

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **July 11, 2013**  
Time: **7:00 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

*Note: NO ENTRANCE TO BUILDING  
FROM WASHINGTON STREET PARKING  
LOT AFTER 4:30 PM.  
Use Northeast parking lot via Lierman Ave.  
and enter building through Northeast  
door.*

*If you require special accommodations please notify the Department of Planning & Zoning at  
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (May 1, 2013)

*Note: The full ZBA packet is now available  
on-line at: [www.co.champaign.il.us](http://www.co.champaign.il.us).*

5. Continued Public Hearings

Case 757-AT-13      Petitioner: **Champaign County Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows:**  
**Part A. Adopt an updated Flood Insurance Study with an effective date of October 2, 2013.**  
**Part B. Adopt updated Digital Flood Insurance Rate Maps (DFIRM) for Champaign County, Illinois with an effective date of October 2, 2013. The new maps can be viewed at [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org)**  
**Part C. Adopt a new Special Flood Hazard Area Ordinance based on the minimum requirements of the National Flood Insurance Program (NFIP) and the State of Illinois.**

6. New Public Hearings

\*Case 754-V-13      Petitioner: **KH Farms, Inc. with owner Khalid Hussain**

Request: **Authorize the following in the AG-1 Zoning District:**

**Part A. Variance for a lot area of .924 acre in lieu of the minimum required 1 acre.**

**Part B. Variance for an average lot width of 110.17 feet in lieu of the minimum required 200 feet.**

Location: **Lot 1 of KH Farms Subdivision in the Southwest Quarter of Section 2 of Scott Township and commonly known as the house and outbuilding at 456 CR 1700N, Champaign.**

7. Staff Report

8. Other Business

A. Review of Docket

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

10. Adjournment

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\* **Administrative Hearing. Cross Examination allowed.**

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: May 1, 2013**

6 **PLACE: Lyle Shields Meeting Room**  
7 **1776 East Washington Street**  
8 **Urbana, IL 61802**

9 **TIME: 7:00 p.m.**

10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad  
11 Passalacqua

12 **MEMBERS ABSENT :** Roger Miller

13 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

14 **OTHERS PRESENT :** Jonathon Manuel, Martha Gast, Letha Gast, Stephen Gast, William J. Jones,  
15 Neal R. Toler, Crystl Chang, Larry Hall, Mark Fisher, Alan Singleton, Julia  
16 Hall, Elitsa Dimetrova, Jean Fisher, Jerry Christian

17 **1. Call to Order**

18 The meeting was called to order at 7:02 p.m.

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

20 The roll was called and a quorum declared present with one member absent and one vacant Board seat.

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

24 **3. Correspondence**

25 None

26 **4. Approval of Minutes**

27 None

28 **5. Continued Public Hearing**

29 **Case 688-S-11 Petitioner: Phillip W. and Sarabeth F. Jones Request: Authorize the construction and**  
30 **use of a "Restricted Landing Area" for use by airplanes consistent with Illinois Department of**  
31 **Transportation regulations and helicopter use for public safety assistance as needed and with limited**  
32 **helicopter use for personal use, as a Special Use on land that is proposed to be rezoned to the AG-1**

**DRAFT**

1 **Agriculture Zoning District from the current CR Conservation Recreation Zoning District in related**  
2 **zoning case 687-AM-11; and with a waiver of a Special Use standard condition required by Section 6.1**  
3 **that requires compliance with Footnote 11 of Section 5.3. Location: An approximately 14 acre tract of**  
4 **land that is located in the North Half of the South Half of the Northeast Quarter of Section 27 of**  
5 **Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet**  
6 **south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly**  
7 **known as the property at 175N CR 1600E, Villa Grove.**  
8

9 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
10 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
11 of hands for those who would like to cross examine and each person will be called upon. He requested that  
12 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
14 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
15 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
16 from cross examination.  
17

18 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
19 sign the witness register for that public hearing. He reminded the audience that when they sign the  
20 witness register they are signing an oath.  
21

22 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.  
23

24 Mr. Alan Singleton, attorney for the petitioners, stated that a lot of testimony has already been given and it is  
25 his impression that no new testimony will be taken tonight. He said that at the last public hearing evidence  
26 was presented by Wayne Ward indicating that only .30 acres of brush and small trees would be located in the  
27 proposed RLA area, if the entire RLA area was cleared. Mr. Singleton stated that he previously proposed a  
28 special condition indicating that any tree which was 10 inches in diameter or greater that would be removed  
29 would be replaced with 2 trees that are 4 inches or greater in diameter that are hardwood species. He said  
30 that his clients would also request that a special condition be added indicating that at least one acre be  
31 involved in reforestation and establishment of natural habitat. He said that the pictures which Mr. Ward  
32 presented indicated Autumn Olive at the base of the trees. He said that Autumn Olive is a species that was  
33 originally introduced from overseas and was meant to establish habitat but it eventually overtakes the area  
34 and will wipeout the native habitat. He said that when he runs through the Lake of the Woods area he has  
35 noticed that the County Forest Preserve has gone through and removed the Autumn Olive because it is an  
36 invasive species and will take over the forest. He asked the Board to consider the following: Dr. Jones will  
37 establish a one acre area that would involve planting at least twice as many trees, 4 inches in diameter or  
38 greater, that is Northern Red Oak and additionally establishing native habitat in consultation with an  
39 environmental consultant selected in conjunction with Planning and Zoning staff and John Hall.  
40

41 Mr. Singleton stated that there would be two trees planted for every one tree removed and one acre versus

1 .30 acre of invasive Autumn Olive and giant thorny Locust trees. He said that he has planted more than 400  
2 Red Oak trees on his property and not all of them have survived but the ones that did were only one and one-  
3 half foot tall and are now 20 inches in diameter and are beautiful. He said that Red Oak trees are fast  
4 growing and they provide acorns for the squirrel, deer and other wildlife.  
5

6 Mr. Singleton stated that the petitioner is sincere in his desire to accomplish environmental objectives and  
7 has planted over 1000 trees, consisting of hardwood and soft pines, and he plans to establish the one acre  
8 nature preserve to replace the .30 acre area of thorny Locust and Autumn Olive.  
9

10 Mr. Thorsland explained that the petitioner is allowed to make an opening statement during the public  
11 hearing and the witness register has been opened for public testimony. He requested that only new evidence  
12 be presented during brief testimony. He said that the Board intends to review the Findings at tonight's  
13 hearing therefore the Board would appreciate everyone's cooperation.  
14

15 Mr. Thorsland asked Mr. Singleton if the petitioner is requesting that Case 687-AM-11 be forwarded to  
16 ELUC on May 9<sup>th</sup>.  
17

18 Mr. Singleton stated that he spoke to Mr. Hall about this issue.  
19

20 Mr. Hall stated that he spoke with the State's Attorney about this case and by the time that he realized the  
21 situation we had missed the 48 hour deadline for the *Open Meetings Act* and the State's Attorney was not  
22 going to allow Case 687-AM-11 to be heard tonight if it was not on the agenda. He said that he never had  
23 the opportunity to ask the State's Attorney if the 48 hour deadline had been met could the case have been  
24 heard.  
25

26 Mr. Singleton stated that from the petitioner's perspective it cannot be emphasized enough how serious he is  
27 regarding environmental issues and what he has done with the property and in hindsight he wished that he  
28 had hired a photographer to visit the property. He said that if the Board would visit the property they would  
29 discover that the property is a nice place that has a lot of neat things. He said that if the Board can reconsider  
30 this case then he would like the proposed special condition to be considered as well and as part of the record.  
31 He said that the petitioner cares about the environment and he has done a lot of things to enhance and  
32 improve it.  
33

34 Mr. Thorsland asked the Board if there were any questions for Mr. Singleton.  
35

36 Mr. Courson asked Mr. Singleton how the planting of trees would help with the requirements of a Special  
37 Use Permit because he does not see the relevancy. He said that there is a list of criteria that must be met for  
38 a Special Use Permit and there is nothing about planting trees or how good of an environmentalist someone  
39 is therefore he does not see how it would apply to this case.  
40

41 Mr. Singleton stated that the subject property is zoned CR currently.

1

2 Mr. Courson stated that since the property is zoned CR currently the petitioner can plant all the trees that he  
3 desires and clear as much of the CR area without a Special Use Permit.

4

5 Mr. Singleton stated that significant testimony and concerns have been expressed regarding the trees and  
6 whether or not any of them would be harmed. He said that Wayne Ward submitted testimony indicating that  
7 there will be nothing harmed at the end of the runway and concern was raised in relation to where the hangar  
8 would be constructed. He said that since these concerns have been expressed he is trying to address those  
9 concerns by leaving things better than we found them by eliminating invasive species of Autumn Olive and  
10 the thorny Locust trees and replacing them with Red Oak trees thereby restoring the area with a well  
11 designed conservation area with native habitat.

12

13 Mr. Courson stated that he still does not believe that the planting of trees is relevant to the criteria for the  
14 Special Use Permit. He said that the Board is more concerned about the safety of the runway and the  
15 existence of trees at the end of the runway.

16

17 Mr. Singleton asked Mr. Courson if his primary concern is safety.

18

19 Mr. Courson stated that he would like Mr. Singleton to tell the Board, who is bound by the requirements in  
20 the Ordinance, why the RLA is needed based on the criteria for the Special Use Permit.

21

22 Mr. Singleton asked how everyone would feel if a small child died from exposure because he was not found  
23 in time during a cold Champaign County winter and how will we feel if a parent with Alzheimer's gets lost  
24 and dies during a cold winter. He said that if someone is on the run with a gun how will we find them. He  
25 said that time matters during these types of matters therefore public safety is an important issue that has not  
26 been talked about enough and the public will be served by having the helicopter closer to Dr. Jones so that he  
27 can assist law enforcement agencies with their requests.

28

29 Mr. Courson stated that public safety is one of many items of criteria for the Special Use Permit. He said  
30 that he is trying to determine how the trees, which Mr. Singleton continues to discuss, plays into that criteria.

31

32 Mr. Hall stated that he does not know what Mr. Singleton is thinking but he does know what he can read in  
33 the Finding that the Board completed last week. He said that there were two goals of the Land Resource  
34 Management Plan that the map amendment did not help achieve and one of those goals had to do with  
35 natural resources. He said that the entire discussion for this goal hinged on the habitat impact in cutting the  
36 habitat where the hangar is proposed and to some degree the habitat impacts across the river, although there  
37 was a condition for no cutting. He said that while he believes that the condition that Mr. Singleton outlined  
38 is necessarily very complicated, as a staff person, he can tell the Board that they will lose .30 acres of  
39 woodland but he does not know what that means to the ZBA. He said that a .30 acre loss of woodland  
40 maybe small enough that it is insignificant and is not a big deal in light of the planting of 1,000 trees already  
41 or it could be not a big deal in light of planting 1,000 trees already plus establishing a new acre where there

1 is no woodland with a certain density of trees and planting more trees to improve the remaining habitat. He  
2 said that there is 11 acres of woodland on the side of the river which Dr. Jones owns and that is more than  
3 twice as many acres of woodland that would be impacted on the west side therefore it is very complicated  
4 and the Board has never gone into that much detail for a case but all of this information is very relevant to  
5 habitat issues.

6  
7 Mr. Singleton asked if the Board's main concern is public safety and the proximity to the adjacent residence.  
8

9 Mr. Courson stated no. He said that the Board has questions that must be answered during review of the  
10 Finding of Fact and the Board's answers to those questions must be based on evidence. He said that a lot of  
11 testimony has been given about things that have nothing to do with the criteria for the special use but the  
12 Board listens to everyone.

13  
14 Mr. Singleton stated that Mr. Hall just mentioned some items which are troubling.

15  
16 Mr. Courson stated that those items are more relevant to the map amendment but the special use case is  
17 being addressed tonight.

18  
19 Mr. Hall stated that it remains to be seen how relevant these items are to the special use because the Board  
20 has not discussed that yet but it is certainly relevant to whether or not the special use would be injurious to  
21 the district. He said that habitat is not the only issue but it should play as big of a role in the special use as it  
22 did in the map amendment but it is clearly not everything. He said that the proposed condition is  
23 complicated and the Board must decide whether or not it is interested in such a complicated condition.

24  
25 Mr. Passalacqua stated in the application for the Special Use Permit Dr. Jones indicated that he required the  
26 RLA for his agricultural operation. Mr. Passalacqua stated that he has not heard testimony regarding this  
27 need during the hearings.

28  
29 Mr. Singleton stated that Dr. Jones has indicated that he does harvest some hay from the runway and that he  
30 does survey his other cropland by aircraft so that he can catch problems, such as infestation, early and  
31 address it before it becomes a problem throughout the field. He said that the agricultural aspect of utilizing  
32 the aircraft is relevant and the agricultural aspect of having switch grass planted on the runway safety area is  
33 relevant to agriculture. He said that with the present corn ethanol issues a lot of experimentation has been  
34 found that an alternative to corn ethanol is switch grass. He said that there is an area of native grass on the  
35 property and the effect of conservation of the farmland by the planting of grasses is real because the soil  
36 stays in place much better when it is planted in grass crops. He said that there is a reason why the  
37 government offers programs to landowners for certain lands to be planted in grass versus row crops and that  
38 is so that the land will be available later.

39  
40 Mr. Passalacqua asked if the farmland that Dr. Jones would survey by aircraft is mainly located in Douglas  
41 County.

1

2 Mr. Singleton stated that he believes that Dr. Jones has farmland in Champaign County as well but  
3 regardless of where it is located the use of the aircraft is still agriculturally related.

4

5 Mr. Courson stated that the crops and grasses are still allowed in the CR District therefore why change the  
6 zoning.

7

8 Mr. Singleton stated that the petitioner will not be allowed to take off in his airplane or helicopter from his  
9 desired location to survey his crops for infestation which is in comparison to a farmer not being able to store  
10 his tractor on his property to maintain his crops. He said that it is obvious that the Board disagrees but he is  
11 trying to paint the other side.

12

13 Mr. Courson asked if the special use conditions regarding the amount of take-offs and landings affect the  
14 crop surveillance that Dr. Jones performs. He asked Mr. Singleton how often Dr. Jones surveys his crops  
15 from the air. He said that there is an airport which is not fifteen minutes away from Dr. Jones' residence that  
16 he could easily drive to so that he can utilize his aircraft to inspect his crops.

17

18 Mr. Singleton stated that he does not know how often but he does know that Dr. Jones does survey his crops  
19 from the air. He said that the number of uses has been compromised because they proposed something  
20 slightly different but the conditions that were finally determined are sufficient to allow Dr. Jones to do his  
21 crop inspections.

22

23 Mr. Thorsland asked the Board and staff if there were any further questions for Mr. Singleton and there were  
24 none.

25

26 Mr. Thorsland read the petitioner's statement from his Special Use Permit Application, as to why this use is  
27 necessary for the public convenience at this location, as follows: "As applicant is engaged in a number of  
28 agricultural activities the special use permit should be granted because uses can and should be  
29 accommodated in rural areas if they compliment agriculture or supplement farm income, (1.6 Land Use  
30 Regulatory Policies). Applicant owns 130 acres farmed in corn and beans, grows sunflowers, soybeans,  
31 sugar beets, alfalfa, etc., and uses the helicopter to pollinate; provides crop tours for farmers from the U.S.  
32 and abroad; has a contract with a seed dealer. In addition, public convenience would be served by the  
33 special use because the applicant has offered to provide and has provided law enforcement and public safety  
34 assistance free of cost to the Champaign and Douglas County Sheriff's Office and Emergency Management  
35 (see the attached letters). The applicant has provided such assistance free of cost using both the helicopter  
36 and aircraft.

37

38 Mr. Thorsland stated that Page 15 of the Revised Draft Summary of Evidence discusses the effects to the  
39 habitat and wildlife and is a decision point which the Board must make tonight. He said that there is some  
40 relevance to the offering of it but it is more relevant to the map amendment but there is some relevance as  
41 well to the special use. Mr. Thorsland stated that there is still some question about the map amendment and

1 there are some technicalities involving the other case so perhaps the petitioner would rather wait to figure  
2 out the outcome of that.

3  
4 Mr. Singleton stated that it doesn't make sense to go to the next level until both cases are completed because  
5 he could see himself attending random hearings and incurring more costs to the petitioner. He said that his  
6 preference would be to complete both cases before moving forward to the next level.

7  
8 Mr. Thorsland reminded the audience that the Board only needs to hear absolutely new and relevant  
9 testimony regarding the Special Use Permit case because the Map Amendment case has been tentatively  
10 ruled upon.

11  
12 Mr. Thorsland called William J. Jones to testify.

13  
14 Dr. William J. Jones, who resides at 1210 N. Route 130, Villa Grove, stated that he has the following  
15 question that he would like the Board to clarify: If, the decision that was made regarding the map  
16 amendment stands true then this public hearing is a moot point.

17  
18 Mr. Thorsland stated no. He said that the map amendment will be forwarded to the Environment and Land  
19 Use Committee and both the map amendment and the special use will go to the County Board.

20  
21 Mr. Hall clarified that only the map amendment will be forwarded to the County Board for a final decision.  
22 He said that the Zoning Board of Appeals makes the final determination for the Special Use Permit.

23  
24 Mr. Thorsland stated that Mr. Hall was correct. He said that the ZBA's determination regarding the map  
25 amendment can be overruled by the County Board, which he would imagine would bring the special use  
26 back to the ZBA.

27  
28 Dr. William Jones stated that he is not clear on why various members of the Board are voting against the  
29 requests because no explanations have been given as to whether the Board believes things are suitable, not  
30 suitable, advantageous or not advantageous. He said that perhaps there are no means to be clear on these  
31 matters but it is a little confusing when there is no mention as to why something is acceptable or not  
32 acceptable.

33  
34 Mr. Thorsland asked the Board if there were any questions for Dr. Jones and there were none.

35  
36 Mr. Thorsland asked if staff had any questions for Dr. Jones.

37  
38 Mr. Hall asked Dr. Jones if he has received and reviewed a copy of the 51 page Finding of Fact for the map  
39 amendment case.

40  
41 Dr. Jones stated yes.



1

2 Mr. Hall stated that if the map amendment goes to court the Finding of Fact is the primary document that  
3 would be reviewed in terms of what the ZBA based their opinion upon. He asked Dr. Jones if he felt that the  
4 Finding of Fact correlated to the Board's vote.

