STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
Brinkman Family Trust, % Darleen McCaslin, Byron Township

Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 24th day
of September A.D. 2009
before the Ogle County
Zoning Board of Appeals

Present:
Maurice Bronkema
Randall Anderson
Maynard Stivers
Curtis Freeberg
Bruce McKinney, Chairman
Michael Reibel, Zoning Administrator

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MR. McKINNEY: Next order of business.

MR. REIBEL: Next order of business is to consider the request filed August 17th, 2009 of the Brinkman Family Trust, care of Darleen McCaslin, Trustee, 324 North Union Street, Box 28, Byron, Illinois for an Amendment to the Zoning District to rezone from AG-1 Agricultural District to R-1 Rural Residence District on property described as follows and owned by the Petitioner:

Part of the SW1/4 of the SW1/4 Byron Township 25N, R10E of the 4th P.M., Ogle County, IL, 17.40 acres, more or less.

Property Identification Number: 04-25-300-003.

Common Location: 2104 East Illinois Route 72.

For the record, a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held. All adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition. A legal notice was published in the Monday, September 4th edition of the Ogle County Life, again, notifying the public of the hearing this evening and the specifics of the petition.

Under the Staff Report, a copy of which is on file and the Board Members have received, I will point out under general information the site is located at the northeast corner of the intersection of East Illinois Route 72 and North Mill Road.

Existing land use, the site contains a single-family dwelling and several farm buildings. Approximately 7.2 acres, or 41.4 percent, of the site is in cropland. The remainder of the site is in buildings, driveway, concrete (former cattle yard), yard area and grassland.

Surrounding land use and zoning, the site is adjoined on the west and south (south of Illinois Route 72) by cropland zoned AG-1, and on the north (north of the railroad) and east by large-lot rural residential parcels zoned AG-1. Two parcels north and within 300 feet of the site are in residential use and zoned R-1 Rural Residence District. One parcel north and within 425 feet of the site is zoned R-2 Single Family Residence District. The City of Byron is within one-third of a mile northeast of the site, and

is developed as a residential subdivision in this area.

There is no previous zoning history on this site.

Applicable regulations, the R-1 district is established for low-density residential uses. It is designed for areas with few or no public improvements and where general conditions are not conducive to other than low-density development.

Special Information: No public utilities are available to the site at this time.

Transportation, East Illinois Route 72 is a State-maintained highway. North Mill Road is a seal-coat surfaced, Township-maintained road.

Physical characteristics, the site consists of upland areas, stream terrace areas, and bottomland floodplain areas, with slopes on the site ranging from sloping to gently sloping to nearly level. According to the Ogle County Digital Soil Survey, soil types on the site are: 24B - Dodge silt loam, 2 to 5 percent slopes; 105B - Batavia silt loam, 2 to 5 percent slopes; 125A - Selma loam, 0 to 2 percent slopes; 199B -

Plano silt loam, 2 to 5 percent slopes; 199C2 - Plano silt loam, 5 to 10 percent slopes; 570B - Martinsville silt loam, 2 to 5 percent slopes; and, 3776A- Comfrey loam, 0 to 2 percent slopes, frequently flooded.

99 percent of the soils on the site are classified as "Prime, with the remaining 1 percent being "Farmland of Statewide Importance"; 36.2 percent of the soils have seasonal water tables of 0 to 25 centimeters and are frequently to occasionally ponded, with the remainder of soils being greater than 200 centimeters; 20.3 percent of the soils are classified as having no flooding; 40.5 percent of the soils are rated as being "very limited" for septic fields due to slow water movement, seepage in the bottom layer, depth to saturated zone, ponding, and flooding, with the remainder of soils being rated as "somewhat limited" for septic fields.

Under the LESA Program, the LESA score of 178.1 indicates a Low rating for protection. Land evaluation score being 82.11.

Site assessment, 96.

In a letter from the Ogle County Soil and Water Conservation District:

"The District would like to list the following facts that could be a concern to the protection of our county's natural resources: A land evaluation score of 82.11 out of a hundred; the site appears to be an old farmstead with a few small fields that are still used for rotated row crops; and severe limitations in the soils due to low strength for supporting loads.

Signed by Phil Fossler, Chairman; Brian Lindquist, Resource Conservationist."

The Illinois Department of Natural Resources reports that:

"The natural resource review provided by Eco-Cat identified protected resources that may be in the vicinity of the proposed action. The Department has evaluated this information and concluded that adverse effects are unlikely, therefore consultation is terminated."

I have a letter on file from the City of Byron dated September 23rd, 2009 which reads:

"Please accept this letter as notice that

the City of Byron has no position or objection regarding the petition for a zoning map amendment for the Brinkman Family Trust.

Signed by Larry M. Hewitt, Building and Zoning Official."

And at the September 17th, 2009 meeting of the Ogle County Regional Planning Commission, Mr. Colson made a motion to recommend approval of Petition 8-09 based on the Low LESA score, the fact that the proposal fits the City of Byron and the Ogle County Comprehensive Plans and that it fits the trend and character of the area. Seconded by Mr. Conn. Motion carried unanimously by roll call vote.

That's all I have.

MR. McKINNEY: Need a motion to go back into public hearing.

MR. BRONKEMA: So moved.

MR. FREEBERG: Seconded.

