asked Mr. DiNovo what he would recommend regarding the requested setback, 7 feet,
31 six inches or 8 feet.
32

33 Mr. DiNovo recommended that the variance be revised to indicate a side yard of 7 feet, 6 inches side
34 yard and that the Board moves to the findings for Part A. only. He said that when the Board considers
35 Part B. the Board can consider the special condition regarding the tile.
36

37 Mr. Randol stated that both requests have indicated an 8 feet side yard and no proof has been submitted
38 to indicate the claim of 7 feet, 6 inches; therefore, the variance requests should remain as stated.
39

40 Mr. DiNovo stated that unless there is a motion to revise the variance, it will remain at 8 feet, and the

1 Board will review the findings for Part A. only. He said that there is one special condition for Part A.
2 which is as follows:

- 3
- 4 **A. The petitioner shall apply for a Zoning Use Permit for the existing detached**
- 5 **garage and pay associated fees.**
- 6

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

8
9 **That all structures on the subject property have the required Zoning Use**
10 **Permits.**

11
12 **FINDINGS OF FACT FOR PART A. OF CASE 891-V-17:**

13
14 **From the documents of record and the testimony and exhibits received at the public hearing for**
15 **zoning case 891-V-17, Part A. held on February 15, 2018, the Zoning Board of Appeals of**
16 **Champaign County finds that:**

- 17
- 18 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
- 19 **involved, which are not applicable to other similarly situated land and structures elsewhere**
- 20 **in the same district.**
- 21

22 Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land
23 or structures involved, which are not applicable to other similarly situated land and structures elsewhere
24 in the same district because the existing non-compliant garage was placed by others.

- 25
- 26 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
- 27 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
- 28 **structure or construction.**
- 29

30 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of
31 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
32 structure or construction because to bring the existing structure into compliance would be too costly.

33
34 Mr. DiNovo stated that it would require its complete demolition and reconstruction.

- 35
- 36 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**
- 37 **from actions of the applicant.**
- 38

39 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
40 NOT result in actions of the applicant because it was an existing structure.

1
2 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony**
3 **with the general purpose and intent of the Ordinance.**
4

5 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS
6 in harmony with the general purpose and intent of the Ordinance because it is designed to minimize the
7 impact on the property owner and the neighbor.
8

9 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT be**
10 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
11 **welfare.**
12

13 Mr. Passalacqua stated that testimony has been received that the building is injurious. He said that
14 without the proposed special condition for the tile, the Board cannot answer this finding in the
15 affirmative.
16

17 Mr. Hall stated that the Board will have to come to terms in their own mind that the existing building is
18 a 20 feet long wall. He said that testimony has been received indicating that the 20 feet wall and the roof
19 and the tributary drainage is harming the neighboring crops.
20

21 Mr. DiNovo stated that it is a 120-square foot catchment and the Board needs to know the background of
22 *Illinois Drainage Law*. He said that the absence of changing the topography of the upstream land, the
23 downstream landowner has the responsibility to accept what comes to them if it doesn't exceed the 50-
24 year runoff.
25

26 Mr. Passalacqua stated that the Board could answer this finding in the affirmative based on the sheer
27 size.
28

29 Mr. DiNovo asked if it makes a difference in the variance in having the building setback 8 feet in lieu of
30 10 feet, because the landowner has the right to have his downspouts facing the west.
31

32 Mr. Passalacqua stated that based upon Mr. DiNovo's statements he would be comfortable with
33 answering the finding in the affirmative.
34

35 Mr. DiNovo stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL
36 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare
37 because the impact of the variance itself is very small compared to what would be permitted as of right.
38
39

40 **6. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum**

1 variation that will make possible the reasonable use of the land/structure.

2
3 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS
4 the minimum variation that will make possible the reasonable use of the land/structure because it does
5 not impose undue expense.

6
7 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE**
8 **PARTICULAR PURPOSES DESCRIBED BELOW:**

9
10
11 **A. The petitioner shall apply for a Zoning Use Permit for the existing detached**
12 **garage and pay associated fees.**

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

15 **That all structures on the subject property have the required Zoning Use**
16 **Permits.**

17
18 Mr. DiNovo asked Mr. Rednour if he agreed to special condition A.

19
20 Mr. Rednour agreed to special condition A.

21
22 Mr. DiNovo entertained a motion to adopt the Summary of Evidence, Documents of Record, and
23 Findings of Fact, for Case 891-V-17, Part A.

24
25 **Mr. Passalacqua moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents**
26 **of Record, and Findings of Fact, as amended, for Case 891-V-17, Part A. The motion carried by**
27 **voice vote.**

28
29 Mr. DiNovo entertained a motion to move to the final determination for Part A. of Case 891-V-17.

30
31 **Mr. Passalacqua moved, seconded by Mr. Randol, to move to the final determination for Part A.**
32 **of Case 891-V-17.**

33
34 **FINAL DETERMINATION FOR PART A. OF CASE 891-V-17:**

35
36 **Mr. Passalacqua moved, seconded by Mr. Elwell, that the Champaign County Zoning Board of**
37 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
38 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the**
39 **authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning**
40 **Board of Appeals of Champaign County determines that:**

Variance Part A requested in Case 891-V-17 is hereby GRANTED WITH ONE CONDITION to the petitioner, Jesse Rednour, to authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize the construction and use of an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

SUBJECT TO THE FOLLOWING CONDITION:

- A. The petitioner shall apply for a Zoning Use Permit for the existing detached garage and pay associated permit fees.

Mr. DiNovo requested a roll call vote.