5

6 Dr. Jones stated no.

7

8 Mr. Hall stated that tonight the Board is dealing with a different set of facts with the 46 page Summary of  
9 Evidence for the special use. He asked Dr. Jones if he has reviewed the Summary of Evidence for the  
10 special use.

11

12 Dr. Jones stated yes.

13

14 Mr. Hall stated that even he does not know what the Board is thinking until they make a motion and vote and  
15 sometimes it is a surprise. He informed Dr. Jones that if he feels that the Summary of Evidence is not even  
16 handed then he is sure that the Board would like to know that. He said that by saying even handed he means  
17 that Mr. Singleton has spent a lot of time producing evidence and it is obvious that 46 pages did not capture  
18 all of that evidence. He said that at a staff level we make a draft of what was most impressive to staff and it  
19 is incumbent upon the Board to add in evidence that staff did not include and he has hardly ever seen the  
20 Board add evidence to a Summary of Evidence. He said that staff's Summaries of Evidence are infamous  
21 for the amount of evidence that is there but if Dr. Jones believes that there is important evidence that has  
22 been presented in this public hearing that is not included in the Summary then he would appreciate it if Dr.  
23 Jones would bring that evidence to the Board's attention.

24

25 Dr. Jones thanked Mr. Hall for giving him the opportunity to voice his concerns but he wanted to express his  
26 confusion as to how the Board makes their decisions.

27

28 Mr. Thorsland asked Dr. Jones if there was a particular example that he would like to use.

29

30 Dr. Jones asked how the Board finds whether or not something is acceptable or not acceptable when they are  
31 going through their list of questions.

32

33 Mr. Thorsland stated that the Board bases their decision upon testimony from the petitioner and witnesses,  
34 the Findings of Fact and the volumes of evidence received. He said that there was a lot of discussion during  
35 the last case and that meeting lasted for almost four hours and when the Board finally had the opportunity to  
36 review those questions the Board spent a large amount of time on each one. He said that often times the  
37 Board is not in total agreement therefore each question is voted upon. He said that he is not sure what  
38 particular decision point Dr. William Jones is questioning.

39

40 Dr. William Jones stated that he will review the evidence and submit his concerns at a future time. He said  
41 that the Board has already voted upon the map amendment and the special use will be voted upon tonight

1 therefore he assumes that the Board has their decision in mind already. He thanked the Board for the  
2 opportunity to express his concerns.

3  
4 Mr. Passalacqua asked staff if Dr. William Jones had been provided a copy of the LRMP.

5  
6 Mr. Hall stated that a copy of the Goals and Policies was provided to everyone.

7  
8 Mr. Passalacqua stated that it is almost impossible for this to be a personal decision because the Board has so  
9 much guidance and the true sensitivity of the CR District is one of the main reasons why this case is so  
10 difficult. He said that he agrees that what Dr. Jones and his wife have done on the property is fantastic and it  
11 is exactly what the Board hopes for in the CR but it is not consistent with a residential landing strip. He said  
12 that this is not a personal decision and as with every case people will address the Board as to how wonderful  
13 the petitioner is and honestly while this is good information it is not information that can be used during the  
14 final decision. He said that he understands that it would be wonderful and convenient to have a personal  
15 airplane at your residence but it becomes difficult when you live next to CR and the County has a special  
16 provision in its LRMP to protect that CR District. He said that no one is ignoring testimony and the Board  
17 has an Ordinance, Conservation Policy and long range plans for the County which must be followed and this  
18 would have been much easier if the subject property was already located in the AG-1 District and not the CR  
19 District. He said that when we are talking about 1% of the County being in CR and the Board must follow  
20 the long range plan for protection of that 1%. He said that what Dr. Jones is doing is on CR and it is highly  
21 regarded and respected but unfortunately the Ordinance does not allow an RLA in the CR District. He said  
22 that if the Ordinance prevents Dr. William Jones and Dr. Phillip Jones from doing this project then perhaps  
23 the next case would be to attempt to amend the Ordinance but the Board has current guidelines that must be  
24 followed not personal guidelines.

25  
26 Dr. William Jones thanked Mr. Passalacqua for his comments.

27  
28 Mr. Passalacqua stated that it is too much to ask whether or not Dr. William Jones has reviewed all of the  
29 evidence included in the Summary of Evidence because he has read the Summaries for both cases and it is  
30 difficult and he cannot remember everything. He said yes, the Board has heard a lot of testimony from Dr.  
31 Jones and Mr. Singleton but the Board has also heard testimony from other people and at the last meeting  
32 Mr. Palmgren put it in perfect words indicating that no one is going to win in this case. He said that he  
33 cannot state enough that this is not a personal decision but pages of Ordinance and long range goals.

34  
35 Dr. William Jones thanked Mr. Passalacqua again for his comments.

36  
37 Mr. Thorsland asked the audience if anyone desired to cross examine Dr. Jones and there was no one.

38  
39 Mr. Thorsland called Mark Fisher to testify.

40  
41 Mr. Thorsland informed the audience that only new information relevant to the special use case should be

1 presented as testimony tonight.

2  
3 Mr. Fisher declined to testify at this time.

4  
5 Mr. Thorsland called Jean Fisher to testify.

6  
7 Ms. Jean Fisher, who resides at 195 CR 1600E, Villa Grove, stated that she wanted to address Mr.  
8 Singleton's comments regarding the nuisance trees on the property and how clearing out those nuisance trees  
9 would make the habitat better. She said that during her four years in high school and FFA she took classes  
10 regarding ornamental horticulture, forestry, landscape and design, etc, one of the things that she learned  
11 about was that forested areas were protected areas. She said when you are speaking about a conservation  
12 area, and in their area the river runs through it, the conservation area is not just the river and what is  
13 contained in the river but what holds the soil and prevents erosion. She said that it is the canopy of the trees  
14 and one of things is that larger trees will.

15  
16 Mr. Thorsland interrupted Ms. Fisher and requested that her testimony only apply to the special use permit.

17  
18 Ms. Fisher stated that the Osage orange trees have seed balls which provide food for birds and various  
19 animals. She said that Dr. Jones previously stated that one man's weed is another man's bird food. She said  
20 that to address Dr. Jones' comment she would say that Osage orange trees are not necessarily a nuisance.  
21 She said that the Osage orange trees will filter the water and maintain the soil from erosion therefore when  
22 you begin chopping the trees out of the area you are disturbing the environment and the land. She said that it  
23 is great that Dr. Jones has indicated that he will plant some trees somewhere but will the trees be planted in  
24 this State or in this County.

25  
26 Ms. Thorsland noted that the Board is only interested in testimony regarding the special use and not the map  
27 amendment.

28  
29 Ms. Fisher stated that some of things that were previously mentioned were about how the trees along the  
30 back tree line would grow up into the take-off and landing space. She said that the article written by Darren  
31 Mildoon, The Impact of Airport Noise on Residential Property Values: A Case Study of the Portland-  
32 Hillsboro Airport, June 2003, mentions that the noise impact of aircraft range from .06% to more than 1%.  
33 She said that the article is specifically talking about property values and the decrease in property value per 1  
34 decibel of increase in noise level. She said although Mr. Singleton had mentioned that Mr. and Mrs. Hall  
35 purchased a property where cars and semi-trucks could run into their house that there was very little chance  
36 that a plane would do the same. She said that currently there is not an RLA next to the Hall's house  
37 therefore putting one there would increase the percentage that there would be an accident that could  
38 encompass the Hall's home and the neighborhood.

39  
40 Ms. Fisher requested that the Board oppose the Special Use Permit.

41

1 Mr. Thorsland asked the Board if there were any questions for Ms. Fisher and there were none.  
2  
3 Mr. Thorsland asked if staff had any questions for Ms. Fisher and there were none.  
4  
5 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Fisher and there was no one.  
6  
7 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony  
8 regarding Case 688-S-11 and there was no one.  
9  
10 Mr. Thorsland closed the witness register.  
11  
12 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated May 1, 2013, to  
13 the Board for review. He said that the memorandum lists the new Documents of Record that were received  
14 at the April 25, 2013, public hearing. He said that the memorandum also includes the approved Summary  
15 Finding of Fact for Case 687-AM-11. He noted that on page B-3, item #3 discusses whether or not the  
16 proposed map amendment will achieve the purpose of the Zoning Ordinance, and somehow the Board did  
17 not make an overall determination of item #3. He said that an overall determination of item #3 is not  
18 required under the Zoning Ordinance or statutorily and he has asked the State's Attorney if this should be  
19 remanded so that the ZBA can complete that finding or not and it is his view that it all depends on how much  
20 legal risk is created by that remaining undecided item. He said that in a case as controversial as these cases  
21 have been, his goal is to have as perfect of a finding as possible therefore this is very conspicuous as being  
22 part of the final determination. He said that a determination of the finding is not an absolute requirement  
23 and the State's Attorney may not see much damage done by it therefore he would not go to the Committee to  
24 request a remand to the ZBA. He said that the ultimate decision is up to the Environment and Land Use  
25 Committee and based upon the guidance that has been received this evening if this case receives a final  
26 determination tonight the map amendment will be forwarded to ELUC for their meeting next Thursday. He  
27 said that if for some reason, this case is not completed tonight he will arrange to pull it off the agenda  
28 because he has already included it.  
29  
30 Mr. Hall stated that the way that the Board will handle a remanded case for the public is that staff does not  
31 re-advertise but will send out notice of the remand to everyone. He said that the remand will be placed on a  
32 meeting date as soon as possible because cases that are remanded require a quick turn-around. He said that  
33 the public will find out whether or not Case 687-AM-11 is remanded or not and if next Thursday comes and  
34 goes without any notice from our office the public should feel free to call at any time for an update. He said  
35 that staff has not introduced any new evidence tonight and would like the Board to base their decision on the  
36 evidence that the Board had before them at last Thursday's meeting when the Board took action on Case  
37 687-AM-11.  
38  
39 Mr. Palmgren requested a clarification on what the Board did not complete on the map amendment case.  
40  
41 Mr. Thorsland stated that the Board failed to make an overall determination for Item #3 on page B-3. He

1 said that the Board goes through many decision points and is then required to return to the first paragraph of  
2 the finding of an overall determination. He said that it is probably his fault for not completing this finding  
3 because he is supposed to remember to return to the overall determination but if the Board recalls the Board  
4 took action on many, many items that night and he just forgot to return to the top for the overall  
5 determination. He said that the third bullet which indicates DOES/DOES NOT received a tie vote therefore  
6 no determination was rendered. He said that the preponderance of Item #3 is DOES NOT therefore it is  
7 inferred but it is incomplete. He said that if Case 687-AM-11 is remanded then the Board must make sure  
8 that things are tidied up and an overall determination is made for Item #3.  
9

10 Mr. Hall noted that the Board has the same decision tonight with the special use therefore if nothing else it  
11 will presumably be settled for the special use.  
12

13 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.  
14

15 Mr. Thorsland asked the Board if there were any items which require discussion prior to proceeding and  
16 there were none.  
17

18 Mr. Thorsland stated that staff has pointed out that there is nothing new to add to the Summary of Evidence  
19 dated March 14, 2013. He said that there are some staff recommendations as the Board works through the  
20 Summary of Evidence and there are also some decisions points for the Board. He said that the Board has  
21 read a lot of this and heard a lot of it over the course of two years so there should not be a lot of questions  
22 from the Board. He said that Item 8.T. on page 15 contains the first decision point for the Board and there is  
23 some new underscored evidence which coordinates with evidence regarding Policy 4.3 in related Case 687-  
24 AM-11 (item 14.C.). Regarding concerns due to impacts on the remaining natural and scenic areas in the  
25 surrounding CR District, the subject site IS/IS NOT suitable for the proposed RLA. He said that the Board  
26 was presented with a proposed condition or offer tonight about trees which is sort of a modification of what  
27 was presented at the last meeting. He said that his notes indicate a replanting of two trees for every one tree  
28 removed from the subject property. He said that it was also discussed that rather than what we have here to  
29 plant an entire acre of new trees, two trees which are four inches or larger for every one tree that is removed.  
30 He said that the petitioner proposed planting Northern Red Oak to establish some native habitat and the  
31 petitioner would do this planting in consultation with an expert recommended by staff. He said that none of  
32 this is a condition but an offer from the petitioner that the Board should consider as the Board decides  
33 whether or not the RLA IS/IS NOT suitable in the CR.  
34

35 Mr. John Hall stated that subparagraph 8.T.(1)(b) references the Plan and Profile of Landing Area and the  
36 date 11/19/12 should be revised to indicate 3/12/13. He said that Item 8.T. poses the question whether or not  
37 the subject site IS/IS NOT suitable for the proposed RLA. He said that this is under item 8 which is the  
38 criteria regarding whether the Special Use is designed to be located and operated so that it will not be  
39 injurious to the District or otherwise injurious to the public welfare. He said that the Board should think  
40 about whether or not suitable is the proper word or if it should be injurious. He said that if the Board does  
41 not have an opinion then it should be left as written but he wanted to flag it for the Board's consideration.

1 He said that in one respect, if something is not a suitable location it is because it has injurious impacts but  
2 the goal is to make sure that this finding is as clear as possible. He said that everywhere that staff has  
3 referred to the Plan and Profile of Landing Area received on 11/19/12 should be revised to 3/12/13 and he  
4 will attempt to bring all of the areas to the Board's attention tonight.

5  
6 Mr. Thorsland stated that Mr. Hall pointed out that the word "suitable" is included in Item 8.T. and if the  
7 Board would change "suitable" to "injurious" it would change the nature of the IS/IS NOT entirely. He said  
8 it is the Board's decision as to what word should be included in Item 8.T.

9  
10 Mr. Palmgren suggested that the Board leave the word "suitable" in Item 8.T. and that the Board take a vote  
11 upon this decision.

12  
13 Mr. Thorsland concurred with Mr. Palmgren's decision.

14  
15 Mr. Courson agreed.

16  
17 Ms. Capel stated that it would clearer if the Board added the following: The subject site is IS/IS NOT  
18 suitable for the proposed RLA because it DOES/DOES NOT have an injurious impact on the surrounding  
19 area.

20  
21 Mr. Thorsland asked the Board if they agreed or disagreed with Ms. Capel.

22  
23 Mr. Palmgren stated that it appears to be repetitive.

24  
25 Mr. Hall stated that he appreciates Mr. Palmgren's concern but this goes to the heart of the concerns voiced  
26 by Dr. William Jones. He said that saving everything up for that one golden finding at the end of 50 pages of  
27 evidence may be bad. He said that in some of the difficult cases staff and the Board has embedded findings  
28 in the evidence so that the Board makes its decision right there at the point closest to the evidence. He said  
29 that there will never be a perfect finding but he would always hope that the Board does make sure that people  
30 who come to every hearing and review everything that is handed out there should be question at the end why  
31 the Board makes whatever recommendation that it does.

32  
33 Mr. Thorsland stated that considering the nature and complexity of this case and the length of time that it has  
34 taken it is better to have as many statements as possible in one manner or the other so that when it is  
35 reviewed it is very clear that the ZBA did hear Dr. William Jones' concerns. He said that he agrees with Ms.  
36 Capel's amendment to Item 8.T. because it gives the Board two points to decide upon but the Board has time  
37 to do so.

38  
39 Mr. Passalacqua stated that Ms. Capel's amendment to Item 8.T. does make it more clear and is consistent  
40 with what the Board reviewed in Case 687-AM-11.

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Mr. Palmgren agreed.

Mr. Thorsland read revised Item 8.T. as follows: Regarding concerns due to impacts on the remaining natural and scenic areas in the surrounding CR District the subject site is IS/IS NOT suitable for the proposed RLA because it DOES/DOES NOT have injurious impacts on the surrounding area.

**Mr. Palmgren moved that the subject site IS suitable for the proposed RLA because it DOES NOT have injurious impacts on the surrounding area.**

Mr. Thorsland stated that a “yes” vote would agree with Mr. Palmgren’s motion and a “no” vote would be disagreement with Mr. Palmgren’s motion therefore the determination would be IS NOT suitable for the proposed RLA because it DOES have injurious impacts on the surrounding area.

**Mr. Courson seconded the motion.**

Mr. Thorsland requested a roll call vote.

<b>Capel-no</b>	<b>Courson-no</b>	<b>Miller-absent</b>
<b>Palmgren-yes</b>	<b>Passalacqua-no</b>	<b>Thorsland-no</b>

Mr. Thorsland stated that the determination for Item 8.T. is as follows:

**Regarding concerns due to impacts on the remaining natural and scenic areas in the surrounding CR the subject site is IS NOT suitable for the proposed RLA because it DOES have injurious impacts on the surrounding area.**

Mr. Hall noted that the Board is required to make a determination for Item 8.S. on page 12.

Mr. Thorsland apologized for missing Item 8.S. on page 12. He said that this item needs to be coordinated with evidence regarding Policy 4.3 in related Case 687-AM-11 (item 14.C.) He read the following: Regarding concerns about safety, noise, preserving the essential character of the District, and land use compatibility due to the proximity of the nearest adjacent dwelling under separate ownership and the proposed RLA, the subject site IS/IS NOT suitable for the proposed RLA. He said that the evidence included in Item 8.S. reflects the many months of testimony.

Mr. Hall stated that subparagraphs (1) and (2) the date of 11/19/12 should be revised to indicate 3/12/13. He said that in subparagraph (2) should be revised as follows: The Plan and Profile of Landing Area (revised site plan for the proposed RLA) received on 3/12/13 indicates that the proposed hangar is proposed to be located approximately 64 feet north of the existing north property line which makes the proposed RLA runway 185 feet south of the proposed hangar. Thus, the petitioner’s proposed hangar is proposed to be 43 feet further from the proposed RLA runway than is the nearest dwelling under different ownership. He said that all of the revisions are in line with the plan that was received on 3/12/13.