MR. McKINNEY: Maury's moved, Curtis has seconded to go back into a public hearing. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say no.
Motion passed.
MR. BRONKEMA: One thing I want to bring up before we do, we had another hearing. It said no previous zoning hearing and we did.
MR. REIBEL: You're right, we did, Special Use Permit. We can correct that for the record. There was a Special Use Permit that this Board --
MR. BRONKEMA: I was here long enough to remember that.
MR. REIBEL: I'm sorry, I forgot about that. This Board recommended approval and the County Board denied that petition.
SHEILA NORUP,
being first duly sworn, testified as follows:
MR. McKINNEY: Give her your name.
MS. NORUP: I'm Sheila Norup, I work at Re/Max Professionals Advantage. I live at 2334 Route 72. I am a house away from the property. Leaf River is my address.
MR. REIBEL: The Petitioner is here too.
MR. McKINNEY: Were you going to be testifying also?

MS. McCASLIN: No, I will have her represent me if that's okay.
MS. NORUP: She could come up too if you wanted her to.
MR. BRONKEMA: Have her sworn in case we have a question.
MR. McKINNEY: Let me swear you in in case we have a question for you.
MR. BRONKEMA: That way if we have a question.
DARLEEN McCASLIN,
being first duly sworn, testified as follows:
MR. McKINNEY: Give her your name.
MS. McCASLIN: Darleen McCaslin, 324 North Union in Byron.
MR. McKINNEY: Okay. Tell us about the petition.
MS. NORUP: I do have a potential buyer and what he wants to do is we're going to split the property and we're going to have 11 to 12 acres. I think you all have a diagram too. That's going to leave approximately five acres in the corner of Mill Road and Route 72. The potential buyer is going to take down the old

shed that's off to the very back of the property. He's going to remodel the house, and his potential plans are for his son, Kip -- which Kenny has his shop down on Conger Road -- eventually for his son to live in the house once he rehabs the house.
He wants the option to, if he ever wanted to split with a five-acre tract, he wants the option to be able to split it if he ever wanted to split it again, and then for the zoning of R-1 to have one hoofed animal per acre.
I live just a house away from this house. I'm sitting on seven acres. I have got some animals: I have got like a llama, I have got a couple goats. And as an adjoining neighbor a house away, I think that by Kenny going in there to redo the house and fix this house up -- he's going to do like the roof, do the kitchen, the bathroom, go from room to room to remodel the house.
My husband's lived where we're at, he's been there for over 25 years.
MR. McKINNEY: You had mentioned at the Planning Commission meeting that they possibly

may take off the second floor of the house?
MS. NORUP: Right. Kenny's wife and him both came out there and when Kenny got on the outside he said, Sheila, say I'm going to remodel, because he's not for sure. Him and his wife have talked, because it does need a roof so he was thinking about either taking off the top part of the house and making it just a one-story house or he said that they might decide just to put a new roof on the house and keep the upstairs. So he wants the option, he said, to be able to do either or. And I didn't know that until we walked outside.
MR. BRONKEMA: He's just interested in the one section of land you're talking about and then there will still be two different properties left?
MS. NORUP: Total what Kenny is buying is the 11 to 12 acres right through here, and he wants the option if later on down the road if he did want to to be able to put a driveway in here. He wanted the option to be able to maybe split this if he wants to.
MR. McKINNEY: So he's not buying that

far --
MS. NORUP: The red section he's not buying, correct.
MR. McKINNEY: Is the Brinkman Family currently looking at putting a house on that?
MS. NORUP: No. We do have it on the market, it's listed for 79,9.
MR. McKINNEY: I want to commend whoever cleaned up that property, did a great job from what it looked like.
MR. BRONKEMA: Made our job easier.
MS. NORUP: It really looks good, because people kept thinking that I'm the one that complained, it wasn't me.
MS. McCASLIN: I don't blame anybody for complaining.
MS. NORUP: It wasn't me though. I mean, I make my husband keep everything organized.
MS. McCASLIN: I'm sorry it ever happened, but I was out of the picture all this time.
MR. McKINNEY: Does anybody on the Board have any questions?
MR. STIVERS: I'm not sure, you were talking about this red area, what's being done

with that?
MS. NORUP: Okay. That's what we have got on the market right now. We have got -- subject to zoning, we have got a five-acre tract left just subject to a survey. This is what the new buyer is going to be buying, and this is what's going to be left.
MR. STIVERS: I see.
MR. BRONKEMA: But you want to zone the whole thing?
MS. NORUP: Correct, R-1, so then whoever buys this one if we have got five acres we could have potentially five animals with hoofs.
MR. McKINNEY: And none of the property's in a flood zone?
MS. NORUP: According to what I can see from the GIS, it looks like this small section back here is.
MR. McKINNEY: Any other questions?
MR. BRONKEMA: I don't think anybody would build clear back there anyway next to the railroad.
MR. STIVERS: Sheila, how close -- what percent would you say that there is going to be

a buyer?
MS. NORUP: For the corner piece?
MR. STIVERS: For what you're selling now.
MS. NORUP: We do have a buyer.
MR. STIVERS: You're sure?
MS. NORUP: Yes, we have an offer. We have an accepted offer subject to zoning and subject to survey.
MR. REIBEL: For the east 11 to 12 acres.
MS. NORUP: Yeah, 11 to 12, right.
MR. ANDERSON: So if he can get it passed then it will be sold.
MS. NORUP: But if we look behind, behind some of it is zoned R-1, some of it is zoned AG and some of it, like Mike said, some of it was zoned R-2. So if I walk behind it, I go across the tracks, I'm seeing some of it zoned R-1, some of it zoned R-2.
MR. STIVERS: Okay.
MR. BRONKEMA: Really at this point, I mean, it's still going to stay the same even though we rezone it. I mean you still got your farm property.
MS. NORUP: Right. It's just that we're