The roll was called as follows:

Randol – yes Capel – absent Elwell -yes
Griest – absent Lee – absent Passalacqua – yes
DiNovo - yes

FINDINGS OF FACT FOR PART B. OF CASE 891-V-17:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 891-V-17, Part B. held on February 15, 2018, the Zoning Board of Appeals of Champaign County finds that:

Mr. DiNovo apologized to the Board for getting ahead of himself, and informed the Board that they must approve the proposed special condition regarding the drainage tile for the new shed.

Mr. Elwell stated that if the Board approves the variance for the new shed, he would like to require tile from the downspouts on the west side of the new shed to drain to the pond on the south end of the property.

Mr. DiNovo read the special condition as follows:

- A. The petitioner shall install drainage tile from the downspouts on the west side of the new garage to drain to the pond on the south end of the subject property.

1
2 The special condition stated above is to ensure the following:

3 **To protect neighboring farm ground from excessive drainage runoff.**
4

5 Mr. DiNovo entertained a motion to approve special condition A.
6

7 **Mr. Elwell moved, seconded by Mr. Passalacqua, to approve special condition A.**
8

9 Mr. DiNovo asked Mr. Rednour if he agreed to the special condition.
10

11 Mr. Rednour stated that he agreed to the special condition, but only if the variance is approved.
12

13 **The motion carried by voice vote.**
14

15 Mr. DiNovo asked if a special condition is required regarding the required permit for the new shed.
16

17 Mr. Hall stated that a special condition is not necessary because a permit is already required for any new
18 construction.
19

20 Mr. DiNovo stated that the Board will continue with Finding of Fact #1.
21

22 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
23 **involved, which are not applicable to other similarly situated land and structures elsewhere**
24 **in the same district.**
25

26 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land and
27 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
28 the same district because the original structure was shy of the required 10 feet.
29

30 Mr. Passalacqua stated that the petitioner wants to maintain the aesthetic.
31

32 Mr. DiNovo stated that an unobstructed view of the residence, and the driveway location is already
33 established.
34

35 Mr. Passalacqua stated that the driveway will have to be modified anyway so he does not understand Mr.
36 DiNovo's point. He said that the driveway doesn't go to a building that is not there.
37

38 Mr. DiNovo stated that the petitioner alluded to a turning radius question for getting into the garage.
39

40 Mr. Hall suggested that the Board indicate that the petitioner wants to maintain the aesthetic of a

1 common wall line on the west side, because if this case would go before a judge, the judge is going to
2 want to know what is meant by maintaining the aesthetic.

3
4 Mr. Passalacqua agreed, and revised his finding statement as follows: the petitioner wants to maintain
5 the aesthetic of a common wall line on the west side and an unobstructed view of the residence.

6
7 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
8 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
9 **structure or construction.**

10
11 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
12 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
13 or construction because the existing structure will be used in conjunction with the new construction.

14
15 Mr. DiNovo stated that it will complicate the construction of the new building and its connection to the
16 existing structure.

17
18 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**
19 **from actions of the applicant.**

20
21 Mr. Randol stated that special conditions, circumstances, hardships, or practical difficulties DO NOT
22 result from action of the applicant because the existing structure was built by a previous owner.

23
24
25 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony**
26 **with the general purpose and intent of the Ordinance.**

27
28 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS
29 in harmony with the general purpose and intent of the Ordinance because it is designed to protect both
30 land owners, and creates a recourse for complaints.

31
32 Mr. DiNovo stated that with the special condition the new structure will not worsen drainage concerns.

33
34 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT be**
35 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
36 **welfare.**

37
38 Mr. Elwell stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL
39 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare
40 because the water is being diverted away from the neighboring property.

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Mr. DiNovo stated that this is a relatively small variance and the proposed building will not be as tall as the ordinance permits. He said that in terms of shading the adjacent property, a taller building could be built two feet farther back which would create worse shading problems.

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

Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure because it permits the useful size and location of the garage for the property owner and it also addresses the drainage concerns of the adjacent property owner.

7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

A. The petitioner shall install drainage tile from the downspouts on the west side of the new garage to drain to the pond on the south end of the subject property.

The special condition stated above is to ensure the following:
To protect neighboring farm ground from excessive drainage runoff.

Mr. DiNovo entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended.

Mr. Passalacqua moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended. The motion carried by voice vote.

FINAL DETERMINATION FOR PART B. OF CASE 891-V-17:

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

Variance Part B requested in Case 891-V-17 is hereby GRANTED WITH ONE CONDITION to the petitioner, Jesse Rednour, to authorize the following variance in the AG-1 Agriculture Zoning District:

ZBA

AS APPROVED MARCH 15, 2018

2/15/18

Part B: Authorize the construction and use of an addition to an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

SUBJECT TO THE FOLLOWING CONDITION:

A. The petitioner shall install drainage tile from the downspouts on the west side of the new garage to drain to the pond on the south end of the subject property.

Mr. Passalacqua asked staff if there is a timeline for installation of the drainage tile.

Mr. Hall stated that installation should be concurrent with the construction of the building, which is begin construction within six months and complete construction within 12 months.

Mr. DiNovo requested a roll call vote.

The roll was called as follows:

Randol – yes	Capel – absent	Elwell -yes
Griest – absent	Lee – absent	Passalacqua – yes
DiNovo - yes		

Mr. Hall informed Mr. Rednour that he has received approval for his variance requests. He noted that Ms. Burgstrom will be in contact regarding whether staff has all the required paperwork required to approve the Land Disturbance and Zoning Use Permit Application, and if so, staff will process the permit.

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Hall reminded the Board that there is a special meeting on March 1st.

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

None

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10. Adjournment

Mr. DiNovo entertained a motion to adjourn the meeting.

Mr. Passalacqua moved, seconded by Mr. Randol, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 8:38 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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2