1  
2 Mr. Palmgren asked if anyone knows why the proposed hangar will be located further away from the home  
3 site in question by 43 feet because that is still within the safety zone. He said that he is guessing that the  
4 reason why the hangar has been moved back a bit was to provide a pad for the helicopter.  
5

6 Mr. Thorsland asked Mr. Palmgren if he would like to question the petitioner's representative.  
7

8 Mr. Palmgren asked Mr. Singleton why the hangar location has been located further from the runway.  
9

10 Mr. Singleton stated that they tried to put it back in the spot of the clearing so that they would not have to cut  
11 down as many trees.  
12

13 Mr. Palmgren asked if the current location is the final spot for the hangar or is there flexibility for the hangar  
14 to be moved some.  
15

16 Mr. Singleton stated that the current site plan indicates the location of the hangar therefore if the case is  
17 approved then that is the location where the hangar will be constructed. He said that they tried to put the  
18 hangar in a spot that made sense overall and fit into the tree pattern and would minimize disruption to the  
19 non-native trees and vegetation that are in place.  
20

21 Mr. Thorsland stated that the site plan dated March 12, 2013, has a little box on it where the original location  
22 in the earlier site plan for the hangar was to be located. He said that the little box has a note on it that  
23 indicates no loss of woodland and the reason why they moved the hangar a little closer to the runway was to  
24 minimize the impact on the wooded area. He said that Mr. Palmgren is trying to explain why the hangar was  
25 setback where it was but the petitioner moved it to try to make it more compatible. Mr. Thorsland stated that  
26 the reason why it is in the record is to show that the distance of the hangar is not unlike the distance to the  
27 house which is under different ownership.  
28

29 Mr. Courson asked if moving the hangar closer to the runway would require the removal of even more trees.  
30

31 Mr. Thorsland stated no. He said that the petitioner moved the hangar from being way back in to the woods.  
32

33 Mr. Courson stated that the house is closer to the runway than the hangar therefore why is the hangar further  
34 away from the runway than the house.  
35

36 Mr. Thorsland stated that the point Mr. Palmgren is trying to make is that the hangar is further away so that  
37 there is room to move the helicopter around.  
38

39 Mr. Singleton stated the plan Mr. Wayne Ward provided showed the area of the proposed hangar and the  
40 overall area which included the trees. He said that there are no trees between the side transition area and the  
41 runway other than what is shown on Mr. Ward's plan.



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Mr. Hall asked if there were trees between the hangar and the runway. He said that there are at least four trees which are indicted on the plan that are between the proposed hangar site and the runway.

Mr. Singleton stated yes, but no other trees exist that are not shown on the plan.

Mr. Thorsland read Item 8.S. again as follows: Regarding concerns about safety, noise, preserving the essential character of the District, and land use compatibility due to the proximity of the nearest adjacent dwelling under separate ownership and the proposed RLA, the subject site IS/IS NOT suitable for the proposed RLA. He entertained a motion for IS/IS NOT.

**Mr. Palmgren moved that regarding concerns about safety, noise, preserving the essential character of the District, and land use compatibility due to the proximity of the nearest adjacent dwelling under separate ownership and the proposed RLA, the subject site IS suitable for the proposed RLA.**

**Mr. Courson seconded Mr. Palmgren’s motion.**

Mr. Thorsland informed the Board that a “yes” vote indicates that the subject site IS suitable for the proposed RLA and a “no” vote indicates that the subject site IS NOT suitable for the proposed RLA.

Mr. Thorsland requested a roll call vote.

<b>Courson-no</b>	<b>Palmgren-yes</b>	<b>Miller-absent</b>
<b>Passalacqua-no</b>	<b>Capel-no</b>	<b>Thorsland-no</b>

Mr. Thorsland stated that Item 9.E. regarding the requirement that the Special Use preserve the essential character of the AG-1 Zoning District staff has recommended the following for subparagraph (2): The proposed use WILL NOT hinder agricultural production on adjacent properties and agricultural production may still occur onsite. (from related Case 687-AM-11).

**Ms. Capel moved, seconded by Mr. Passalacqua to accept staff’s recommendation for Item #9.E.(2) as follows: The proposed use WILL NOT hinder agricultural production on adjacent properties and agricultural production may still occur on site. The motion carried.**

Mr. Hall stated that staff has not added the statement regarding the James Webster submittal and staff would propose to add this statement as Item 8.Q.(4). on page 12 after the review of the Dan Cothorn letter, the Hillard Agency data, and the Cragg’s data. He said that Item 8.Q.(4) should read as follows: There has been one real estate appraisal consulting report prepared by James H. Webster & Associates, Ltd. regarding the affects of the RLA on the market value of the property at 175 CR 1600E, and while there were no comparables available for comparison and no published literature for reference, the consultant concluded based on his experience that the RLA will not have a negative impact on real estate values in the

1 neighborhood. Mr. Hall said that he personally disagrees with Mr. Webster but it is a professional,  
2 competent report from a licensed appraiser therefore it is important to include it in the summary.  
3  
4 Mr. Thorsland entertained a motion to add new Item 8.Q.(4) to the Summary of Evidence.  
5  
6 **Mr. Palmgren moved, seconded by Mr. Courson to add new Item 8.Q.(4) to the Summary of Evidence**  
7 **as previously read. The motion carried by voice vote.**  
8  
9 Mr. Thorsland stated that Item 9.F.(2) includes the following staff recommendation: Compatibility of the  
10 proposed special use with surrounding agriculture was evaluated in related Case 687-AM-11 under review of  
11 Land Resource Management Plan Objective 4.2 regarding interference with agricultural operations and the  
12 Zoning Board of Appeals found the proposed use WILL NOT interfere with agricultural operations.  
13  
14 **Ms. Capel moved, seconded by Mr. Passalacqua to accept staff's recommendation for Item 9.F.(2).**  
15 **The motion carried by voice vote.**  
16  
17 Mr. Thorsland stated that Item #10.C.(1) is another decision point for the Board which reads as follows: In  
18 related Case 687-AM-11 the ZBA determined that the proposed zoning map amendment DOES/DOES NOT  
19 secure adequate light, pure air, and safety from fire and other dangers. He requested a motion.  
20  
21 **Mr. Palmgren moved, seconded by Ms. Capel that the proposed zoning map amendment DOES secure**  
22 **adequate light, pure air, and safety from fire and other dangers. The motion carried by voice vote.**  
23  
24 Mr. Thorsland stated that Item #10.C.(2) also requires a decision from the Board. He read Item 10.C.(2) as  
25 follows: In related Case 687-AM-11 the ZBA determined that the proposed zoning map amendment  
26 DOES/DOES NOT conserve the value of land, BUILDINGS, and STRUCTURES throughout the  
27 COUNTY.  
28  
29 Mr. Passalacqua requested that the Board review the information from the Table of Summarizing Most  
30 Salient Evidence Relevant to Special Use Permit Criteria and Map Amendment Findings in Cases 687-AM-  
31 11 and 688-S-11.  
32  
33 Mr. Hall stated that this was prepared before the appraisal from Mr. Webster was submitted. He said that  
34 Mr. Webster's information could also be added in Item #10.C.(2) because it mentions the other three but it is  
35 up to the Board. He said that ideally the information would be inserted under new Item #10.C.(2)(d) and the  
36 existing d, e, and f would be re-lettered.  
37  
38 Mr. Thorsland asked staff if the same note that was added to the Table of Summarizing Most Salient  
39 Evidence Relevant to Special Use Permit Criteria and Map Amendment Findings in Cases 687-AM-11 and  
40 688-S-11 regarding Mr. Webster's report would be added to new Item #10.C.(2)(d).  
41

1 Mr. Passalacqua stated that the report was completed by Mr. Webster, who is a professional appraiser,  
2 although there were no comparisons included and that is what every appraisal is built upon.

3  
4 Ms. Capel stated that she agrees that it should still be added as evidence.

5  
6 Mr. Passalacqua agreed. He said that he does think that real estate values are negatively affected in a  
7 neighborhood like Aero Place Subdivision because it is Aero Place but a runway in an area that only has one  
8 participating use and does not serve the other landowners in a residential area could have negative impacts  
9 on the other properties.

10  
11 Mr. Hall stated that the Board might prefer this to be worded that it is not clear whether or not there is any  
12 affect therefore the Board does not have to go one way or the other but recognized that there is  
13 disagreements.

14  
15 Mr. Passalacqua agreed.

16  
17 Mr. Palmgren stated that he also agreed. He said that testimony was received from one realtor indicating that  
18 the real knock down in value was the proximity to Route 130.

19  
20 Mr. Thorsland asked if the Board would indicate that it is not clear in related Case 687-AM-11.

21  
22 Mr. Hall stated that since the Board did not make this finding in Case 687-AM-11 he would strike the  
23 following: In related Case 687-AM-11 the ZBA determined. He said that it would be better to indicate the  
24 following: It is not clear what affect the proposed special use permit and zoning map amendment would  
25 have regarding conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY  
26 for the following reasons:. He said that this text would be a good standard on all of these decisions under  
27 Item 10.C.

28  
29 Mr. Kass agreed.

30  
31 Mr. Thorsland requested that Mr. Hall read the new text which will be included in every decision point under  
32 Item #10.C.

33  
34 Mr. Hall stated the following: It is not clear what affect the proposed special use permit and zoning map  
35 amendment would have regarding conserving the value of land, BUILDINGS, and STRUCTURES  
36 throughout the COUNTY for the following reasons:

37  
38 Mr. Thorsland asked if the Board agreed and they indicated yes.

39  
40 Mr. Hall stated that in the previous subparagraph #10.C.(1) the text should be revised to indicate the  
41 proposed special use permit and zoning map amendment. He asked the Board if they desired to include this

1 text in all of these findings since this is the special use permit case that the Board is reviewing tonight.

2  
3 Mr. Thorsland asked if the Board should insert proposed special use permit and strike zoning map  
4 amendment.

5  
6 Mr. Hall stated that in Case 687-AM-11 the Board was explicit that it was the zoning map amendment on the  
7 basis of the proposed special use permit.

8  
9 Mr. Thorsland stated that if he were to have any excuse at all for forgetting the decision on Finding 3 it  
10 would be because the Board was making sure that they inserted the text, on the basis of the proposed special  
11 use permit, to every one of the findings.

12  
13 Mr. Hall stated that it may be best to indicate the text, on the basis of the proposed special use permit,  
14 immediately following zoning map amendment so that it is perfectly coordinated.

15  
16 Mr. Thorsland stated that the addition of this text does not change what the Board decided but makes it  
17 clearer.

18  
19 Mr. Thorsland stated that Item #10.C.(5)(c) reads as follows: In related Case 687-AM-11 the ZBA  
20 determined that because of the proposed Special Use in related Case 688-S-11, the proposed special use  
21 permit and zoning map amendment DOES/DOES NOT promote the public health, safety, comfort, morals,  
22 and general welfare.

23  
24 Mr. Passalacqua stated that Item #10.C.(5)(c) is way too wordy and about half of the text could be stricken.

25  
26 Mr. Thorsland stated that the last part of the item is how the Ordinance is written.

27  
28 Mr. Hall agreed. He said that last part is how the Ordinance is written and the first two lines are very wordy.

29  
30 Mr. Passalacqua stated that it was the last part of the item that he thought could be stricken.

31  
32 Mr. Thorsland entertained a motion for Item #10.C.(5)(c).

33  
34 **Ms. Capel moved, seconded by Mr. Courson that in related Case 687-AM-11 the ZBA determined that**  
35 **because of the proposed Special Use in related Case 688-S-11, the proposed special use permit and**  
36 **zoning map amendment DOES NOT promote the public health, safety, comfort, morals, and general**  
37 **welfare.**

38  
39 Mr. Thorsland requested a roll call vote. He noted that a “yes” vote indicates that it DOES NOT and a “no”  
40 vote indicates that it “DOES”.

1                      **Palmgren-no**                      **Passalacqua-no**                      **Capel-yes**  
2                      **Courson-yes**                      **Thorsland-yes**                      **Miller-absent**  
3

4 Mr. Hall reminded the Board that in Case 687-AM-11 the Board decided that it DOES NOT. He said that  
5 technically four votes are required for a finding or anything else.  
6

7 Mr. Passalacqua stated that he voted as he did because he does not like the part of the decision that discusses  
8 comfort and morals. He said that he is not worried about being consistent but he is indicating that this  
9 decision is poorly written therefore he voted as he did.  
10

11 Mr. Kass stated that in Case 687-AM-11 the Board determined that the proposed map amendment on the  
12 basis of the proposed special use permit DOES NOT promote the public health, safety, comfort, morals and  
13 general welfare. He said that Mr. Passalacqua agreed with the motion that it DOES NOT.  
14

15 Mr. Passalacqua stated that he does not believe that it promotes public health and safety and he is  
16 comfortable with his vote as it stands.  
17

18 Mr. Thorsland stated that the Board's decision is DOES NOT by the majority but not as a quorum.  
19

20 Mr. Thorsland read Item #10.C.(10) as follows: In related Case 687-AM-11 the ZBA determined that  
21 because of the proposed special use the proposed special use permit and zoning map amendment  
22 DOES/DOES NOT protect natural features such as forested areas and watercourses for the following  
23 reasons:. He requested a motion for Item #10.C.(10).  
24

25 **Mr. Passalacqua moved, seconded by Ms. Capel that in related Case 687-AM-11 the ZBA determined**  
26 **that because of the proposed special use the proposed special use permit and zoning map amendment**  
27 **DOES NOT protect natural features such as forested areas and watercourses.**  
28

29 Mr. Thorsland requested a roll call vote.  
30

31                      **Passalacqua-yes**                      **Capel-yes**                      **Courson-yes**  
32                      **Palmgren-no**                      **Thorsland-yes**                      **Miller-absent**  
33

34 Mr. Thorsland stated that the Board has completed the decision points in the Summary of Evidence. He  
35 asked staff if there were any other corrections that needed to be addressed at this time and staff indicated that  
36 there were none.  
37

38 Mr. Thorsland stated that the Board will now review the proposed special conditions of approval.  
39

40 Mr. Thorsland requested Mr. Palmgren's expertise as a pilot during review of the proposed special  
41 conditions.

1  
2 Mr. Palmgren stated that he does not intend to micro-manage this part but if there is something that is  
3 glaringly wrong he will speak up.  
4

5 Mr. Thorsland stated that the Board will begin its review of Item #12. He said that some of these have to do  
6 with what the real altitude is, using mean sea level, and the number that the pilot would have to look at and  
7 how staff would enforce these conditions.  
8

9 Mr. Thorsland read Item #12.A. as follows:

10                      **There will be no tight northbound departures below 1000 feet.**  
11

12 Mr. Thorsland stated that the above condition was not included as a requirement of the RLA because this  
13 condition cannot be enforced by the Zoning Administrator. Nonetheless, the petitioner is encouraged to  
14 follow such a rule on an honor basis so as to help ensure the good neighborly relations.  
15

16 Mr. Thorsland read Item #12.B. as follows:

17                      **There will be an increased traffic pattern altitude of 1500 feet above ground level as opposed to**  
18                      **the standard 1000 feet above ground level.**  
19

20 Mr. Thorsland stated that the above condition was not included as a requirement of the RLA because this  
21 condition cannot be enforced by the Zoning Administrator. Nonetheless, the petitioner is encouraged to  
22 follow such a rule on an honor basis so as to help ensure the good neighborly relations.  
23

24 Mr. Thorsland stated that it is up to the Board whether or not the Board wants to include these conditions or  
25 not. He noted that there is one additional condition that was proposed by the petitioner regarding the  
26 planting of trees. He said that the petitioner proposed that two Northern Red Oak trees which are 4-inches or  
27 larger will be planted for every 10-inch tree removed and one full acre of new native habitat would be  
28 planted in conjunction with suggested experts by staff. He said that Items #12.A and B are suggested  
29 conditions by the petitioner and could be included if the Board so desires.  
30

31 Mr. Hall stated that the two conditions that were previously proposed would be under Item #12.A. and the  
32 new condition would be under Item #12.B. as follows:  
33

34                      **Petitioner attorney, Alan Singleton, proposed at the public hearing on May 1, 2013,**  
35                      **a condition that would require proposed that two Northern Red Oak trees which are 4-inches**  
36                      **or larger will be planted for every 10-inch tree removed and one full acre of new native habitat**  
37                      **would be planted in conjunction with suggested experts by staff.**  
38

39 Mr. Hall stated that if the Board desires to move the above condition from Item #12 to Item #13 to make it a  
40 condition that the Board wants to require then that is the Board's choice.  
41

1 Mr. Thorsland asked the Board if they have any questions or comments regarding the proposed conditions in  
2 Item #12.

3  
4 Ms. Capel asked Mr. Hall if there is a precedent for conditions that are unenforceable and are completely up  
5 to the honor system of the petitioner.

6  
7 Mr. Hall stated that to a certain extent every condition is like that but there is no precedent for anything like  
8 what is proposed in Items #12.A and B. He said that we all recognize that while it is a good motive and  
9 intention for the petitioner to do, it is just not suitable as a condition.

10  
11 Ms. Capel stated that perhaps it is more appropriate to just keep these motives and intentions in the findings.

12  
13 Mr. Hall stated that it would be easier to leave it in the Summary of Evidence if the Board does not want to  
14 include it as special condition for approval.

15  
16 Mr. Thorsland stated that he is hesitant to add them because the altitude from a person on the ground is  
17 going to be very subjective. He said that the only condition that he can compare to this is the condition  
18 regarding the wind farm complaint hotline number sign that was required at every wind tower site. He said  
19 that he is not suggesting that a sign with a phone number be required so that someone can call if they do not  
20 believe that the altitude is correct or a southbound departure occurred. He said that he is inclined to not  
21 include the proposed conditions because it could open up a lot of avenues and he doesn't see how anyone is  
22 going to enforce them. He said that the condition regarding the trees can be addressed and inspected and  
23 presumably can be enforced.

24  
25 Mr. Passalacqua asked if IDOT has altitude regulations.

26  
27 Mr. Palmgren stated that generally there are two basic levels. He said that for lighter aircraft it is 800 feet  
28 above the ground and the elevation is added to that to get the altitude. He said that for heavier aircraft they  
29 are up about another 1000 feet or so and they are separated by speed and weight and they drop faster than a  
30 lighter aircraft which tends to float.

31  
32 Mr. Passalacqua stated that there is already a rule in place and IDOT would be the governing body for  
33 enforcement.

34  
35 Mr. Thorsland asked if the Board is inclined to leave those in the nebulous region and not include those in  
36 Item #13 as a condition.

37  
38 The Board stated yes.

39  
40 Mr. Thorsland asked the Board if they wanted to add a condition regarding the offer from the petitioner  
41 regarding the one acre and the planting of trees.

1  
2 Mr. Palmgren stated that he believes that this offer is a good plan because the petitioner is proposing to plant  
3 quality trees to improve the area and replace the trees which will be cleared.

4  
5 Mr. Thorsland requested a five minute recess.

6  
7 **The Board recessed at 8:45 p.m.**

8 **The Board resumed at 8:50 p.m.**

9  
10 Mr. Thorsland read the proposed special conditions of approval included in Item #13.