splitting -- actually I'm splitting the ground.
MR. BRONKEMA: It will probably still be farmed.
MR. McKINNEY: It still -- or there's a chance that two more houses will be built.
MR. BRONKEMA: Yeah.
MR. STIVERS: It's got to look better than what it did before.
MR. REIBEL: Yeah.
MS. NORUP: Now, the person that's got the offer on it is my husband's cousin, Kenny Norup, and when Kenny goes in to do anything Kenny does it very, very well. I mean, I'm glad that he's the buyer because when he does stuff it's not going to be done just partially. When Kenny goes in you're going to see the house, a very, very nice house.
MR. BRONKEMA: It will be first class if he does it, plus it will have a good septic system.
MS. NORUP: I mean, I have seen Kenny with stuff before.
MR. McKINNEY: Okay. Any other questions?
MS. NORUP: Thank you.

MR. McKINNEY: Thank you.
Is there anybody here that wishes to testify in favor of the petition?
I'm sorry, Mike, there was no letter of appearance, was there?
MR. REIBEL: No.
MR. McKINNEY: Is there anybody here that wishes to testify opposing the petition?
Seeing none, we'll go back into open session. Is there a motion?
MR. BRONKEMA: So moved.
MR. ANDERSON: Second.
MR. McKINNEY: Maury's moved, Randy has seconded to go back into open session. All those in favor signify by saying aye.
(All those simultaneously responded.)
MR. McKINNEY: Any opposed say nay. Motion passed, we're back into open session. Go through our finding of facts.
MR. REIBEL: Amendment Standard 1) That the proposed amendment will allow development that is compatible with the existing uses and zoning of nearby property.

MR. BRONKEMA: Use of the site and immediate area for a large lot residential use is compatible with the existing large lot residential use north and west of the site and existing zoning of nearby properties of which two residential parcels north and within 300 feet of the site are currently zoned R-1 Rural Residential District. I feel that standard's met.
(All those simultaneously agreed.)
MR. REIBEL: 2) That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property, including but not necessarily limited to schools, police and fire protection, roads and highways, water supply and sewage disposal while maintaining adequate public facilities and levels of service to existing development.
MR. ANDERSON: The development of the site for residential use will not create a burden on the County of Ogle and other public service providers due to its location on a State

highway, seal-coat surfaced, Township road and the low density of development that will be generated on the site. I feel that standard's met.
(All those simultaneously agreed.)
MR. REIBEL: 3) That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment including air, noise, stormwater management, wildlife and natural resources.
MR. BRONKEMA: No adverse impact on other properties in the vicinity of the subject site or the environment including noise, air, stormwater management, wildlife and natural resources are anticipated from the development of the site. Standard met.
(All those simultaneously agreed.)
MR. REIBEL: 4) That the subject property is suitable for the proposed zoning classification.
MR. FREEBERG: The site is suitable for

the R-1 zoning district as it conforms to the minimum lot size width requirements, it is in a rural residential area near other similar uses, it is located within a third of a mile of the City of Byron, and the majority of the site is in uses other than cropland, it is located on a State highway on seal-coated, Township roads. Standard's met.
(All those simultaneously agreed.)
MR. REIBEL: 5) That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.
MR. BRONKEMA: There is a trend of development in the vicinity of the rural residential use and the site is within one-third mile of the City of Byron. The proposed zoning classification of R-1 Rural Residential District is consistent with the trend in the existing zoning and the surrounding land. At the time we

had the hearing before these people wanted to -- didn't want it to be zoned to a junk yard, so they should be happy. So I feel the standard's met.

(All those simultaneously responded.)

MR. REIBEL: 6) That the proposed amendment is consistent with the public interest and not solely for the interest of the applicant giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division 1 therein, the land evaluation and site assessment findings and the recommendation of the Ogle County Regional Planning Commission with respect to the Ogle County Amendatory Comprehensive Plan.

MR. STIVERS: The proposed amendment is consistent with the public interest and not solely for the interest of the applicant, as the LESA score indicates a Low rating for protection, the proposed amendment is consistent with the purpose and intent of the Amendatory Zoning Ordinance, and the Regional Planning Commission has recommended approval. Standard

met.

(All those simultaneously agreed.)

MR. REIBEL: Have the Board Members read and considered the LaSalle factors as applied to this petition?

(All those simultaneously responded yes.)

MR. McKINNEY: Going through the finding of facts, we found that all standards have been met. I will entertain a motion.

MR. BRONKEMA: I'll make a motion that we recommend to the County Board to rezone the Brinkmeier (sic) Family Trust, Darleen McCaslin, Amendment 8-09, with all the standards being met.

MR. FREEBERG: I'll second.

MR. McKINNEY: Maury has moved and Curtis has seconded to recommend to the County Board to approve Amendment No. 8-09.

Roll call.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: Stivers?

MR. STIVERS: Yes.

MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: Yes.

(By voice vote five ayes.)

MR. REIBEL: Five voted yes.

MR. McKINNEY: Motion passed.

MR. REIBEL: This petition does go to the Planning and Zoning Committee on October 14th for recommendation and to the County Board for decision on October 20th. The Planning and Zoning Committee meets at 1 o'clock in the Sheriff's Training Room at the Sheriff's Office on Jefferson Street. You don't need to be there for that but you're welcome to attend if you want to. And the County Board meets at 5:30 in the evening on October 20th right here in this room.

MS. NORUP: Do I need to be there?

MR. REIBEL: You're welcome to but you don't need to be there.

MS. NORUP: So I don't have to talk?

MR. REIBEL: No.

MS. NORUP: And as far as our survey, we still have to order that, so should we wait until both meetings are done then because it's going to take us a little while to get the survey done.

MR. REIBEL: It's up to you.

MS. NORUP: See, I'd like to close on the property once all your meetings are done.

MR. REIBEL: Give me a call.

MR. McKINNEY: Any further business?

MR. REIBEL: No further business.

MR. McKINNEY: Meeting's adjourned.

(The hearing was concluded at 7:59 p.m.)

Now on this 24th day of September, A.D. 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

Callie S. Bodmer
Certified Shorthand Reporter
Registered Professional Reporter
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Dixon, Illinois 61021

STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
Glenn E. Koos, Oregon-Nashua Township
Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 24th day
of September A.D. 2009
before the Ogle County
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Present:
Maurice Bronkema
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Maynard Stivers
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MR. McKINNEY: Call this meeting to order. Please stand for the Pledge of Allegiance.

(The Pledge of Allegiance was recited.)

MR. McKINNEY: Roll call, please.

(Roll call was taken and all were present.)

MR. McKINNEY: We do have a quorum.

The verbatim transcripts serving as minutes from the last meeting are on file and will not be read at this time.

I'll entertain a motion to approve the minutes of the last ZBA meeting.

MR. BRONKEMA: So moved.

MR. FREEBERG: Second.

MR. McKINNEY: Been moved and seconded. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passed.

All testimony will be taken under oath. Please come forward to testify and state your name and address to the recording secretary,

please spell your last name. When testifying please speak clearly and loud enough to be heard. This meeting is the only opportunity to place testimony and evidence on the record. There will not be another opportunity beyond tonight's hearing to submit additional evidence or testimony for consideration.

Please turn off all cell phones and pagers.

The procedures on hearings that will be followed tonight is as found in the ZBA Rules of Procedures or the Citizens Guide to the Zoning Board of Appeals, which is available up here on the table.

Mr. Lloyd Funk is present representing the Ogle County Planning Commission, if any Board Member has any question on their action on the petitions at this hearing.

If anyone has trouble hearing, please let us know.

Mr. Reibel, first order of business.

MR. REIBEL: First order of business is to consider the request filed August 10th, 2009 of Glenn E. Koos, 2795 Brooks Island Road, Oregon,

Illinois, for a Variation to allow a dwelling addition to be constructed 20 feet from a rear lot line in lieu of 30 feet as required pursuant to the Ogle County Amendatory Zoning Ordinance on property described as follows and owned by the Petitioner:

Lot 65, 68 and 69 Brooks Island Subdivision, part of the E1/2 of the SW1/4 Section 16 Oregon-Nashua Township 23N, R R10E of the 4th P.M., Ogle county, Illinois.
Property Identification Number: 16-16-379-012.
Common Location: 2795 Brooks Island Road.

For the record, a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held. All adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition, and a legal notice was published in the Monday, August 31st edition of the Ogle County Life, again, notifying the public of the hearing this evening and the specifics of the petition.

Under the Staff Report, a copy of which is on file and the Board Members have received, I will point out under general information the

location of the site is located on the south side of Brooks Island Road beginning approximately 100 feet east of the T-intersection of the north-south segment of Brooks Island Road and the east-west segment of Brooks Island Road.

The size of the parcel is 0.32 acres, more or less. 75 feet lot width.

The existing land use is residential. The site contains a single-family dwelling.

Surrounding land use and zoning, the site is located within a residential subdivision.

Zoning history, the site and surrounding area were zoned R-2 Single-Family Residence District in 1965 upon the adoption of the first Ogle County Zoning Ordinance. The dwelling onsite appears to have been constructed prior to 1965.

Applicable regulations, the R-2 zoning district requires a rear yard of 30 feet.

Special Information: Public utilities, none. Transportation, Brooks Island Road is a privately-maintained, gravel-surfaced road.

Physical characteristics, the site is

bounded on the south by the Rock River shoreline. The site is located within the floodplain of the Rock River.

That's all I have.

MR. McKINNEY: It is a public hearing, I'll entertain a motion to go into a public hearing.

MR. BRONKEMA: So moved.

MR. FREEBERG: Seconded.

MR. McKINNEY: Maury moved, Curtis seconded to go into a public hearing. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay.

Motion passed, we're in a public hearing.

Mr. Koos?

MR. KOOS: Yes, sir.

MR. McKINNEY: Please come forward, I'll swear you in.

GLENN KOOS,

being first duly sworn, testified as follows:

MR. McKINNEY: Give Callie your name and address.

MR. KOOS: Glenn Koos, K-O-O-S, 2795 South Brooks Island Road, Oregon, Illinois.

MR. McKINNEY: Tell us about your petition.

MR. KOOS: I constructed -- reconstructed a porch with a roof on it on my property without knowledge of having to have a setback from the river, because all my neighbors on either side of me are as close or closer to the river than my property so I really had nobody that there was a problem with that, and I did it.

MR. McKINNEY: Okay, so you're within about 20 feet of the property line?

MR. KOOS: Correct, 20 feet of the river.

MR. McKINNEY: Of the river, okay. What kind of hardship would this cause you if we -- if this variation was denied?

MR. KOOS: I'd have to tear it down. It's a covered porch. It was reconstructed from when I bought -- I bought the property and I tore it off and just got around to redoing it and found out that I was in lieu of the law.