11  
12 **A. The Restricted Landing Area must be used in compliance with the approved**  
13 **Certificate of Approval for operation from the Illinois Department of**  
14 **Transportation Division of Aeronautics.**

15  
16 The above condition is necessary to ensure that:  
17 **The proposed RLA is operated so as to ensure public safety.**

18  
19 Mr. Thorsland asked Mr. Singleton if he agreed to special condition A.

20  
21 Mr. Singleton agreed.

22  
23 **B. The petitioner shall apply for a Change of Use Permit within 30 days of the**  
24 **approval of the special use permit or the proposed rezoning in related zoning case**  
25 **687-AM-11, whichever occurs last.**

26  
27 The above condition is necessary to ensure the following:  
28 **Compliance with the Zoning Ordinance within a reasonable time frame.**

29  
30 Mr. Thorsland asked Mr. Singleton if he agreed to special condition B.

31  
32 Mr. Singleton asked how this relates to the IDOT approval. He asked if they wait until they are done  
33 here or do they wait for IDOT.

34  
35 Mr. Thorsland stated that the original application to IDOT indicated that zoning approval was already  
36 obtained.

37  
38 Mr. Singleton stated that the petitioner believed that he was under agriculture.

39  
40 Mr. Hall stated that he would prefer that the petitioner apply for the Change of Use Permit which will be  
41 understood that the permit is not valid until IDOT approves the petitioner's application. He said that  
42 zoning approval is not obtained until a Change of Use Permit is applied for and issued.



1  
2 Mr. Singleton thanked Mr. Hall for the clarification and agreed to special condition B.

- 3  
4  
5 **C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be**  
6 **no more than three take offs and three landings in any 28 day period whether that**  
7 **use is by the petitioner or an invited guest.**

8  
9 The above condition is necessary to ensure the following:

10 **That the use of the RLA does not become excessive in such close proximity to a**  
11 **dwelling under other ownership.**

12  
13 Mr. Thorsland asked Mr. Singleton if he agreed to special condition C.

14  
15 Mr. Singleton agreed.

- 16  
17  
18 **D. The use of the RLA for personal helicopter use shall be limited to no more than two**  
19 **take offs and two landings in any 28 day period whether that use is by the petitioner**  
20 **or an invited guest.**

21  
22 The above condition is necessary to ensure the following:

23 **That the use of the helicopter(s) for personal use does not exceed the amount of use**  
24 **authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

25  
26 Mr. Thorsland asked Mr. Singleton if he agreed to special condition D.

27  
28 Mr. Singleton agreed.

29  
30 Mr. Passalacqua asked if there is something in the finding that discounts emergency use.

31  
32 Mr. Thorsland stated that special condition M. assures that the use of RLA does not occur at nighttime  
33 unless required for public safety assistance. He asked Mr. Passalacqua if he wanted to change this to  
34 make sure that the limit of take-offs and landings does not apply to public safety applications.

35  
36 Mr. Passalacqua stated yes.

37  
38 Mr. Singleton stated that Special Condition D. should be consistent with Special Condition C.

39  
40 Mr. Thorsland stated that revised special condition D. would read as follows:

- 41  
42 **D. The use of the RLA for personal helicopter, non-public safety assistance use shall be**

1 **limited to no more than two take offs and two landings in any 28 day period whether**  
2 **that use is by the petitioner or an invited guest.**  
3

4 The above condition is necessary to ensure the following:

5 **That the use of the helicopter(s) for personal use does not exceed the amount of use**  
6 **authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**  
7

8 Mr. Singleton agreed to the revised special condition D.  
9

10 **E. No "Fly-In Event" (more than 6 planes) as described in 92 Ill. Adm. Code 14.760**  
11 **shall occur on the subject property.**  
12

13 The above condition is necessary to ensure the following:

14 **That the use of the RLA does not become excessive in such close proximity to a**  
15 **dwelling under other ownership.**  
16

17 Mr. Thorsland asked Mr. Singleton if he agreed to special condition E.  
18

19 Mr. Singleton agreed.  
20  
21

22 **F. The petitioner shall maintain at all times when take-offs and/ or landings may occur**  
23 **at the RLA, public liability and property damage insurance with a minimum**  
24 **coverage of \$5 million dollars and a copy of a valid certificate of insurance shall be**  
25 **on file with the Zoning Administrator when any take-offs or landings do occur.**  
26

27 The above condition is necessary to ensure the following:

28 **That the petitioner has adequate insurance to compensate anyone affected by injury**  
29 **or property damage resulting from the operation of the RLA in such close proximity**  
30 **to a dwelling under other ownership.**  
31

32 Mr. Thorsland asked Mr. Singleton if he agreed to special condition F.  
33

34 Mr. Singleton agreed.  
35  
36

37 **G. No pre-operation run up procedures shall be conducted east of the proposed hangar**  
38 **location.**  
39

40 The above condition is necessary to ensure the following:

41 **To prevent nuisance conditions resulting from the RLA.**  
42

43 Mr. Thorsland asked Mr. Singleton if he agreed to special condition G.

1  
2 Mr. Singleton agreed.  
3  
4

5 **H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize**  
6 **the distance between the aircraft landing at the RLA and the neighboring**  
7 **residential properties to the north.**  
8

9 The above condition is necessary to ensure the following:

10 **To minimize nuisance conditions resulting from the RLA.**  
11

12 Mr. Hall stated that Mr. Palmgren previously indicated that he is not fond of this special condition  
13 because it takes a pilot out of their normal mode and the last thing that the Board wants to do is make  
14 more problems for the RLA. He encouraged the Board to listen to their own Board member on this  
15 matter.  
16

17 Mr. Palmgren stated that he is sure that the intent was to keep noise and traffic out of the houses but the  
18 RLA is about one-quarter mile south of the Pesotum Road and a normal one-half mile pattern with a  
19 downwind puts it further north anyway so you are not really going over anyone's house. He said that if  
20 the petitioner wants to agree to this condition then it would be fine.  
21

22 Mr. Thorsland asked if a condition which would break a pilot from their normal routine is not  
23 inappropriate.  
24

25 Mr. Palmgren stated that it is done. He said that Frasca Airfield has a pattern which avoids the interstate  
26 area therefore all patterns are to be to the north although you can sit there and watch airplanes violating  
27 that pattern.  
28

29 Mr. Thorsland that the most use of the RLA would be by the person who agrees to this condition in the  
30 first place.  
31

32 Mr. Thorsland asked Mr. Singleton if he agreed to special condition H.  
33

34 Mr. Singleton agreed.  
35

36 **I. The Special Use Permit shall not be transferrable to future owners of the subject**  
37 **property.**  
38

39 The above condition is necessary to ensure the following:

40 **That any future owner(s) of the subject property must also receive the proper**  
41 **approvals for an RLA.**  
42

1 Mr. Thorsland asked Mr. Singleton if he agreed to special condition I.

2

3 Mr. Singleton agreed.

4

5

6 **J. All aircraft (operable and inoperable) and aircraft parts must be stored in a fully**  
7 **enclosed building/hangar at all times.**

8

9

The above condition is necessary to ensure the following:

10 **That nuisance problems do not arise as a result of the establishment**  
11 **of the RLA.**

12

13 Mr. Thorsland asked Mr. Singleton if he agreed to special condition J.

14

15 Mr. Singleton agreed.

16

17

18 **K. The only aircraft that may be stored at the RLA and on the owner's adjacent**  
19 **property shall be limited to the owner's aircraft and aircraft owned by the parents,**  
20 **children, or siblings of the owner which in no case shall exceed eight aircraft at any**  
21 **given time.**

22

The above condition is necessary to ensure the following:

23 **That the proposed RLA only be used for aircraft of the owner and the immediate**  
24 **family.**

25

26 Mr. Thorsland asked Mr. Singleton if he agreed to special condition K.

27

28 Mr. Singleton agreed.

29

30

31 **L. This RLA Special Use Permit does not authorize landscape or tree maintenance in**  
32 **the wooded area in the CR District on the west side of the East Branch of the**  
33 **Embarrass River and any tree trimming or removal of trees in that area pursuant to**  
34 **the RLA shall cause this Special Use Permit to become void.**

35

36

The special condition above is necessary to ensure the following:

37 **To ensure that the environmental quality of the wooded area is not damaged for the**  
38 **purpose of protecting the RLA certification by IDOT.**

39

40 Mr. Thorsland asked Mr. Singleton if he agreed to special condition L.

41

42 Mr. Singleton agreed.

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**M. No take-offs or landings shall occur at anytime other than during daylight hours except as required for public safety assistance which may occur anytime necessary.**

The above condition is necessary to ensure the following:

**That the use of RLA does not occur at nighttime unless required for public safety assistance.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition M.

Mr. Singleton agreed.

**N. There shall be a minimum separation distance of at least 230 feet between the nearest point of the RLA and the nearest dwelling.**

The above condition is necessary to ensure the following:

**That the use of the RLA does not pose unusual safety or nuisance concerns due to even closer proximity to a dwelling under other ownership.**

Mr. Thorsland stated that the Summary of Evidence includes a note indicating that this requirement is probably not suitable as a special condition and has been included here simply so that it will not be overlooked. If the Board is inclined to require a greater separation it should require a different site plan and a different legal description that describes a location that provide the greater separation. He said that this is not a condition that is advisable to include because it is not relevant to the site plan that is before the Board.

Mr. Palmgren stated that special condition N. should be stricken.

Mr. Passalacqua agreed that special condition N. should be stricken.

Mr. Thorsland asked Mr. Hall if he has a new special condition N. for the Board to review.

Mr. Hall read new special condition N. as follows:

**N. The Petitioner will plant one acre of new woodland in a location on the subject property where there is no existing woodland and plant at least two Northern Red Oak trees of minimum 4 inch diameter at breast height for each existing tree that is 10 inches or greater diameter that is removed in the proposed hangar area, as indicated on the Proposed Hangar Site drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to establish native habitat and in consultation with an appropriate ecological consultant selected from a list provided by the**

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41

**Champaign County Soil and Water Conservation District.**

The above condition is necessary to ensure the following:  
**To mitigate injury to the existing woodlands.**

Mr. Hall stated that this is a very technical special condition and would never recommend cooking up something this technical during the context of one meeting but it is the Board’s finding.

Mr. Singleton requested that the condition be revised to indicate the subject property or the petitioner’s adjacent property. He asked Mr. Hall why breast height was included.

Mr. Hall stated that breast height is the normal standard.

Mr. Singleton stated that breast height is acceptable.

Mr. Thorsland stated that indicating the subject property or the petitioner’s adjacent property the Board is not talking about property located in Douglas County but adjacent and contiguous to the subject property.

Mr. Hall stated that even if the special condition is acceptable it does not indicate when these items must be completed. He read revised special condition N as follows:

- N. No Zoning Compliance Certificate shall be approved for the RLA until the petitioner has planted one acre of new woodland in a location on the subject property or the Petitioners adjacent property, where there is no existing woodland and planted at least two Northern Red Oak trees of minimum 4 inch diameter at breast height for each existing tree that is 10 inches or greater diameter that is removed in the proposed hangar area, as indicated on the Proposed Hangar Site drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to establish native habitat and in consultation with an appropriate ecological consultant selected from a list provided by the Champaign County Soil and Water Conservation District.**

The above condition is necessary to ensure the following:  
**To mitigate injury to the existing woodlands.**

Mr. Hall stated that there are 11 acres of woodland which is west and north of the hangar therefore it would be advisable to meet as many of the LRMP policies as possible. He said that currently the condition only discusses establishing the new woodland and testimony indicates that a habitat is not created by just the planting of trees.

- 1 Mr. Thorsland stated that the Board received the one-page plan from Mr. Stickers and a large packet of  
2 bulletins as a guideline for management. He asked if the Board would like to fold into the condition that  
3 the remaining woodland must be managed as per the documents provided by Mr. Stickers or is there  
4 something better or lesser that the Board would like inserted.  
5
- 6 Mr. Palmgren stated that the petitioner has shown that he has done some conservation and restoration  
7 work and will be doing some more in that area in the future.  
8
- 9 Mr. Thorsland stated that the Board could assume good intentions and that they will follow the plan that  
10 they have although this may be something that is difficult for staff to enforce.  
11
- 12 Mr. Palmgren stated perhaps the good intention text should be left out because the petitioner has already  
13 completed some of the stuff in some of the areas.  
14
- 15 Mr. Thorsland stated that some benefit will be gained if the petitioners have some sort of discussion with  
16 a professional and knowledgeable source. He said that the debate whether the Board adds a very broad  
17 condition about improving the woodland area or get very specific.  
18
- 19 Mr. Singleton proposed a second condition which establishes a \$2,000 budget for improving the existing  
20 woodland which is north and south of the proposed hangar area through a plan and in consultation with  
21 the CCSWCD.  
22
- 23 Mr. Thorsland asked the Board if they desired to make a very simple condition that the petitioner will  
24 spend \$2,000 on improving the wooded area or does the Board want to be very specific or leave it all  
25 out.  
26
- 27 Mr. Passalacqua stated that the intentions are good and have been proven and nowhere in the revised  
28 draft are we going to answer a question that has any bearing on the reforestation. He said that evidence  
29 has been submitted and the intention is wonderful but it is not really pertinent to these questions.  
30
- 31 Mr. Thorsland asked Mr. Passalacqua if he would prefer that the condition just be implied.  
32
- 33 Mr. Passalacqua stated yes.  
34
- 35 Mr. Singleton stated that he would like to have it in there because the petitioner wants to make the  
36 property a better place.  
37
- 38 Mr. Thorsland stated that Mr. Jones' intentions have been documented.  
39
- 40 Mr. Courson stated that he thinks it is silly to spend \$2000 because he could give someone a bill for  
41 \$2000 to plant one tree and you can't quantify that you improved anything.

1

2 Mr. Singleton stated that it would be done in consultation with the expert from the CCSWCD that Mr.  
3 Hall mentioned.

4

5 Mr. Courson stated that the Board could insert all kinds of conditions but we will be taking up staff's  
6 time to go down to the property to count trees. He said that it is wasting valuable resources of the  
7 County to prove that you are planting trees and to make people feel good. He said that the Board needs  
8 to be realistic because we have a very limited staff which is very, very busy and they don't need to do a  
9 lot of stuff that isn't even pertinent. He said that if Mr. Jones wants to plant trees then he should plant  
10 as many trees as he wants but it isn't the County government's place to nick pick and tell him what kind  
11 of trees to plant or how many dollars he spends on planting them.

12

13 Mr. Thorsland stated that the petitioner would like to have special condition N. included.

14

15 Mr. Courson stated that he does not believe that it is necessary but if the petitioner wants it then it should  
16 be included.

17

18 Mr. Hall read special condition N as follows:

19

20 **N. No Zoning Compliance Certificate shall be approved for the RLA until the**  
21 **petitioner has planted one acre of new woodland in a location on the subject**  
22 **property or the Petitioners adjacent property, where there is no existing woodland**  
23 **and planted at least two Northern Red Oak trees of minimum 4 inch diameter at**  
24 **breast height for each existing tree that is 10 inches or greater diameter that is**  
25 **removed in the proposed hangar area, as indicated on the Proposed Hangar Site**  
26 **drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to**  
27 **establish native habitat and in consultation with an appropriate ecological**  
28 **consultant selected from a list provided by the Champaign County Soil and Water**  
29 **Conservation District.**

30

The above condition is necessary to ensure the following:

31

**To mitigate injury to the existing woodlands.**

32

33 Mr. Thorsland asked Mr. Singleton if he agreed to special condition.

34

35 Mr. Singleton agreed.

36 Mr. Thorsland asked the petitioner and the Board if there was any additional information that they would  
37 like to have included in special condition N.

38

39 Mr. Singleton stated no.

40

41 Mr. Thorsland asked the Board if there was any additional information that they would like to have



1 included in special condition N. and there was none.

2

3 Mr. Thorsland entertained a motion to approve special condition N.

4

5 **Mr. Palmgren moved, seconded by Mr. Passalacqua to approve the special conditions as read.**

6 **The motion carried by voice vote with one opposing vote.**

7

8 Mr. Thorsland stated that there is a very long list of Documents of Record and the new Supplemental

9 Memorandum dated May 1, 2013, includes additional documents which needed to be added to that list.

10 He noted that documents which have an asterisk next to the document number should only be added to

11 the Documents of Record for Case 688-S-11.

12

13 Mr. Hall stated that an IT expert should arrive shortly to achieve a display on the screen and given the

14 complexity of this case he would recommend that the Board take a short break so that IT can complete

15 their task.

16

17 **The Board recessed at 9:25 p.m.**

18 **The Board resumed at 9:40 p.m.**

19

20 Mr. Thorsland stated that there is a new development regarding special condition N. He said that the

21 petitioner, staff and the representative from CCSWCD discussed the special condition and determined

22 that the condition can be modified to address Mr. Courson's concerns.

23

24 Mr. Hall stated that he does not know if anyone on the Board is familiar with the IDNR Conservation

25 Stewardship Program but it is a program whereby if a landowner enrolls a minimum of five acres of

26 woodland they will receive a tax break and in order to keep the land enrolled in the program the

27 landowner must continue to meet IDNR's standards for management of the area. He said that this

28 program requires a forestry plan to be in place and that will take the responsibility off of the County

29 Zoning Administrator to make sure that someone is doing a good enough job and the only thing that this

30 staff will be involved in is to make sure that the property is enrolled in the program prior to the issuance

31 of a Zoning Compliance Certificate and that it is kept enrolled every year thereafter. He said that if the

32 program ends then that is complication that will have to be addressed. He proposed that the following

33 be added to special condition N.: and the property shall be enrolled in the Illinois Department of Natural

34 Resources Conservation Stewardship Program continuously thereafter or the Special Use Permit shall be

35 void.

36

37 Mr. Hall stated that Jonathon Manuel, Resource Conservationist with CCSWCD, is present tonight

38 therefore if the Board has any questions regarding the IDNR Conservation Stewardship Program Mr.

39 Manuel would be able to answer those questions. Mr. Hall stated that this addition to the special

40 condition would take a lot of the burden off of staff and assures that the standards are being met. He said

41 that he is not saying that the condition is perfect but it is a huge improvement over what the Board

1 approved earlier.

2  
3 Mr. Thorsland stated that in order for the Board to ask Mr. Manuel any questions he would need to  
4 reopen the witness register.

5  
6 Mr. Hall stated that staff has discussed this matter with Mr. Singleton but it must be placed on record  
7 that Mr. Singleton is in agreement with the revision of special condition N.