MR. McKINNEY: Okay, so there was a porch there and you tore it down?

MR. KOOS: Correct.
MR. McKINNEY: Okay. How long has the porch been torn down?
MR. KOOS: 10 years.
MR. McKINNEY: Okay. What are you going to be -- this is going to be a seasonal room?
MR. KOOS: Correct, yeah, just open -- just open air room with a roof on it.
MR. McKINNEY: Is this more living space then for you?
MR. KOOS: No, no, it's just a porch, you know, a deck -- a covered deck basically.
MR. BRONKEMA: It's pretty much the same size as what it was before there.
MR. KOOS: Correct.
MR. BRONKEMA: Or probably within a few feet.
MR. KOOS: Couple feet.
MR. BRONKEMA: Yeah.
MR. McKINNEY: Any other questions from the Board?
MR. BRONKEMA: Not really. I don't think you're blocking the wind or the sight or the sun or anything from anybody.

MR. KOOS: Yeah, I have got permission -- or all my neighbors have said that, you know, they could write letters or give statements that they don't have any problem with it.
MR. STIVERS: How did you discover that you were wrong?
MR. KOOS: Mr. Reibel.
MR. STIVERS: Okay.
MR. McKINNEY: Any other questions?
Okay. Anybody file a letter of appearance?
MR. REIBEL: No, sir.
MR. McKINNEY: Okay. You can have a seat.
MR. KOOS: Okay. Thank you.
MR. McKINNEY: Is there anybody here that wishes to testify in favor of this petition?
Please come forward and I'll swear you in.
JERRY HENNESSEE,
being first duly sworn, testified as follows:
MR. McKINNEY: Please give Callie your name and address.
MR. HENNESSEE: Jerry Hennessee, H-E-N-N-E-S-S-E-E, 2787 Brooks Island Road.
I have lived on Brooks Island two houses

away from Glenn for about 10 years now. And I know all you are familiar with Brooks Island; in fact, I know you all have been down there to check out this variance. The one thing you may not be aware of is of all the houses that are on Brooks Island Road there are only four that are owned and lived in year round, and one of them is Glenn's and one of them is mine.
I think it would be a shame to deny him that variance when his intention was to increase his property value and make the river life more enjoyable.
MR. McKINNEY: Have you got a front porch on your house or, I mean, are you closer --
MR. HENNESSEE: I am as close -- within a few feet I am as close to the river as he is. I have a living room that is right up next to the river that the front window looks out over the river. I don't have a front deck.
MR. McKINNEY: Okay.
MR. HENNESSEE: My living room is right over the river.
MR. McKINNEY: Anybody else have any questions for Mr. Hennessee?

Okay. Thank you.
Is there anybody else here that wishes to testify in favor of this petition? Is there anybody here that wishes to testify opposing the petition?
Seeing none, I'll entertain a motion to go back into open session.
MR. BRONKEMA: So moved.
MR. ANDERSON: Second.
MR. McKINNEY: Maury moved, Randy seconded to go back into open session. All those in favor signify by saying aye.
(All those simultaneously responded.)
MR. McKINNEY: Any opposed say nay. Motion passed back into open session.
Go through our finding of facts.
MR. REIBEL: Variation Standard A) That the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out.

MR. ANDERSON: The physical surroundings and topography -- and topographic condition of the specific property involved would result in a particular hardship on the owner if the strict letter of the regulations were carried out due to the location, the orientation of on older existing dwelling. In fact, his property is only 75 feet wide, he's not going to have any room to put it anywhere else. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: Standard B) The conditions upon which the petition for a variation are based are unique and would not be applicable generally to other property within the same zoning classification.

MR. BRONKEMA: Well, the conditions upon which the petition for a variation are based are unique and not applicable generally to the other properties within the R-2 Single Family Residential District due to the site's physical surroundings. And he's testifying that he was, you know, back further from the river than most

of them, so I don't think it's going to interrupt anybody. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: C) The purpose of the variation is not based exclusively on a desire to obtain a higher financial return on the property.

MR. FREEBERG: Evidence indicates that the purpose of the variation is not based exclusively upon a desire to obtain a higher financial return but rather to provide additional living area for the occupant of the property. Standard's met.

(All those simultaneously agreed.)

MR. REIBEL: D) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

MR. BRONKEMA: The alleged difficulty or hardship has not been created by the owner or by any person presently having an interest in the property. Standard's met.

(All those simultaneously

agreed.)

MR. REIBEL: E) The granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood where the property is located.

MR. STIVERS: No evidence has been submitted that would indicate the granting of the variation will be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. I feel these standards have been met.

(All those simultaneously agreed.)

MR. REIBEL: F) The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

MR. BRONKEMA: No evidence has been submitted that would indicate that the variation

will impair an adequate supply of light -- and he testified to that -- and air to adjacent property or substantially increase the congestion of the public streets -- it's on the back side, so I don't know why it would bother the street -- or increase the danger of fire, endanger the public safety or substantially diminish or impair property values with the neighborhood. I feel there's no problem there, standard's met.

(All those simultaneously agreed.)

MR. REIBEL: The Zoning Board of Appeals shall not vary the regulations of this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that, A) The plight of the owner is due to unique circumstances.

MR. ANDERSON: The circumstances are unique due to the physical conditions of the site. That standard is met.

(All those simultaneously agreed.)

MR. REIBEL: B) The variation, if granted,

will not alter the essential character of the locality.