8  
9 Mr. Singleton stated that is he is in agreement with the revision.

10 Mr. Hall read revised special condition N. as follows:

11 N. **No Zoning Compliance Certificate shall be approved for the RLA until the**  
12 **petitioner has planted one acre of new woodland in a location on the subject**  
13 **property or the Petitioners adjacent property, where there is no existing woodland**  
14 **and planted at least two Northern Red Oak trees of minimum 4 inch diameter at**  
15 **breast height for each existing tree that is 10 inches or greater diameter that is**  
16 **removed in the proposed hangar area, as indicated on the Proposed Hangar Site**  
17 **drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to**  
18 **establish native habitat and in consultation with an appropriate ecological**  
19 **consultant selected from a list provided by the Champaign County Soil and Water**  
20 **Conservation District and the property shall be enrolled in the Illinois Department**  
21 **of Natural Resources Conservation Stewardship Program continuously thereafter**  
22 **or the Special Use Permit shall be void.**

23  
24 The above condition is necessary to ensure the following:  
25 **To mitigate injury to the existing woodlands.**

26  
27 Mr. Thorsland asked Mr. Singleton if he agreed to revise special condition N.

28  
29 Mr. Singleton stated that in many of the contracts that he writes there is a “cure” period which means  
30 that if you go over the deadline you would only receive a fine. He asked if for some reason the annual  
31 renewal time period slipped by would there be a possibility for a “cure” period. He asked if the text  
32 could indicate that if it shall be voidable if not cured or re-enrolled within 30 days of notice of non-  
33 enrollment.

34  
35 Mr. Hall stated that the Board is very much aware that we have a very long “cure” time with any of our  
36 enforcement activities. He said that 30 days would be very limiting.

37  
38 Mr. Singleton stated that staff has better things to worry about other than non-enrollment within 30 days  
39 therefore if the enrollment is proven then staff will be satisfied.

40  
41 Mr. Hall stated that first notice will be sent with two weeks to reply the final notice must receive a reply

1    within one week.

2  
3    Mr. Singleton stated that there is a procedure in place therefore he is willing to accept the revised special  
4    condition N.

5  
6    Mr. Thorsland entertained a motion to accept revised special condition N. as previously read.  
7

8    **Mr. Palmgren moved, seconded by Mr. Passalacqua to accept revised special condition N. as**  
9    **previously read. The motion carried by voice vote.**

10  
11    **Findings of Fact for Case 688-S-11:**

12  
13    From the documents of record and the testimony and exhibits received at the public hearing for zoning  
14    case 688-S-11 held on June 16, 2011, August 11, 2011, November 10, 2011, May 31, 2012, August 16,  
15    2012, December 13, 2012, March 14, 2013, April 25, 2013, and May 1, 2013, the Zoning Board of  
16    Appeals of Champaign County finds that:

- 17  
18            1.    **The requested Special Use Permit IS NOT necessary for the public convenience at**  
19            **this location because:**

20  
21    **Mr. Palmgren moved that the requested Special Use Permit IS necessary for the public**  
22    **convenience at this location.**

23  
24    Mr. Palmgren said that the petitioner has a history of using his aircraft for assisting local law  
25    enforcement officials at no cost. He said that two local Sheriffs and other local officials have submitted  
26    letters of support for the requested use. He said that the location of the proposed RLA is within three  
27    miles of the petitioner's office and is centralized to assist Champaign and Douglas County officials if  
28    required. He said that no change is needed at the location of the proposed airstrip other than the  
29    construction of a hangar. He said that agriculture will not be affected and the petitioner has a history of  
30    natural area conservation and restoration on this land. He said that the petitioner has agreed to the  
31    special conditions imposed to ensure safety.

32  
33    Mr. Thorsland stated that "necessary for the public convenience" was only touched upon by the first  
34    statement by Mr. Palmgren regarding the petitioner's history of using his aircraft for assisting local law  
35    enforcement at no cost and two local Sheriffs and other local officials have submitted letters of support  
36    for the requested use. He said that he does not know that the other comments by Mr. Palmgren are  
37    weighted to the need for the public convenience. He said that reasons why the special use is not  
38    necessary for the public convenience can be noted as well. He said that he would be inclined to strike all  
39    of Mr. Palmgren's comments other than the first one and modify it. He said that he does not believe that  
40    all of Mr. Palmgren's comments are relevant.

41

1 Ms. Capel agreed with Mr. Thorsland.

2  
3 Mr. Passalacqua stated that during the finding for the map amendment the Board had to think about the  
4 special use as well. He asked if the same scenario exists during this finding only in reverse. He said that  
5 Mr. Palmgren indicated that no change is needed except for the construction of a hangar although there  
6 is certainly a change needed because the property requires the rezoning.

7  
8 Mr. Thorsland stated that he does not believe that is relevant to finding #1.

9  
10 Ms. Capel agreed. She said that Mr. Palmgren's first two points should be combined to indicate a  
11 positive point but the rest of his comments do not address public convenience.

12  
13 Mr. Palmgren understood Mr. Thorsland and Ms. Capel's concerns.

14  
15 Mr. Thorsland requested that staff combine Mr. Palmgren's first two points and strike the others.

16  
17 Ms. Capel stated that 3.7 acres of land that was previously in agricultural production was taken out of  
18 production for the runway. She said that the petitioner currently has his aircraft in Douglas County  
19 which is only one-half hour from Villa Grove.

20  
21 Mr. Thorsland stated that the Board could indicate that the proposed RLA would benefit the petitioner  
22 but its benefit to the public is minimal. He said that public safety assistance is not required by the  
23 Special Use Permit, and the lack of an RLA would not significantly impact public safety.

24  
25 Mr. Thorsland entertained a motion to extend the meeting to 10:15 p.m.

26  
27 **Mr. Passalacqua moved, seconded by Ms. Capel to extend the meeting to 10:15 p.m.. The motion**  
28 **carried by voice vote.**

29  
30 Mr. Kass read the Board's findings as follows:

31  
32 •**The petitioner has a history of providing assistance to local law enforcement. The Sheriffs**  
33 **Champaign and Douglas Counties along with other local officials have submitted letters of**  
34 **support.**

35 •**Approximately 3.7 acres of land that was previously in agricultural production was taken**  
36 **out of production for the runway.**

37 •**The benefit to the public of the proposed Special Use Permit for an RLA is minimal**

38 •**The public safety assistance is not required by the Special Use Permit, and the lack of the**  
39 **RLA would not significantly impact public safety.**

40  
41 **Ms. Capel seconded the motion.**

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Mr. Thorsland requested a roll call vote. He noted that a “yes” vote is an indication that the Special Use Permit IS necessary for the public convenience at this location and a “no” vote is in an indication that the Special Use Permit IS NOT necessary for the public convenience at this location.

The roll was called:

<b>Capel-no</b>	<b>Courson-no</b>	<b>Palmgren-yes</b>
<b>Passalacqua-no</b>	<b>Thorsland-no</b>	<b>Miller-absent</b>

**2. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:**

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

Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

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

Mr. Passalacqua stated that emergency services availability is ADEQUATE.

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

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

**d. The Special Use WILL NOT be compatible with adjacent uses because:**

Mr. Passalacqua stated that the Board had this issue during the last case because it is compatible with the AG-1 District and incompatible with the CR District.

Mr. Thorsland stated that the property is still zoned CR because the map amendment case was denied therefore WILL NOT should be indicated.

Ms. Capel stated that it is also not compatible with the residential use which is adjacent and that it is 142 from that use.

1 Mr. Kass read the Board’s findings as follows:

- 2                                      •                      **It is located in the CR District.**
- 3
- 4                                      •                      **It is 142 feet from a residential use under other ownership.**
- 5

6 **Mr. Palmgren moved, seconded by Mr. Courson that the Special Use WILL be compatible with**  
7 **adjacent uses.**

8

9 Mr. Palmgren stated that special conditions to ensure safety and consideration of close neighbors have been  
10 accepted by the petitioner.

11

12 Mr. Kass read the following:

- 13
- 14                                      •                      **The Special Conditions have been accepted by the petitioner to mitigate**  
15 **affects on neighbors.**
- 16

17 Mr. Palmgren asked if an acceptable distance from the airstrip to the closest residential home was  
18 determined.

19

20 Mr. Thorsland stated that a number was never offered.

21

22 Mr. Thorsland requested a roll call vote. Mr. Thorsland stated that a “yes” vote is an indication that the  
23 Special Use WILL be compatible with adjacent uses and a “no” vote is an indication that the Special Use  
24 WILL NOT be compatible with adjacent uses.

25

26 Mr. Thorsland requested a roll call vote:

27

28 <b>Courson-no</b>	<b>Palmgren-yes</b>	<b>Passalacqua-no</b>
29 <b>Capel-no</b>	<b>Thorsland-no</b>	<b>Miller-absent</b>

30

31                      e.                      **Surface and subsurface drainage will be ADEQUATE.**

32

33 Mr. Passalacqua moved that surface and subsurface drainage will be ADEQUATE.

34

35 Ms. Capel stated that the surface and subsurface drainage will be INADEQUATE because there is evidence  
36 that the site floods and it becomes unusable as a landing strip when it is wet and flooded.

37

38 Mr. Passalacqua stated that he is looking at this as a change to drainage based on the special use.

39

40 Mr. Thorsland stated that the special use is the RLA.

41

1 Mr. Passalacqua stated that whether the RLA is there or not it won't change or impact drainage. He said that  
2 the site may be poorly drained but it isn't due to the RLA.

3

4 Ms. Capel stated that the existing drainage is inadequate.

5

6 Mr. Thorsland entertained a motion to extend the meeting to 10:30 p.m.

7

8 **Ms. Capel moved, seconded by Mr. Palmgren to extend the meeting to 10:30 p.m. The motion carried**  
9 **by voice vote.**

10

11 Mr. Palmgren stated that there are areas of the landing strip which are of soil types which hold water and it  
12 appears that those areas are closer to the river which will not have any aircraft operations. He said that this  
13 is a grass airstrip and, by personal experience, you do not fly upon wet grass airstrips after a rain and that is  
14 so that you can keep the condition of the airstrip.

15

16 Mr. Thorsland requested that Mr. Palmgren stay with the question in hand which is whether or not the  
17 surface and subsurface drainage will be ADEQUATE or INADEQUATE.

18

19 Mr. Palmgren stated that he believes that it is ADEQUATE.

20

21 Mr. Thorsland stated that he agrees that for the special use the surface and subsurface drainage is  
22 INADEQUATE.

23

24 Mr. Passalacqua stated that every grass landing strip is subject to that today and he does not believe that the  
25 special use created an inadequate drainage problem.

26

27 Mr. Thorsland stated that for the sake of moving forward he will agree that it is ADEQUATE and asked Ms.  
28 Capel if she also agreed.

29

30 Ms. Capel indicated yes.

31

32 Mr. Thorsland asked the Board if they agreed that surface and subsurface drainage will be ADEQUATE and  
33 the Board agreed.

34

35 **f. Public safety will be ADEQUATE.**

36

37 Mr. Thorsland stated that public safety will be INADEQUATE because the distance to the closest house  
38 under different ownership is 142 feet.

39

40 **Mr. Palmgren moved that public safety will be ADEQUATE.**

41

1 Mr. Palmgren stated that there are two fire protection districts under contract and no response has been  
2 received from either district.

3  
4 **Mr. Courson seconded the motion.**

5  
6 Ms. Capel stated that she agreed with Mr. Thorsland in that the public safety will be INADEQUATE  
7 because the distance to the closest house under different ownership is 142 feet.

8  
9 Mr. Thorsland requested a roll call vote. He stated that a “yes” vote is an indication that public safety is  
10 ADEQUATE and a “no” vote is an indication that public safety is INADEQUATE.

11  
12 The roll was called:

13  
14                      **Palmgren-yes                      Passalacqua-yes                      Capel-no**  
15                      **Courson-yes                      Thorsland-no                      Miller-absent**

16  
17                      **g.                      The provisions for parking will be ADEQUATE.**

18  
19 Mr. Thorsland stated that the provisions for parking will be ADEQUATE.

20  
21 Mr. Hall noted that the required criteria were whether it will or will not be injurious to the district. He said  
22 that the items that the Board just reviewed are the standard items that are intended to be a guide and none of  
23 the items discussed all of the aspects of injury to the CR District and it seemed that there are some things  
24 that are pertinent to the District which are not included in these items.

25  
26 Mr. Thorsland stated that the Board determined in Finding #2.d. that the special use will not be compatible  
27 with adjacent uses and listed points as to why it was not compatible. He said that the Board can add more if  
28 necessary.

29  
30 Mr. Hall stated no.

31  
32 Mr. Thorsland entertained a motion for an overall finding for Finding #2.

33  
34 **Ms. Capel moved, seconded by Mr. Passalacqua that the requested Special Use Permit, subject to the**  
35 **Special Conditions imposed herein, is so designed, located, and proposed to be operated so that it**  
36 **WILL be injurious to the district in which it shall be located or otherwise detrimental to the public**  
37 **health, safety, and welfare.**

38  
39 Mr. Thorsland requested a roll call vote.

40  
41 The roll was called:



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**Passalacqua-yes                      Capel-yes                      Courson-yes**  
**Miller-absent                      Palmgren-no                      Thorsland-yes**

**3a.    The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN DOES NOT conform to the applicable regulations and standards of the DISTRICT in which it is located based on the recommendation of denial of related Case 687-AM-11.**

**Ms. Capel moved, seconded by Mr. Passalacqua that the requested Special Use Permit, subject to the special conditions imposed herein, DOES NOT conform to the applicable regulations and standards of the DISTRICT in which it is located.**

Mr. Palmgren stated that he disagrees with Ms. Capel and believes that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located based on the recommendation of denial of related Case 687-AM-11.

Ms. Capel stated that the special use is still located in CR therefore it doesn't conform because the special use is not allowed in CR. She said that this is a technical question.

Mr. Passalacqua stated that if ELUC decides that the rezoning should be approved then the ZBA needs an answer to this question.

Mr. Thorsland stated that currently the property is zoned CR therefore the special use is not allowed.

Mr. Palmgren stated that the finding is designed in as a negative if you are looking at recommendation for 687-AM-11.

Ms. Capel stated that the rezoning was denied by this Board but we have to use this particular system because that is what was in place when the application was made.

Mr. Hall stated that the only way to adequately respond is to specify the basis of the Board's recommendation and this Board has recommended denial of the map amendment. He said that the Board could insert the following in each finding: based on the recommendation of denial of related Case 687-AM-11. He said that in adding the text the Board should include it the following Findings: 3b. and 4. He said that in adding this text the Board has eliminated the questions and indicate that the Board based its evaluation on the fact that the subject property is not zoned AG-1 but CR. He said that the Board has answered questions like this before on a special use permit when the map amendment was approved and the Board did not get his specific but it is his recommendation that in this instance the Board should be specific.

Mr. Thorsland stated that he agrees with Mr. Hall. He said that the Special Use Permit DOES NOT conform

1 because of the recommended denial of Case 687-AM-11 which means that the property is still zoned CR and  
2 an RLA is not allowed regardless of the conditions.

3  
4 Mr. Thorsland asked Mr. Palmgren if he agreed.

5  
6 Mr. Palmgren stated that he still disagrees.

7  
8 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use Permit DOES NOT conform and  
9 a “no” vote is an indication that the Special Use Permit DOES conform.

10  
11 Mr. Thorsland requested a roll call vote.

12  
13 The roll was called:

14  
15                      **Capel-yes**                      **Courson-yes**                      **Palmgren-no**  
16                      **Passalacqua-yes**                      **Thorsland-yes**                      **Miller-absent**  
17

18 Mr. Courson asked staff if the County Board allows the rezoning could this case be kicked back to the ZBA.  
19

20 Mr. Hall stated that the County Board should not allow it to be changed without remanding the map  
21 amendment back to the ZBA because the recommendation is always to follow the recommendation of the  
22 ZBA or remand it. He said that in this case if the map amendment is remanded and this case has already  
23 been determined then this case would have to be reinvigorated and the petitioner could do that because the  
24 map amendment was approved and the conditions have changed therefore the special use permit can now be  
25 approved. He said that it will not be the most convenient thing for the petitioner but it does put the County  
26 Board on notice of what the ZBA’s decision was on the Special Use Permit.

27  
28 **Mr. Courson moved, seconded by Ms. Capel to extend the meeting to 10:45 p.m. The motion carried**  
29 **by voice vote.**

30  
31                      **3b. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
32 **IMPOSED HEREIN DOES NOT preserve the essential character of the DISTRICT in**  
33 **which it is located based on the recommendation of denial of related Case 687-AM-11**  
34 **because:**

35                      **a. The Special Use will be designed to NOT CONFORM to all relevant County**  
36 **ordinances and codes.**

37 **Ms. Capel moved that the Special Use will be designed to NOT CONFORM to all relevant County**  
38 **ordinances and codes.**

39                      **b. The Special Use WILL NOT be compatible with adjacent uses.**

40  
41 **Mr. Thorsland moved that the Special Use WILL NOT be compatible with adjacent uses.**

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

**Ms. Capel moved that public safety will be ADEQUATE.**

Mr. Palmgren stated that he agrees with the determination in 3.b.(c) but disagrees with the determinations in 3.b.(a) and 3.b.(b).

Mr. Thorsland stated that since there is disagreement the Board must vote on each item.

Mr. Passalacqua noted that the Board has already voted on these exact items.

Mr. Thorsland requested a second for the motion for Finding # 3.b.(a).

**Mr. Passalacqua seconded the motion for Finding #3.b.(a).**

Mr. Thorsland stated that a “yes” vote is an indication that the Special Use will be designed to NOT CONFORM to all relevant County ordinances and codes and a “no” vote is an indication that is CONFORMS.

Mr. Thorsland requested a roll call vote.

The roll was called:

**Courson-yes                      Palmgren-no                      Passalacqua-yes**

1                              **Miller-absent**                      **Capel-yes**                      **Thorsland-yes**

2

3 Mr. Thorsland requested a second for the motion for Finding #3.b.(b).

4

5 **Mr. Courson seconded the motion for Finding #3.b.(b).**

6

7 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use WILL NOT be compatible with  
8 adjacent uses and a “no” vote is an indication that it WILL.