MR. FREEBERG: The variation will not alter the essential character of the locality. Standard's met.

(All those simultaneously agreed.)

MR. McKINNEY: Going through the finding of facts we found all standards have been met. If there is nothing further, I'll entertain a motion.

MR. ANDERSON: I'll make a motion to grant the variation for Glenn Koos, Variation No. 10-09, finding all the standards are met.

MR. McKINNEY: Is there a second?

MR. BRONKEMA: I'll second that.

MR. McKINNEY: Randy's moved, Maury has seconded to approve the Variation No. 10-09.

Roll call.

MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: Stivers?

MR. STIVERS: Yes.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: Yes.

(By voice vote five ayes.)

MR. REIBEL: Five voted yes.

MR. McKINNEY: Motion passed.

You can come in and see Mr. Reibel.

MR. KOOS: Pardon?

MR. McKINNEY: You'll need to come in and see Mr. Reibel about getting a building permit.

MR. KOOS: Tonight?

MR. REIBEL: At your earliest convenience. Not tonight.

MR. KOOS: Not going to open the office tonight for me?

MR. REIBEL: No.

MR. KOOS: Thanks.

MR. REIBEL: Thank you.

(The hearing was concluded at 7:15 p.m.)

Now on this 24th day of September, A.D. 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

Callie S. Bodmer
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STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
Robert E. and Margaret P. Mortimer, Pine Rock Township

Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 24th day
of September A.D. 2009
before the Ogle County
Zoning Board of Appeals

Present:
Maurice Bronkema
Randall Anderson
Maynard Stivers
Curtis Freeberg
Bruce McKinney, Chairman
Michael Reibel, Zoning Administrator

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MR. McKINNEY: Next order of business.

MR. REIBEL: Next order of business is to consider the request filed August 11th, 2009 of Robert E. and Margaret P. Mortimer, 3368 Sweeny Road, Chana, Illinois for a Variation to allow an accessory storage building to be constructed 5 feet from the side lot line in lieu of 25 feet as required pursuant to the Ogle County Amendatory Zoning Ordinance on property described as follows and owned by the Petitioners:

Part of the S1/2 of the SE 1/4 Section 27 Pine Rock Township 23N, R11E of the 4th P.M., Ogle County, Illinois, 40.0 acres, more or less.

Property Identification Number: 17-27-400-009.

Common Location: 6500 Block of East Husking Peg Road.

For the record, a sign has been posted along the frontage of the premises indicating that the zoning hearing is to be held. All adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition, and a legal notice was published in the Monday, August 31st edition of the Ogle County Life,

again, notifying the public of this hearing this evening and the specifics of the petition.

Under the Staff Report I will point out under general information -- a copy of the Staff Report is on file and the Board Members have received -- the location, the site is located at the northeast corner of the intersection of South Chana Road and East Husking Peg Road.

Existing land use of the site is agricultural.

Surround land use and zoning, the site is zoned AG-1, and is located within a predominately agricultural area. Three non-farm residential parcels adjoin the site to the west, along with agricultural land. The remainder of the site is adjoined by agricultural uses. All surrounding land is zoned AG-1.

No previous zoning history. Applicable regulations, the required building setback from a township road is 40 feet as measured from the road right-of-way.

Special Information: Public utilities, none. Transportation, East Husking Peg Road is a gravel-surfaced, township-maintained road.

South Chana Road is a bituminous surfaced Ogle County highway.

Physical characteristics, the site is bounded on the west by South Chana Road and on the south by East Husking Peg Road. The site is in an area of rolling terrain, with slopes ranging on the site from nearly level to strongly sloping. The site ranges from being excessively drained to being poorly drained in the lower elevations of the site within and along a small stream that flows through the site from south to north.

I have a letter on file from Pine Rock Township, states -- the letter is dated September 18th, 2009:

"The Pine Rock Township Board discussed your letter of September 1, 2009 notifying us of the proposed variation requested for property in Pine Rock Township filed by Robert and Margaret Mortimer.

The Pine Rock Township Planning Commission approved this request. Following discussion and with approval from the road commissioner, the Township Board approved the request.

Sincerely yours, Carol Eckardt, Pine Rock Township Clerk."

That's all I have.

MR. McKINNEY: This is a public hearing, I'll entertain a motion.

MR. FREEBERG: I'll so move.

MR. McKINNEY: Is there a second?

MR. STIVERS: Second.

MR. McKINNEY: Curtis moved, Maynard seconded to go into a public hearing. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say no. Motion passed, we're in a public hearing.

Petitioner or Petitioners, please come forward.

ROBERT MORTIMER,
being first duly sworn, testified as follows:

MR. McKINNEY: Give Callie your name and address.

MR. MORTIMER: Robert Mortimer, M-O-R-T-I-M-E-R, 3368 Sweeny Road, Chana, Illinois.

MR. McKINNEY: Tell us about your petition.

MR. MORTIMER: Well, Mr. Reibel described pretty much some of the things I was going to describe about the property. But as you can probably tell from the sketch that I submitted, we are planning on building our home there next year and prior to that I'd like to construct a machinery shed. I'd like to have -- several reasons on that machine shed and why I placed it there is, one, the proximity to the house, to the cattle barn. I quite honestly want to keep farming as long as I can, and the closer it is if my wheels get bad I figure that I can get around.

I have, as Mr. Reibel indicated, met with the Planning Commission and all the neighbors and spoke with them, and no one's voiced an objection.

But I guess I kind of went through this, which you have given me this brochure, and I thought I would kind of follow this order, if that's acceptable to you folks.

MR. McKINNEY: Go ahead.

MR. MORTIMER: Item 1, with regards to the physical surroundings and the shape or the topographical condition what really impacts me here is the topography of the land. This was not really the first site that I looked at. I was leaning towards going perpendicular to the cattle barn to the north just off of that gravel drive, so I would have been going up this way rather than that, but there's that swale there, there's a natural swale, and in that swale there's a 10-inch field tile. For me to construct a building in there I would have had probably about seven foot of fill, and I didn't like putting it up that high, I don't think it's good practice to bury field tiles that deep.

The other area that I looked at was to the east where the lane comes off of Husking Peg Road, I thought I would be able to place it there, but again I have got similar conditions in that the ground is pretty wet, pretty boggy, it's tiled and, again, I'd have to do a lot of fill.

Husking Peg is a little funny there, it -- when it crosses the bridge at the creek it's

approximately six foot higher than my property, so I tend to take all the water into that low area and it stays pretty wet.

One other item that's probably of note is adjacent to where I'm proposing to put that machine shed is -- on the west end of it the elevation of my ground is approximately five foot higher than Husking Peg Road. You go 70 feet to the east, to the east side of that building and it's about seven foot higher than Husking Peg Road. In between the building and Husking Peg there's some relatively large mature trees that provide a buffer in between the road and the building and I intend to keep them there.

That's kind of what I'm doing. I have looked at different options, but I really don't have a lot of flat ground.

The Item 2 was the conditions upon the petition or the request are unique and wouldn't be applicable to other property. If I had flat ground I wouldn't be here, that's what it boils down to in all honesty.

Item 3 with regards to financial gain, I

really don't see how I'm going to gain financially. Maybe my kids will when I keel over, but right now no.

I -- again, going back to No. 4 about if I have created the problem, again, it's the topography and someone a lot greater than me created that, so.

I don't believe it's going to be detrimental to the neighborhood. I don't think it's going to be injurious to the public welfare.

And, again, Item 6 with regards to, you know, I'm not going to impair light and air of any adjacent property. I'm bordering the road. I won't be increasing congestion in that I'll still conduct my operations the same way as I am today. I really don't see where I would be having any increase in -- or create problems with fire or public safety in any way.

And as far as diminishing the property values, I guess I would say that I enhance them in a sense that I will be putting up an attractive building and I think it's going to be an attractive farmstead. And part of the big

reason is that I don't like storing equipment outside, I don't want it to look like an implement yard, I don't want it to look like a junk yard. I like to keep the equipment inside, keep it clean.

That's pretty much what I have got.

MR. BRONKEMA: I guess my question is why couldn't you move it west a little more, which would bring this over here? That puts you further from the road, unless I didn't catch while you were explaining it.

MR. MORTIMER: If I go --

MR. BRONKEMA: Here's the driveway, future driveway.

MR. MORTIMER: This is just the turn. I'm having double doors. It's going to be a drive-through on both ends so I can get all the equipment in there and make the turns properly. Going to the west I wind up impacting --

MR. BRONKEMA: Your house.

MR. MORTIMER: -- the future drive of the house.

MR. FREEBERG: But according to this you own all the way over to South Chana Road?

MR. MORTIMER: Yes.

MR. FREEBERG: So if you were looking -- if I remember being out there, kind of where you are is on the slope part down here. Further up toward Chana, I mean, if you wanted flat area it's pretty flat up there.

MR. MORTIMER: That is, and the problem I have there is I go further west of the house up in that flat ground but then, you know, I'm looking at where's my entrance, how am I going to get there? I purposefully avoided trying to come off of Chana blacktop because it's a heavily used road, it's a lot of truck traffic, and I don't want an entrance off of that with farm equipment, I think it's unsafe for me and everybody else.

MR. BRONKEMA: And if you bring the drive around here or back here to get to your buildings it would be kind of awkward I would think.

MR. MORTIMER: Well, yeah, and the other part is, again, proximity. I'm kind of looking at the relationship to the cattle barn and equipment that I will be using on a regular

basis, and it seemed fairly confined.
MR. McKINNEY: The Township had no problems with your petition.
MR. MORTIMER: It did not.
MR. McKINNEY: From my understanding from what Mr. Reibel read there's not -- the Township Road Commissioner had no problems, so he must not be planning on widening that road for a long time.
MR. MORTIMER: Well there's -- in that mile stretch between Chana and Sweeny there's one residence there now, I'll be a second, so I don't think he'd widen it for me.
MR. McKINNEY: How many acres do you farm totally? I know this area -- or this farm is 40 acres.
MR. MORTIMER: I have 120.
MR. McKINNEY: 120, okay. You also have -- do you store any machinery on your other sites?
MR. MORTIMER: Yes. Well, I don't -- not on the other sites, other pasture ground, cattle, but I have equipment at our present house and buildings there and at various

friends' and neighbors', kind of like a hobo.
MR. McKINNEY: I kind of like the idea of keeping this machine shed with the other equipment so -- or the other buildings so it's not spread out. You know, when I first looked at it I was wondering why you didn't move it closer to the Chana Road property line, but I can see for distance on going back and forth from the machine shed to the cattle barn you will probably have your feed equipment in the machine shed during the winter and it would probably be kind of hard to get that plowed out so you can get to the cattle to feed them.
MR. MORTIMER: Yeah, or I'll have to get one heck of a golf cart.
MR. McKINNEY: Anybody else have any other questions?
MR. BRONKEMA: It just seems like it's awful close to the road.
MR. FREEBERG: You're only going to have five feet between you and the fence. I mean, there's trees in there.
MR. MORTIMER: Yeah, there's trees outside the fence. It's approximately 22 feet from the