9

10 Mr. Thorsland requested a roll call vote.

11

12 The roll was called:

13

14                              **Palmgren-no**                      **Passalacqua-yes**                      **Capel-yes**

15                              **Courson-yes**                      **Miller-absent**                      **Thorsland-yes**

16

17 Mr. Thorsland stated that the Board’s findings indicate that the requested Special Use Permit, subject to the  
18 special conditions imposed herein, DOES NOT preserve the essential character of the DISTRICT in which it  
19 is located.

20

21 Mr. Hall asked the Board if they would like to insert the following: based on the recommendation of denial  
22 of related Case 687-AM-11.

23

24 The Board agreed.

1  
2 Mr. Thorsland asked Mr. Palmgren if he agreed to the overall recommendation for Finding #3.b.

3  
4 Mr. Palmgren indicated that he did not agree to the overall recommendation for Finding #3.b.

5  
6 Mr. Thorsland entertained a motion for Finding #3.b.

7  
8 **Mr. Courson moved, seconded by Ms. Capel that the requested Special Use Permit SUBJECT TO**  
9 **THE SPECIAL CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential character of**  
10 **the DISTRICT in which it is located based on the recommendation of denial of related Case 687-AM-**  
11 **11.**

12  
13 Mr. Thorsland requested a roll call vote.

14  
15 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use Permit, subject to the Special  
16 Condition imposed herein DOES NOT preserve the essential character of the DISTRICT in which is it  
17 located based on the recommendation of denial of related Case 687-AM-11 and a “no” vote is an indication  
18 that it DOES.

19 The roll was called:

20  
21                      **Passalacqua-yes**                      **Capel-yes**                      **Palmgren-no**  
22                      **Courson-yes**                      **Thorsland-yes**                      **Miller-absent**

23  
24                      4.                      **The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
25                      **IMPOSED HEREIN IS NOT in harmony with the general purpose and intent of the**  
26                      **Ordinance based on the recommendation of denial of related Case 687-AM-11 because:**  
27                      a.                      **The Special Use is not authorized in the District.**

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The Board agreed.

**b. The requested Special Use Permit IS NOT necessary for the public convenience at this location.**

Mr. Thorsland stated that he would recommend that the Special Use Permit IS NOT necessary for the public convenience at this location.

Mr. Palmgren disagreed.

Mr. Thorsland entertained a motion for Finding #4.b.

**Ms. Capel moved, seconded by Mr. Courson that the requested Special Use IS NOT necessary for the public convenience at this location.**

Mr. Thorsland requested a roll call vote.

Mr. Thorsland noted that a “yes” vote is an indication that the Special Use IS NOT necessary and a “no” vote is an indication that it “IS” necessary.

The roll was called:

<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Palmgren-no</b>
<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>	<b>Miller-absent</b>

**c. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.**

**Mr. Courson moved, seconded by Ms. Capel that the requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.**

Mr. Palmgren disagreed.

Mr. Thorsland requested a roll call vote.

Mr. Thorsland noted that a “yes” vote is an indication that the Special Use WILL be injurious and a “no” vote is an indication that it WILL NOT be injurious.

1  
2 The roll was called:

3  
4                      **Courson-yes**                      **Palmgren-no**                      **Passalacqua-yes**  
5                      **Capel-yes**                      **Miller-absent**                      **Thorsland-yes**  
6

7                      d.                      **The requested Special Use Permit SUBJECT TO THE SPECIAL**  
8                      **CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential**  
9                      **character of the DISTRICT in which it is located.**

10  
11 **Ms. Capel moved, seconded by Mr. Courson that the requested Special Use Permit SUBJECT TO**  
12 **THE SPECIAL CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential character of**  
13 **the DISTRICT in which it is located.**

14  
15 Mr. Palmgren disagreed.

16  
17 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use DOES NOT preserve the  
18 essential character and a “no” vote is an indication that it DOES.

19  
20 Mr. Thorsland requested a roll call vote.

21  
22 The roll was called:

23  
24                      **Palmgren-no**                      **Passalacqua-yes**                      **Capel-yes**  
25                      **Courson-yes**                      **Miller-absent**                      **Thorsland-yes**  
26

27 Mr. Thorsland stated that due to the Board’s findings it has been determined that the Special Use Permit,  
28 subject to the Special Conditions imposed herein, IS NOT in harmony with the general purpose and intent of  
29 the Ordinance based on the recommendation of denial of related Case 687-AM-11.

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Mr. Palmgren disagreed.

Mr. Thorsland stated that a “yes” vote is an indication that the Special Use IS NOT in harmony with the general purpose and intent of the Ordinance and a “no” vote is an indication that is it IS.

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Palmgren-no</b>	<b>Miller-absent</b>	<b>Thorsland-yes</b>

**5. The requested Special Use IS NOT an existing nonconforming use.**

**6. Regarding necessary waivers of standard conditions:**

- A. Regarding the requested waiver of the standard condition in Section 6.1.3 for an RLA that requires compliance with Footnote 11 of Section 5.3 regarding maintenance of vegetation that obstructs the west approach slope of the proposed RESTRICTED LANDING AREA:**
  - (1) The waiver SUBJECT TO THE PROPOSED SPECIAL CONDITION IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Ms. Capel stated that the Board is waiving the condition that the trees shall be kept out of west approach slop of the proposed RLA. She said that this is not the ZBA’s condition but IDOT’s condition.

Mr. Hall stated that this is a condition out of the ZBA’s own Zoning Ordinance and waiving it means that the ZBA does not want the trees to be trimmed for the RLA.

**Ms. Capel moved that the waiver, subject to the proposed special condition IS NOT in accordance with the general purpose and intent of the Zoning Ordinance and WILL be injurious to the**



1 **neighborhood or the public health, safety and welfare.**

2  
3 Mr. Passalacqua stated that not trimming the trees is not going to be injurious but is a benefit.

4  
5 Ms. Capel stated that it is not a public safety benefit but will be a danger those who will be flying in and  
6 out of the airstrip.

7  
8 Mr. Hall stated no, because the Board already has a condition that it has to be used in conjunction with  
9 the IDOT certification and the Board is leaving that decision up to IDOT.

10  
11 Ms. Capel stated that the ZBA will approve the waiver and leave it up to IDOT.

12  
13 Mr. Hall stated that this is how it was structured but he wants to make sure that the ZBA understands  
14 and agrees with it.

15  
16 **Ms. Capel amended her motion as follows: the waiver, subject to the proposed special condition IS**  
17 **in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be**  
18 **injurious to the neighborhood or the public health, safety and welfare.**

19  
20 Mr. Palmgren and the Board agreed.

21  
22 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
23 **or structure involved, which are not applicable to other similarly situated**  
24 **land and structures elsewhere in the same district.**

25  
26 Mr. Passalacqua asked staff if when if this finding discusses “the same district,” it is referring to the CR  
27 District.

28  
29 Mr. Thorsland stated yes, therefore they DO exist.

30  
31 Ms. Capel stated that the situations that exist would be applicable to any site that someone wants to put  
32 an RLA on in CR.

33  
34 Mr. Hall stated that anywhere there is an approach area going out over a wooded area. He said that this  
35 is the trickiest part of this determination and it is unfortunate that it is the last thing that the Board is  
36 doing but it is unavoidable.

37  
38 Ms. Capel stated that the response to this finding would be that special conditions and circumstances DO  
39 exist.

40  
41 Mr. Thorsland asked Mr. Palmgren if he agreed.

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Mr. Palmgren and the Board agreed.

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

Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction but it will not prevent any reasonable use of the CR District.

Mr. Thorsland stated that the Board could add the following: based on the recommendation of denial of related Case 687-AM-11.

Mr. Passalacqua asked if this property was not located in CR the question would not be here.

Ms. Capel stated no, it is just difficult to answer because it is in CR.

Mr. Palmgren agreed.

Mr. Thorsland stated that the response to this finding would be WILL because of the recommended denial of Case 687-AM-11 not allowing the RLA.

Mr. Courson asked if this question would still be posed if the property was in AG-1.

Ms. Capel stated it is not otherwise permitted use of the land because it is not permitted.

Mr. Hall stated that because of the way that this is worded, the Board has been tending so far is that the ZBA would deny the waiver.

Ms. Capel asked staff what the finding needs to be to pass the waiver.

Mr. Hall stated that it has to be affirmative.

Ms. Capel stated that it has to be WILL but it can't be because it is not permitted.

Mr. Thorsland stated that this is waiver of the maintenance of the vegetation requirement in the Ordinance.

Mr. Courson stated that someone would not be asking for a special use permit for an RLA in the CR District because it isn't permitted therefore there would be no need for the waiver.

1

2 Mr. Thorsland entertained a motion to extend the meeting to 11:00 p.m.

3

4 **Mr. Courson moved, seconded by Mr. Palmgren to extend the meeting to 11:00 p.m. The motion**  
5 **carried by voice vote.**

6

7 Mr. Thorsland stated that he believes that the Finding 6.A.(3) should indicate WILL prevent and  
8 otherwise permitted should be stricken and requested use of the land or structure or construction should  
9 be added.

10

11 Mr. Courson stated that the ZBA cannot take out language that is included in the Ordinance.

12

13 Mr. Hall stated that this is like a variance and the Board must have the same findings that are included in  
14 a variance and that is how Finding #6.A.(3) is written. He said that he agrees that this is very confusing.

15

16 Mr. Thorsland stated that Mr. Courson's argument is that if you look at it as CR and ignore the request  
17 for an RLA the practical difficulties or hardships created by carrying out the strict letter of the  
18 regulations sought to be varied WILL NOT prevent reasonable or otherwise permitted use of the land or  
19 structure or construction because in CR you don't have to cut the trees.

20

21 Ms. Capel stated no, in CR you cannot have an RLA.

22

23 Mr. Thorsland stated yes, but this is a condition about cutting of the trees.

24

25 Mr. Passalacqua stated that it will not prevent permitted use.

26

27 Mr. Hall stated that the determinations on Findings 6.A(1) and (2) assumed that there was an RLA.

28

29 Mr. Passalacqua stated that they only took in to account that they were CR.

30

31 Mr. Hall stated that the Board should follow the logic, even if they don't make sense, the waiver is really  
32 secondary to the Special Use Permit therefore whatever happens to the waiver is only important if there  
33 is a Special Use Permit.

34

35 Ms. Capel stated that the overall logic is that the Board is basing this on the fact that the Board  
36 recommended denial of the map amendment so on that basis the findings for 6.A(1), (2) and (3) have to  
37 be negative.

38

39 Mr. Hall stated only if this is logic that the Board agrees to.

40

41 Mr. Thorsland stated that Mr. Hall's point is that the waiver of this condition implies that this is granted

1 and the Board is waiving the condition regarding vegetation if the RLA is there. He said that if the  
2 Board carried out the strict letter of the regulation the Board would not be waiving it therefore it would  
3 prevent reasonable or otherwise permitted use of the land or structure or construction considering that  
4 this is an application for a permitted use in AG-1 and this makes the assumption that the waiver would  
5 be needed if the Special Use was granted. He said that the determinations in Findings #6.A(1) and  
6 6.A(2) were affirmative. He said that if the Special Use is denied the waiver is denied as well.  
7

8 **Mr. Courson moved, seconded Mr. Passalacqua that the determination for Finding #6.A.(3)**  
9 **should be indicated as WILL. The motion carried by voice vote.**

- 10  
11 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
12 **NOT result from actions of the applicant.**  
13

14 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
15 result from actions of the applicant.  
16

17 The Board agreed.  
18

- 19 **(5) The requested waiver SUBJECT TO THE PROPOSED SPECIAL**  
20 **CONDITION IS the minimum variation that will make possible the**  
21 **reasonable use of the land/structure.**  
22

23 Mr. Courson stated that the requested waiver SUBJECT TO THE PROPOSED SPECIAL CONDITION  
24 IS the minimum variation that will make possible the reasonable use of the land/structure.  
25

26 The Board agreed.  
27

28 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**  
29 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR**  
30 **THE PARTICULAR PURPOSES DESCRIBED BELOW:**  
31

- 32 **A. The restricted Landing Area must be used in compliance with the approved**  
33 **Certificate of Approval for operation from the Illinois Department of**  
34 **Transportation Division of Aeronautics.**  
35

36 The above condition is necessary to ensure that:

37 **The proposed RLA is operated so as to ensure public safety.**  
38

- 39 **B. The petitioner shall apply for a Change of Use Permit within 30 days of the**  
40 **approval of the special use permit or the proposed rezoning in related case 687-**  
41 **AM-11, whichever occurs last.**

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The above condition is necessary to ensure that:  
**Compliance with the Zoning Ordinance within a reasonable time frame.**

- C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be no more than three take offs and three landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure that the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- D. The use of the RLA for personal helicopter, non-public safety assistance use shall be limited to no more than two take offs and two landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure the following:  
**That the use of the helicopter(s) for personal use does not exceed the amount of use authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

- E. No "Fly-In Event" (more than 6 planes) as described in 92 Ill. Adm. Code 14.760 shall occur on the subject property.**

The above condition is necessary to ensure the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- F. The petitioner shall maintain at all times when take-offs and/or landings may occur at the RLA, public liability and property damage insurance with a minimum coverage of \$5 million dollars and a copy of a valid certificate of insurance shall be on file with the Zoning Administrator when any take-offs or landings do occur.**

The above condition is necessary to ensure the following:  
**That the petitioner has adequate insurance to compensate anyone affected by injury or property damage resulting from the operation of the RLA in such close proximity to a dwelling under other ownership.**

- G. No pre-operation run up procedures shall be conducted east of the proposed hangar location.**

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The above condition is necessary to ensure the following:  
**To prevent nuisance conditions resulting from the RLA.**

- H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize the distance between the aircraft landing at the RLA and the neighboring residential properties to the north.**

The above condition is necessary to ensure the following:  
**To minimize nuisance conditions resulting from the RLA.**

- I. The Special Use Permit shall not be transferrable to future owners of the subject property.**

The above condition is necessary to ensure the following:  
**That any future owner(s) of the subject property must also receive the proper approvals for an RLA.**

- J. All aircraft (operable and inoperable) and aircraft parts must be stored in a fully enclosed building/hangar at all times.**

The above condition is necessary to ensure the following:  
**That nuisance problems do not arise as a result of the establishment of the RLA.**

- K. The only aircraft that may be stored at the RLA and on the owner’s adjacent property shall be limited to the owner’s aircraft and the aircraft owned by the parents, children, or siblings of the owner which in no case shall exceed eight aircraft at any given time.**

The above condition is necessary to ensure the following:  
**That the proposed RLA only be used for aircraft of the owner and the immediate family.**

- L. This RLA Special Use Permit does not authorize landscape or tree maintenance in the wooded area in the CR District on the west side of the East Branch of the Embarrass River and any tree trimming or removal of trees in that area pursuant to the RLA shall cause this Special Use Permit to become void.**

The above condition is necessary to ensure the following:  
**To ensure that the environmental quality of the wooded area is not damaged for the purpose of protecting the RLA certification by IDOT.**

- 1  
2 M. **No take-offs or landings shall occur at anytime other than during daylight hours**  
3 **except as required for public safety assistance which may occur anytime**  
4 **necessary.**

5  
6 The above condition is necessary to ensure the following:

7 **That the use of the RLA does not occur at nighttime unless required by public**  
8 **safety assistance.**

- 9  
10 N. **No Zoning Compliance Certificate shall be approved for the RLA until the**  
11 **petitioner has planted one acre of new woodland in a location on the subject**  
12 **property or the Petitioners adjacent property, where there is no existing**  
13 **woodland and planted at least two Northern Red Oak trees of minimum 4**  
14 **inch diameter at breast height for each existing tree that is 10 inches or**  
15 **greater diameter that is removed in the proposed hangar area, as indicated**  
16 **on the Proposed Hangar Site drawing submitted by Engineer Wayne Ward**  
17 **on April 25, 2013, all intended to establish native habitat and in consultation**  
18 **with an appropriate ecological consultant selected from a list provided by the**  
19 **Champaign County Soil and Water Conservation District and the property**  
20 **shall be enrolled in the Illinois Department of Natural Resources**  
21 **Conservation Stewardship Program continuously thereafter or the Special**  
22 **Use Permit shall be void.**

23  
24 The above condition is necessary to ensure the following:

25 **To mitigate injury to the existing woodlands.**

26  
27 Mr. Thorsland informed the petitioners that a full Board is not present at this time due to absence of one  
28 Board member and one vacant seat therefore it is at their discretion whether to move to a final determination  
29 with the present Board or continue the case until the vacant seat is filled.

30  
31 Mr. Singleton requested that the present Board proceed to the Final Determination.

32  
33 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding  
34 of Fact as amended.

35  
36 **Mr. Palmgren moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**  
37 **Record and Finding of Fact as amended. The motion carried by voice vote.**

38  
39 Mr. Thorsland entertained a motion to move the Final Determination for Case 688-S-11.

40  
41 **Mr. Palmgren moved, seconded by Mr. Courson to move to the Final Determination for Case 688-S-**

11. The motion carried by voice vote.

**FINAL DETERMINATION FOR Case 688-S-11:**

Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. for approval HAVE NOT been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 688-S-11 is hereby DENIED to the petitioners Philip W. and Sarabeth F. Jones to authorize the construction and use of a "Restricted Landing Area" for use by airplanes consistent with Illinois Department of Transportation regulations and helicopter use for public safety assistance as needed and with limited helicopter use for personal use as a Special Use; and with a waiver of a Special Use standard condition required by Section 6.1 that requires compliance with Footnote 11 of Section 5.3. and subject to the approved special conditions:

A. The restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics.

The above condition is necessary to ensure that:  
The proposed RLA is operated so as to ensure public safety.

B. The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special use permit or the proposed rezoning in related case 687-AM-11, whichever occurs last.

The above condition is necessary to ensure that:  
Compliance with the Zoning Ordinance within a reasonable time frame.

C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be no more than three take offs and three landings in any 28 day period whether that use is by the petitioner or an invited guest.

The above condition is necessary to ensure that the following:  
That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.