edge of the road to my fence line, and there's a tall stand of trees that border that whole side there.
MR. FREEBERG: You are not going to be tearing up your tree roots when you put --
MR. MORTIMER: No, I want those to remain.
MR. FREEBERG: Are you going to have a concrete floor in there I suppose?
MR. MORTIMER: Eventually, but it's going to be a pole type building, you know, Morton building.
MR. McKINNEY: Any other questions?
Okay.
MR. MORTIMER: Thanks.
MR. McKINNEY: Is there any letters of appearance?
MR. REIBEL: No, sir.
MR. McKINNEY: Is there anybody here that wishes to testify in favor of this petition? Is there anybody here that wishes to testify opposing the petition?
Seeing none, I'll entertain a motion to go back into public hearing.
MR. BRONKEMA: So moved.

MR. McKINNEY: Is there a second?
MR. FREEBERG: I'll second.
MR. McKINNEY: Not a public hearing, open session.
Motion moved by Maury and seconded by Curtis to go back into open session. All those in favor signify by saying aye.
(All those simultaneously responded.)
MR. McKINNEY: Any opposed say nay.
Motion passed, back into open session. We'll go through our finding of facts.
MR. REIBEL: Variation Standard A) That the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out.
MR. BRONKEMA: Well, the physical surroundings and topographical condition of the specific property involved would result in a particular hardship upon the owner if the strict letter of the regulations were carried out due

to the presence of the frequent wet area and existing drainage swales. Standard met.

MR. McKINNEY: I agree.

MR. ANDERSON: I agree.

MR. STIVERS: I agree.

MR. FREEBERG: I'm going to disagree. I think he's got 40 acres, it might be inconvenient but that's all further away from the road. We have got the standard for some purpose.

MR. REIBEL: B) The conditions upon which the petition for a variation are based are unique and would not be applicable generally to other property within the same zoning classification.

MR. STIVERS: The condition upon which the petition for the variation are based are unique and are not applicable generally to the other property within AG-1 Agricultural District due to the unique physical surroundings and topographic conditions.

MR. ANDERSON: I'll agree.

MR. McKINNEY: Agree. Standard's met.

MR. BRONKEMA: I'll agree.

MR. FREEBERG: I guess I'll agree.

MR. REIBEL: C) The purpose of the variation is not based exclusively on a desire to obtain a higher financial return on the property.

MR. ANDERSON: Evidence indicates that the purpose of the variation is not based exclusively upon a desire to obtain a higher financial return on the property but rather to provide storage for agricultural equipment to enhance an existing agricultural operation. I think that standard's met.

(All those simultaneously agreed.)

MR. REIBEL: D) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

MR. BRONKEMA: Well, this is kind of a toss-up here I would have to say, but the alleged difficulty or hardship has not been created by any person presently having an interest in the property. Standard's met I guess.

MR. McKINNEY: I agree.

MR. STIVERS: Agree.

MR. ANDERSON: Because of the lay of the land, I agree.

MR. FREEBERG: Agree.

MR. McKINNEY: That was all five agreed, right?

MR. STIVERS: Right.

MR. REIBEL: E) The granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

MR. FREEBERG: No evidence has been submitted that would indicate that that granting of the variation will be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, and the local authorities have said they have approved it, so I think that standard's met.

(All those simultaneously agreed.)

MR. REIBEL: F) The proposed variation will not impair an adequate supply of light and

air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

MR. ANDERSON: No evidence has been submitted that would indicate that the variation will impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood. I feel that standard's met.

(All those simultaneously agreed.)

MR. REIBEL: The Zoning Board of Appeals shall not vary the regulations of this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that, A) The plight of the owner is due to unique circumstances.

MR. ANDERSON: The circumstances are unique due to the physical characteristics of

the site. I can understand he doesn't want to spread his buildings out all over, be nice to kind of keep everything nice and tight. I think that standard's met.

MR. McKINNEY: I agree.

MR. BRONKEMA: Agree.

MR. STIVERS: I agree, and also I believe this is not something he just jumped into by the way he explained it, he researched everything that he could regarding the tile, the location. I agree.

MR. REIBEL: B) The variation, if granted, will not alter the essential character of the locality.

MR. BRONKEMA: The variation will not alter the essential character of the location. Standard met.

(All those simultaneously agreed.)

MR. McKINNEY: Going through the standards, we found that all standards have been met except on the first one where one person felt that the standard was not met.

With that, I'll entertain a motion.

MR. ANDERSON: I'll make a motion that we grant the variance for Robert and Margaret Mortimer, Variation No. 11-09. Other than the one discrepancy on the one qualification, I think all the standards are met and he's done everything he can to try and put that building someplace else.

MR. McKINNEY: Is there a second?

MR. BRONKEMA: I'll second.

MR. McKINNEY: Randy's moved, Maury has seconded to approve Variation No. 11-09.

Roll call.

MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: Stivers?

MR. STIVERS: Yes.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: Yes.

(By voice vote five ayes.)

MR. REIBEL: Five voted yes.

MR. McKINNEY: Passed.

MR. MORTIMER: Thank you.

MR. REIBEL: See you soon.

MR. MORTIMER: Yup, you shall.

(The hearing was concluded at 7:38 p.m.)

Now on this 24th day of September, A.D. 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

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Registered Professional Reporter
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