D. The use of the RLA for personal helicopter, non-public safety assistance use shall be limited to no more than two take offs and two landings in any 28 day



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**period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure the following:

**That the use of the helicopter(s) for personal use does not exceed the amount of use authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

- E. No “Fly-In Event” (more than 6 planes) as described in 92 Ill. Adm. Code 14.760 shall occur on the subject property.**

The above condition is necessary to ensure the following:

**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- F. The petitioner shall maintain at all times when take-offs and/or landings may occur at the RLA, public liability and property damage insurance with a minimum coverage of \$5 million dollars and a copy of a valid certificate of insurance shall be on file with the Zoning Administrator when any take-offs or landings do occur.**

The above condition is necessary to ensure the following:

**That the petitioner has adequate insurance to compensate anyone affected by injury or property damage resulting from the operation of the RLA in such close proximity to a dwelling under other ownership.**

- G. No pre-operation run up procedures shall be conducted east of the proposed hangar location.**

The above condition is necessary to ensure the following:

**To prevent nuisance conditions resulting from the RLA.**

- H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize the distance between the aircraft landing at the RLA and the neighboring residential properties to the north.**

The above condition is necessary to ensure the following:

**To minimize nuisance conditions resulting from the RLA.**

- I. The Special Use Permit shall not be transferrable to future owners of the subject property.**

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The above condition is necessary to ensure the following:  
**That any future owner(s) of the subject property must also receive the proper approvals for an RLA.**

- J. All aircraft (operable and inoperable) and aircraft parts must be stored in a fully enclosed building/hangar at all times.**

The above condition is necessary to ensure the following:  
**That nuisance problems do not arise as a result of the establishment of the RLA.**

- K. The only aircraft that may be stored at the RLA and on the owner’s adjacent property shall be limited to the owner’s aircraft and the aircraft owned by the parents, children, or siblings of the owner which in no case shall exceed eight aircraft at any given time.**

The above condition is necessary to ensure the following:  
**That the proposed RLA only be used for aircraft of the owner and the immediate family.**

- L. This RLA Special Use Permit does not authorize landscape or tree maintenance in the wooded area in the CR District on the west side of the East Branch of the Embarrass River and any tree trimming or removal of trees in that area pursuant to the RLA shall cause this Special Use Permit to become void.**

The above condition is necessary to ensure the following:  
**To ensure that the environmental quality of the wooded area is not damaged for the purpose of protecting the RLA certification by IDOT.**

- M. No take-offs or landings shall occur at anytime other than during daylight hours except as required for public safety assistance which may occur anytime necessary.**

The above condition is necessary to ensure the following:  
**That the use of the RLA does not occur at nighttime unless required by public safety assistance.**

- N. No Zoning Compliance Certificate shall be approved for the RLA until the petitioner has planted one acre of new woodland in a location on the subject property or the Petitioners adjacent property, where there is no existing woodland and planted at least two Northern Red Oak trees of minimum 4 inch diameter at breast height for each existing tree that is 10 inches or**

1                                      **greater diameter that is removed in the proposed hangar area, as indicated**  
2                                      **on the Proposed Hangar Site drawing submitted by Engineer Wayne Ward**  
3                                      **on April 25, 2013, all intended to establish native habitat and in consultation**  
4                                      **with an appropriate ecological consultant selected from a list provided by the**  
5                                      **Champaign County Soil and Water Conservation District and the property**  
6                                      **shall be enrolled in the Illinois Department of Natural Resources**  
7                                      **Conservation Stewardship Program continuously thereafter or the Special**  
8                                      **Use Permit shall be void.**  
9

10                                      The above condition is necessary to ensure the following:  
11                                      **To mitigate injury to the existing woodlands.**  
12

13 Mr. Thorsland requested a roll call vote.

14

15 **The roll was called:**

16			
17	<b>Miller-absent</b>	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>
18	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>
19			
20			

21 Mr. Hall informed the petitioner that the Board has determined a denial for Case 688-S-11. He said that  
22 staff will inform the Environment and Land Use Committee of this decision at its committee meeting  
23 next Thursday.

24  
25 **6. New Public Hearings**

26  
27 None

28  
29 **7. Staff Report**

30  
31 None

32  
33 **8. Other Business**  
34 **A. Review of Docket**

35  
36 Mr. Kass stated that the docket has not changed since the April 25<sup>th</sup> meeting.

37  
38 **9. Audience Participation with respect to matters other than cases pending before the Board.**  
39

1    None

2

3    **10.    Adjournment**

4

5    Mr. Thorsland entertained a motion to adjourn the meeting.

6

7    **Mr. Palmgren moved, seconded by Mr. Courson to adjourn the meeting. The motion carried by voice**  
8    **vote.**

9

10    The meeting adjourned at 10:55 p.m.

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15    Respectfully submitted

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20    Secretary of Zoning Board of Appeals

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Champaign County  
Department of

**PLANNING &  
ZONING**

Brookens Administrative  
Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708  
zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

## **CASE NO. 757-AT-13**

**SUPPLEMENTAL MEMORANDUM**

July 5, 2013

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator  
**Andrew Kass**, Associate Planner

Request: **Amend the Champaign County Zoning Ordinance as follows:**

**Part A. Adopt an updated Flood Insurance Study with an effective date of October 2, 2013.**

**Part B. Adopt updated Digital Flood Insurance Rate Maps (DFIRM) for Champaign County, Illinois with an effective date of October 2, 2013. The new maps can be viewed at: [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org).**

**Part C. Adopt a new Special Flood Hazard Areas Ordinance based on the minimum requirements of the National Flood Insurance Program (NFIP) and the State of Illinois.**

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### ***STATUS***

This case is continued from the June 27, 2013, public hearing.

A Draft Finding of Fact and Final Determination and an annotated version of the proposed Special Flood Hazard Areas Ordinance are attached.

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### **ATTACHMENTS**

- A Draft Finding of Fact and Final Determination
- B Proposed Special Flood Hazard Areas Ordinance (ANNOTATED)  
(included separately)

**PRELIMINARY DRAFT**

**757-AT-13**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of**

**Champaign County Zoning Board of Appeals**

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Final Determination: ***{RECOMMEND ENACTMENT / RECOMMEND DENIAL}***

Date: July 11, 2013

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

Part A. Adopt an updated Flood Insurance Study with an effective date of October 2, 2013.

Part B. Adopt updated Digital Flood Insurance Rate Maps (DFIRM) for Champaign County, Illinois with an effective date of October 2, 2013. The new maps can be viewed at: [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org).

Part C. Adopt a new Special Flood Hazard Areas Ordinance based on the minimum requirements of the National Flood Insurance Program (NFIP) and the State of Illinois.

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 27, 2013, and July 11, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to adopt updated Digital Flood Insurance Rate Maps (DFIRM), and new flood insurance study, and a new Special Flood Hazard Areas (SFHA) Ordinance.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

**SUMMARY OF THE PROPOSED AMENDMENT**

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

**GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES**

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
  - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
  - B. The LRMP defines Goals, Objectives, and Policies as follows:
    - (1) Goal: an ideal future condition to which the community aspires
    - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
    - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
  - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

*REGARDING LRMP GOALS*

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states as follows:

**Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.**

Goal 1 has 4 objectives and 4 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 1.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

**Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.**

Goal 2 has two objectives and three policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 2.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

**Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.**

Goal 3 has three objectives no policies. The proposed amendment is *NOT RELEVANT* to Goal 3.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

**Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.**

Goal 4 has 9 objectives and 22 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 4.

10. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

**Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.**

Goal 5 has 3 objectives and 15 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 5.



11. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

**Champaign County will ensure protection of the public health and public safety in land resource management decisions.**

Goal 6 has 4 objectives and 7 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 7.

12. LRMP Goal 7 is entitled “Transportation” and states as follows:

**Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.**

Goal 7 has 2 objectives and 7 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 7.

13. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

**Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.**

Goal 8 has 9 objectives and 36 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 8.

14. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

**Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.**

Goal 9 has 5 objectives and 5 policies. The proposed amendment is *NOT RELEVANT* to Goal Goal 9.

15. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

**Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.**

Goal 10 has 1 objective and 1 policy. The proposed amendment is *NOT RELEVANT* to Goal Goal 10.

***REGARDING THE PURPOSE OF THE ZONING ORDINANCE***

16. The proposed amendment appears to *HELP ACHIEVE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is consistent with this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is consistent with this purpose.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed amendment is consistent with this purpose.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed amendment is consistent with this purpose because the adoption of the new Flood Insurance Rate Maps will provide the best information available to determine what properties are subject to the floodplain regulations. Adoption of the new Special Flood Hazard Areas Ordinance will provide updated standards for construction within the Special Flood Hazard Areas of Champaign County, and will allow Champaign County to continue to participate in the National Flood Insurance Program.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is consistent with this purpose.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.

The proposed amendment is consistent with this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is consistent with this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the

use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.

The proposed amendment is consistent with this purpose.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.

The proposed amendment is consistent with this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is consistent with this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed amendment is consistent with this purpose because Adoption of the new Special Flood Hazard Areas Ordinance will provide updated standards for construction within the Special Flood Hazard Areas of Champaign County

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed amendment is consistent with this purpose.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is consistent with this purpose because Adoption of the new Special Flood Hazard Areas Ordinance will provide updated standards for construction within the Special Flood Hazard Areas of Champaign County

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed amendment is consistent with this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is consistent with this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is consistent with this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is consistent with this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is consistent with this purpose.

- 17. The proposed text amendment will **IMPROVE** the text of the Zoning Ordinance because it will:
  - A. Provide the best information available to determine what properties will be subject to the floodplain regulations.
  - B. Will update the existing Special Flood Hazard Areas Ordinance to meet state and federal requirements in order to allow Champaign County to continue participation in the National Flood Insurance Program.

## SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on, **July 11, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed text amendment will ***NOT IMPEDE*** the Land Resource Management Plan because of the following:
  - A. The proposed text amendment will ***NOT IMPEDE*** the following LRMP goal(s):
    - **Goal 1 Planning and Public Involvement**
    - **Goal 2 Governmental Coordination**
    - **Goal 4 Agriculture**
    - **Goal 5 Urban Land Use**
    - **Goal 6 Public Health and Public Safety**
    - **Goal 7 Transportation**
    - **Goal 8 Natural Resources**
  - B. The proposed text amendment is ***NOT RELEVANT*** the following LRMP goal(s):
    - **Goal 3 Prosperity**
    - **Goal 9 Energy Conservation**
    - **Goal 10 Cultural Amenities**
2. The proposed Zoning Ordinance map amendment will ***HELP ACHIEVE*** the purpose of the Zoning Ordinance because it is consistent with all of the purposes of the Zoning Ordinance and is directly relate to Purpose 2.0(d).
3. The proposed text improvement ***WILL IMPROVE*** the Zoning Ordinance as follows:
  - Provide the best information available to determine what properties will be subject to the floodplain regulations.
  - Will update the existing Special Flood Hazard Areas Ordinance to meet state and federal requirements in order to allow Champaign County to continue participation in the National Flood Insurance Program.

**DOCUMENTS OF RECORD**

1. Preliminary Memorandum dated June 20, 2013, with attachments:
  - A Champaign County Environment and Land Use Committee Memorandum dated May 29, 2013, with attachments:
    - a. Champaign County Changes Since Last FIRM received 8/2/12
    - b. Updated Model Special Flood Hazard Areas Ordinance (NOTE: NOT INCLUDED WITH ZBA MEMORANDUM)
    - c. Sec. 11 Fees from the Champaign County Special Flood Hazard Areas Ordinance
    - d. Preliminary (Updated) Flood Insurance Study received June 28, 2012
  - B FEMA Formal Notice of Final Flood Hazard Determination received 4/15/13
  - C Draft Champaign County DFIRM Areas of Change received 8/2/12
  - D Paragraphs 59.24, 59.30, and 60.3 of the National Flood Insurance Program regulations (44CFR 59, etc.)
  - E Champaign County Special Flood Hazard Areas Ordinance adopted 02/06/03
  - F Updated Model Special Flood Hazard Areas Ordinance (Annotated to Indicate Changes from Current Ordinances)
  - G LRMP Goals, Objectives, and Policies and Appendix
2. Supplemental Memorandum dated June 27, 2013, with attachments:
  - A Revised Section 5 of the Model Ordinance
  - B Revised Section 7 of the Model Ordinance
  - C Draft Handout on Protecting Building Support Utility Systems from Flood Damage (including checklist)
  - D Excerpts from Federal Emergency Management Agency (FEMA) publication *Protecting Building Utilities from Flood Damage* FEMA P-384. November 1999
  - E Excerpts of crawl space illustrations from Federal Emergency Agency (FEMA) publication *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas* National Flood Insurance Program Interim Guidance FEMA TB-11. November 2001
3. Supplemental Memorandum dated July 5, 2013, with attachments:
  - A Draft Finding of Fact and Final Determination
  - B Proposed Special Flood Hazard Areas Ordinance (Annotated)

**FINAL DETERMINATION**

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in **Case 757-AT-13** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

**Proposed Amendment**

*To be inserted at a later date.*



**DRAFT 7/4/13 Champaign County Special Flood Hazard Areas Ordinance**

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LEGEND TO ANNOTATIONS

- Dashed underlining indicates text not included in the existing Champaign County SFHA Ordinance that has been recommended by the ZBA but that does not add any new substantive requirement;
- Underlining indicates Model Ordinance text not included in the existing Champaign County SFHA Ordinance but that does not add any new substantive requirement;
- **Highlighting and underlining** indicates Model Ordinance text that adds an additional requirement that is not required by the existing Champaign County SFHA Ordinance but is required by the National Flood Insurance Program (NFIP);
- **Highlighting and double underlining** indicates Model Ordinance text that adds an additional requirement that is not required by the existing Champaign County SFHA Ordinance and is not required by the National Flood Insurance Program (NFIP);
- text included in the existing Champaign County SFHA Ordinance but not included here is not indicated.

**Section 1. Purpose**

This ordinance is enacted pursuant to the police powers granted to Champaign County by County Statutory Authority in 55 ILCS 5/5-1041 and 5/5-1063 in order to accomplish the following purposes:

- A. To prevent unwise developments from increasing flood or drainage hazards to others; and
- B. To protect new buildings and major improvements to buildings from flood damage; and
- C. To promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding; and
- D. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations; and
- E. To maintain property values and a stable tax base by minimizing the potential for creating blight areas; and
- F. To make federally subsidized flood insurance available; and
- G. To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

## Section 2. Definitions

For the purposes of this ordinance, the following definitions are adopted:

**Base Flood:** The flood having a one percent (1%) probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.

**Base Flood Elevation (BFE):** The elevation in relation to mean sea level of the crest of the base flood.

**Basement:** That portion of a building having its floor sub-grade (below ground level) on all sides.

**Building:** A walled and roofed structure, including gas or liquid storage tank that is principally above ground including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year.

**Critical Facility:** Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

**Development:** Any man-made change to real estate including, but not necessarily limited to:

- A. demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building; or
- B. substantial improvement of an existing building; or
- C. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days per year; or
- D. installation of utilities, construction of roads, bridges, culverts or similar projects; or
- E. construction or erection of levees, dams walls or fences; or
- F. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface; or
- G. storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters; or

*2 Definitions - Continued*

H. any combination of the above.

“Development” does not include routine maintenance of existing buildings and facilities, resurfacing roads, or gardening, plowing, and similar practices that do not involve filing, grading, or construction of levees.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA:** Federal Emergency Management Agency

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Flood Fringe:** That portion of the floodplain outside of the regulatory floodway.

**Flood Insurance Rate Map:** A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

**Flood Insurance Study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Floodplain:** Synonymous with Special Flood Hazard Area (SFHA). Those lands within the jurisdiction of the County that are subject to inundation by the base flood. The floodplains of the County are generally identified on the countywide Flood Insurance Rate Map of Champaign County prepared by the Federal Emergency Management Agency and dated October 2, 2013. Floodplain also includes those areas of known flooding as identified by the community.

**Floodplain Development Permit:** A permit required for any development in the floodplain. A Zoning Use Permit is not a Floodplain Development Permit.

**Floodproofing:** Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

*2 Definitions - Continued*

**Floodproofing Certificate:** A form published by the Federal Emergency management agency that is used to certify that a building has been designed and constructed to be structurally dry flood proofed to the flood protection elevation.

**Flood Protection Elevation (FPE):** The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

**Floodway:** That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of Copper Slough, McCullough Creek, Saline branch Ditch, Salt Fork River, Sangamon River, Upper Boneyard Creek and Phinney Branch Ditch shall be as delineated on the countywide Flood Insurance Rate Map of Champaign County prepared by FEMA and dated October 2, 2013. The floodways for each of the remaining floodplains of Champaign County shall be according to the best data available from the Federal, State, or other sources.

**Freeboard:** An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

**Historic Structure:** Any structure that is:

- A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- C. Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.
- D. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

**IDNR/OWR:** Illinois Department of Natural Resources/Office of Water Resources.

**IDNR /OWR Jurisdictional Stream:** Illinois Department of Natural Resource Office of Water Resources has jurisdiction over any stream serving a tributary area of 640 acres or more in an urban area, or in the floodway of any stream serving a tributary area of 6,400 acres or more in a rural area. Construction on these streams requires a permit from the Department. (Ill Admin. Code tit. 17, pt. 3700.30). The Department may grant approval for specific types of activities by issuance of a statewide permit which meets the standards defined in Section 6 of this ordinance.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided

*2 Definitions - Continued*

that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 7 of this Ordinance.

**Manufactured Home:** A structure transportable in one or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

**New Construction:** Structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**NFIP:** National Flood Insurance Program.

**Recreational Vehicle or Travel Trailer:** A vehicle which is:

- i. built on a single chassis; and
- ii. four hundred (400) square feet or less in size; and
- iii. designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Repetitive Loss:** Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

**SFHA:** See definition of floodplain.

**Start of Construction:** Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

*2 Definitions - Continued*

**Structure:** see “Building”

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this ordinance equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes “Repetitive Loss Buildings” (see definition).

**Substantial Improvement:** Any reconstruction, rehabilitation, addition or improvement of a structure taking place subsequent to the adoption of this Ordinance in which the cumulative percentage of improvements equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or increases the floor area by more than twenty percent (20%).

“Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

**Violation:** The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.



### **Section 3. Base Flood Elevation**

This Ordinance's protection standard is the base flood. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site. The best available base flood data are listed below:

- A. The base flood elevation for the floodplains of Copper Slough, McCullough Creek, Saline Branch Ditch, Salt Fork River, Sangamon River, Upper Boneyard Creek and Phinney Branch Ditch shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Champaign County prepared by FEMA and dated October 2, 2013.
- B. The base flood elevation for each floodplain delineated as an "AH Zone" or AO Zone" shall be that elevation (or depth) delineated on the county wide Flood Insurance Rate Map of Champaign County.
- C. The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the countywide Flood Insurance Rate Map of Champaign County shall be according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

#### **Section 4. Duties of the Zoning Administrator**

The Zoning Administrator shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of Champaign County meet the requirements of this ordinance. Specifically, the Zoning Administrator shall:

- A. Process floodplain development permits in accordance with Section 5;
- B. Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 6;
- C. Ensure that the building protection requirements for all buildings subject to Section 7 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;
- D. Assure that all subdivisions ~~and annexations~~ meet the requirements of Section 8;
- E. Ensure that water supply and waste disposal systems meet the public health standards of Section 9;
- F. If a variance is requested, ensure that the requirements of Section 10 are met and maintain documentation of any variances granted;
- G. Inspect all development projects and take any and all actions outlined in Section 13 as necessary to ensure compliance with this ordinance;
- H. Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- I. Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- J. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- K. Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance;
- L. Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Ordinance;
- M. Perform site inspections and make substantial damage determinations for structures within the floodplain; and
- N. Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within 6 months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

**Section 5. Floodplain Development Permit**

- A. No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a floodplain development permit from the Zoning Administrator.
- B. The Zoning Administrator shall not issue a floodplain development permit if the proposed development does not meet the requirements of this Ordinance.
- C. Application for a floodplain development permit shall be required for any of the following:
  - 1. Any development located on land identified as floodplain on the current Flood Insurance Rate Map.
  - 2. Any development located on land shown to be below the base flood elevation and hydraulically connected to a flood source, but not identified as floodplain on the current Flood Insurance Rate Map.
- A-D. Application for a floodplain development permit shall be made on a form provided by the Zoning Administrator and the application for floodplain development permit shall be accompanied by:
  - 1. Drawings of the site, drawn to scale showing property line dimensions;
  - 2. Existing grade ground elevations and all proposed changes in grade to the ground elevation resulting from any proposed excavation or filling;
  - 3. The location and dimensions of all existing and proposed buildings and additions to buildings and existing and proposed building related development;
  - 4. The elevation of the lowest floor (including basement) of all existing and proposed buildings subject to the requirements of Section 7 of this Ordinance;
  - 5. Cost of project or improvements the development as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.
  - 6. Drawings indicating the proposed wall and footing construction in cross-section in sufficient detail to prove compliance with this ordinance and including both the existing and the proposed ground elevations and the base flood elevation.
  - 7. The existing or proposed elevation of any other part of the development that is subject to the requirements of Sections 7 and 9 of this ordinance and drawings of that part of the development in sufficient detail to prove compliance with this ordinance or other submittals that may be necessary to prove compliance with this ordinance.
- B E. Upon receipt of an application for a floodplain development permit, the Zoning Administrator shall compare the elevation of the site to the base flood elevation to determine which of the following is applicable:

5 Floodplain Development Permit - Continued

- (1) Any development located on land that is shown by survey elevation to be below the current base flood elevation is shall also be subject to the provisions of Sections 6 through 16 of this ordinance.
  - (2) ~~In addition,~~ Any development located on land shown to be below the base flood elevation and hydraulically connected to a flood source, but not identified as floodplain on the current Flood Insurance Rate Map, ~~is shall also be~~ subject to the provisions of Sections 6 through 16 of this ordinance.
  - (3) Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the provisions of Sections 6 through 16 of this ordinance.
- F. The Zoning Administrator shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.
- G. The Zoning Administrator shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Zoning Administrator shall not issue a permit unless all other federal, state, and local permits have been obtained.

## Section 6. Preventing Increased Flood Heights and Resulting Damages

Within the floodway identified on the Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

- A. Except as provided in Section 6.B. of this Ordinance, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement\*:
1. Bridge and culvert crossings of streams in rural areas meeting the conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2.
  2. Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit Number 3.
  3. Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 4.
  4. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5.
  5. Minor, non-obstructive activities such as underground utility lines, light poles, sign posts, driveways, athletic fields, patios, playground equipment, minor storage buildings not exceeding 70 square feet and raising buildings on the same footprint which does not involve fill and any other activity meeting the conditions of IDNR/OWR Statewide Permit Number 6.
  6. Outfall Structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7.
  7. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8.
  8. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9.
  9. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10.
  10. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11.
  11. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR statewide Permit Number 12.
  12. Temporary construction activities meeting the following conditions of IDNR/OWR statewide Permit Number 13.

***Section 6. Preventing Increased Flood Heights and Resulting Damages- Continued***

13. Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.
- B. Other development activities not listed in 6.A. may be permitted only if:
  1. A permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); or
  2. Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

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## Section 7. Protecting Buildings and Building Related Development

- A. In addition to the state permit and damage prevention requirements of Section 6 of this ordinance, all buildings and building related development located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:
1. Construction or placement of a new building or alteration or addition to an existing building and/ or building related development valued at more than one thousand dollars (\$1,000) or seventy (70) square feet.
  2. Substantial improvements or structural alterations made to an existing building and/ or building related development that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
  3. Repairs made to a substantially damaged building and/ or building related development. These repairs shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially damaged the entire structure must meet the flood protection standards of this section within 24 months of the date the damage occurred.
  4. Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
  5. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year.
  6. Repetitive loss to an existing building and/ or building related development as defined in Section 2. If repetitive loss occurs the entire structure must meet the flood protection standards of this section within 24 months of the date the damage occurred.
- B. Residential or non-residential buildings can meet the building protection requirements of paragraph 7.A. by one of the following methods:
1. The building and/ or building related development may be constructed on permanent land fill in accordance with the following:
    - a. The lowest floor (including basement) shall be at or above the flood protection elevation.
    - b. The fill shall be placed in layers no greater than six inches before compaction and should extend at least ten (10) feet beyond the foundation before sloping below the flood protection elevation.
    - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.

*Section 7. Protecting Buildings and Building Related Development (continued)*

- d. The fill shall be composed of rock or soil and not incorporate debris or refuse material. ~~and~~
  - e. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.
  - f. Footings shall be placed on undisturbed earth or a Licensed Illinois Professional Engineer shall certify in writing that the building shall be reasonably safe from flooding.
2. The building or building related development may be elevated on solid walls in accordance with the following:
- a. The building or improvements and/ or building related development shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.
  - b. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters on the property shall be located at or above the flood protection elevation except that water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
  - c. If walls are used to elevate the building and/ or building related development, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a licensed professional engineer or by having a minimum of one (1) permanent opening on each wall no more than one (1) foot above grade with a minimum of two (2) openings per enclosed area. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation. ~~and~~ Insect screens may cover flood openings provided that the insect screen does not unduly impede the entry and exit of floodwaters.
  - d. The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
  - i. e. All structural components below the ~~flood protection~~ base flood elevation shall be constructed of materials resistant to flood damage.
  - ii. ~~Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.~~(Note: relocated to subparagraph b.)





*Section 7. Protecting Buildings and Building Related Development (continued)*

- g. Utility systems within the crawlspace and outside of the crawl space including all electrical, heating, ventilating, plumbing, air conditioning equipment, and utility meters on the property, must be elevated above the flood protection elevation except for the following:
    - (1) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
    - (2) Fuel storage tanks must either be elevated above the flood protection elevation or adequately anchored to prevent floatation following manufacturers recommendations and protected from flood debris impact.
  - h. Footings shall be placed on undisturbed earth or a Licensed Illinois Professional Engineer shall certify in writing that the building shall be reasonably safe from flooding.
- C. Non-residential buildings and/ or non-residential building related development may be structurally dry floodproofed (in lieu of elevation) to meet the building protection requirements of paragraph 7.A, provided an Illinois Licensed Professional Engineer or Illinois Licensed Architect certifies that:
- 1. Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
  - 2. The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
  - 3. Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
  - 4. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
  - 5. Footings shall be placed on undisturbed earth or a Licensed Illinois Professional Engineer shall certify in writing that the building shall be reasonably safe from flooding.
- D. Manufactured homes or travel trailers to be permanently installed on site must be in conformance with the Zoning Ordinance and shall be elevated as follows:
- 1. elevated to or above the flood protection elevation in accordance with Section 7.B.; and
  - 2. anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

*Section 7. Protecting Buildings and Building Related Development (continued)*

- E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year must be in conformance with the Zoning Ordinance and shall meet the elevation requirements of section 7.D. unless the following conditions are met:
1. The vehicle must be either self-propelled or towable by a light duty truck.
  2. The hitch must remain on the vehicle at all times.
  3. The vehicle must not be attached to external structures such as decks and porches.
  4. The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
  5. The vehicles largest horizontal projections must be no larger than four hundred (400) square feet.
  6. The vehicle's wheels must remain on the axles and with inflated tires.
  7. Air conditioning units must be attached to the frame so as to be safe for movement out of the floodplain.
  8. Propane tanks as well as electrical and sewage connections must be quick-disconnect. Propane tanks must also either be elevated above the flood protection elevation or adequately anchored to prevent floatation following manufacturers recommendations and protected from flood debris impact.
  9. The vehicle must be licensed and titled as a recreational vehicle or park model.
  10. The vehicle must either entirely be supported by jacks rather than blocks, or have a hitch jack permanently mounted, have the tires touching the ground and be supported by blocks in a manner that will allow the blocks to be easily removed by ~~used~~ of the hitch jack.
- F. Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted must meet the building protection requirements of paragraph 7.A. by one of the methods in paragraph 7.B. provided unless the following conditions are met:
1. The garage or shed must be non-habitable.
  2. The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
  3. The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
  4. The garage or shed must be on a single family lot and be accessory to an existing principle structure on the same lot.
  5. Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.

*Section 7. Protecting Buildings and Building Related Development (continued)*

6. All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation except that water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
7. The garage or shed must have at least one permanent opening on each wall not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor area. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation. Insect screens may cover flood openings provided that the insect screen does not unduly impede the entry and exit of floodwaters.
8. Paragraph 7.A. notwithstanding, the garage or shed must be less than fifteen thousand dollars (\$15,000) in market value or replacement cost whichever is greater or less than five hundred and seventy six (576) square feet (24'x24') in area.
9. The structure shall be anchored to resist floatation and overturning. Footings shall be placed on undisturbed earth or a Licensed Illinois Professional Engineer shall certify in writing that the building shall be reasonably safe from flooding.
10. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
11. The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

**Section 8. Subdivision Requirements**

- A. The County Board shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.
- B. New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of Sections 6 and 7 of this ordinance. Any proposal for such development shall include the following data:
1. The base flood elevation and the boundary of the floodplain. Where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation.
  2. The boundary of the floodway when applicable.
  3. A signed statement by a Licensed Illinois Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).
- C. **Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.**

## Section 9. Public Health and Other Standards

- A. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 6 and 7 of this ordinance, the following standards also apply:
1. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of Section 7 of this ordinance.
  2. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
  3. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  4. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
  5. ~~Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available and~~ subject to the following:
    - a. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation, whichever is greater.
    - b. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
    - c. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.
- B. All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

**Section 10. Carrying Capacity and Notification.**

- A. For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.
- B. In addition, the Zoning Administrator shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

## Section 11. Variances

- A. Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Champaign County Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Champaign County Board.
- B. The Champaign County Board may attach such conditions to the granting of a variance as it deems necessary to further the intent of this ordinance.
- C. No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
1. The development activity cannot be located outside the floodplain.
  2. An exceptional hardship would result if the variance were not granted.
  3. The relief requested is the minimum necessary.
  4. There will be no additional threat to public health, safety or creation of a nuisance.
  5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
  6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP.
  7. All other state and federal permits have been obtained.
- D. The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of Section 7 that would lessen the degree of protection to a building will:
1. Result in increased premium rates for flood insurance up to twenty-five dollars (\$25) per one hundred dollars (\$100) of insurance coverage.
  2. Increase the risk to life and property.
  3. Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.
- C. Historic Structures
1. Variances to the building protection requirements of Section 7 of this ordinance which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of Sections 6 and 7 of this ordinance subject to the conditions that:
    - a. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.



*Section 11. Variances Continued*

- b. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

D. Agriculture

- 1. Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances.  
~~Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.~~ In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:
  - a. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures or animal confinement facilities, such as farm houses, cannot be considered agricultural structures.
  - b. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
  - c. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 7 of this ordinance.
  - d. The Agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 7 of this ordinance. All of the buildings structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
  - e. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 7 of this ordinance.
  - f. The NFIP requires that enclosures or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 7.B. this ordinance.

*Section 11. Variances Continued*

- g. The agricultural structures must comply with the floodplain management floodway provisions of Section 6 of this ordinance. No variances may be issued for agricultural structures within any designated floodway.
- h. Wet-floodproofing construction techniques must be reviewed and approved by the floodplain administrator and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

**Section 12. Fees**

- A. No development permit nor variance application shall be accepted without the specified fee having been received by the Department, except when the Zoning Administrator determines that the application of the permit or variance was due solely to staff error.
- B. No filing fee for a variance shall be refunded after the required legal notice has been made by mail or publication unless the Zoning Administrator determines that such filing was due solely to staff error.
- C. In no event shall refunds be given for amounts less than \$50 dollars.
- D. No floodplain determination or Base Flood Elevation estimates shall be provided until payment of the specified fee has been received by the Department.
- E. Fee Schedule:
  - 1. Floodplain Development Permits .....\$100
  - 2. Special Flood Hazard Area Variance .....\$200
  - 3. Flood Determinations, except as made in conjunction with applications for Floodplain Development Permits, Special Flood Hazard Area Variance or other applications made pursuant to the Champaign County Zoning Ordinance or Subdivision Regulations .....\$25
  - 4. Base Flood Elevation Estimate, except as made in conjunction with applications for Floodplain Development Permits, Special Flood Hazard Area Variance or other applications made pursuant to the Champaign County Zoning Ordinance or Subdivision Regulations:
    - a. BFE established by publication or previous estimate.....\$25
    - b. BFE established by estimate pursuant to **Section 3, Paragraph C**.....\$250

**Section 13. Disclaimer of Liability**

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of Champaign County or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully thereunder.

## Section 14. Penalty

- A. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this ordinance.
- B. Upon due investigation, the Zoning Administrator may determine that a violation of the minimum standards of this ordinance exists. The Zoning Administrator shall notify the owner in writing of such violation. If such owner fails after ten (10) days notice to correct the violation:
1. The State's Attorney shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance.
  2. Any person who violates this ordinance shall upon conviction thereof be fined not less than fifty dollars (\$50) or more than seven hundred fifty (\$750) for each offense.
  3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
  4. The State's Attorney shall record a notice of violation on the title of the property.
  5. The Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- C. The Zoning Administrator is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.
- D. No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals.
1. Written notice of such hearing shall be served on the permittee and shall state the following:
    - a. The grounds for the complaint, reasons for suspension or revocation.
    - b. The time and place of the hearing.
  2. At such hearing the permittee shall be given an opportunity to present evidence on their behalf.
  3. At the conclusion of the hearing, the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

*Section 14. Penalty Continued*

- E. Nothing herein shall prevent the Zoning Administrator from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**Section 15. Abrogation and Greater Restrictions**

- A. This ordinance repeals and replaces other ordinances adopted by the Champaign County Board to fulfill the requirements of the National Flood Insurance Program including the following:
  - 1. Ordinance No. 678 adopted February 6, 2003, as amended by Ordinance No. 736 adopted February 24, 2005; and Ordinance No. \_\_\_\_ adopted June 23, 2005.
  - 2. Ordinance 209 adopted January 17, 1984, as amended by Ordinance 294 adopted August 18, 1987; and Ordinance 350 adopted December 19, 1989; and Ordinance 425 adopted March 16, 1993; and Ordinance 541 adopted October 21, 1997.
- B. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the National Flood Insurance Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.
- C. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section 16. Severability**

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.



**Section 17. Effective Date**

This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

Passed by the County Board of Champaign County, Illinois, this (\*insert date) day of (\*insert month), 20(\*insert year).

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(Clerk)

~~Approved~~ Signed by me this (\*insert date) day of (\*insert month), 20(\*insert year).

---

(County CEO Board Chair)

Attested and filed in my office this (\*insert date) day of (\*insert month), 20(\*insert year).

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(Clerk)

## APPENDIX A

### ADOPTING ORDINANCE AND AMENDMENTS

**Adopting Ordinance:** Ordinance No. 678 adopted February 6, 2003 by the Champaign County Board established the 'Champaign County Special Flood Hazard Areas Ordinance'.

Ordinance No. 678 repealed and replaced other previous ordinances adopted by the Champaign County Board to fulfill the requirements of the National Flood Insurance Program including:

Ordinance 209 adopted January 17, 1984 as amended by  
Ordinance No. 294 adopted August 18, 1987;  
Ordinance No. 350 adopted December 19, 1989;  
Ordinance No. 425 adopted March 16, 1993; and  
Ordinance No. 541 adopted October 21, 1997.

#### Amendments:

1. Ordinance No. 736 adopted February 24, 2005
  - Renumbers [and changes content of] existing Sections 9 and 10
  - Section 10, Fees
    - Entire section amended to add required fees.
  
2. Ordinance No. \_\_\_\_ adopted \_\_\_\_\_ 2005
  - Table of Contents
    - Add new Section 8 and renumber remaining sections.
  - Section 4, Duties of Zoning Administrator
    - Amend Paragraph G.
  - Section 8, Subdivision Requirements
    - Add this section and renumber remaining Sections 9 through 16

# CASE NO. 754-V-13

PRELIMINARY MEMORANDUM

July 5, 2013

Champaign  
County  
Department of

PLANNING &  
ZONING

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

**Petitioners:** KH Farms, Inc.

**Request:** Authorize the following in the AG-1 Zoning District:

- Part A. Variance for a lot area of .924 acre in lieu of the minimum required 1 acre.
- Part B. Variance for an average lot width of 110.17 feet in lieu of the minimum required 200 feet.

**Subject Property:** Lot 1 of KH Farms Subdivision in the Southwest Quarter of Section 2 of Scott Township and commonly known as the house and outbuilding at 456 CR 1700N, Champaign.

**Site Area:** .924 acre

**Time Schedule for Development:** Existing

**Prepared by:** **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

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## BACKGROUND

In order to fully understand this case it is important to first trace the history of the subject property. The history of the subject property is as follows:

- A. In 1980, the subject property was a sliver of a 75 acre parcel and separated from the rest of that parcel, by an adjacent 5 acre parcel.
- B. By 1998, the subject property had been divided without subdivision approval with the area and average lot width substantially the same as it exists, but without variances so the parcel did not conform to the *Zoning Ordinance*. Also by this time, the adjacent 5 acre parcel had been divided into three lots, none of which conform to the *Zoning Ordinance*, one of which was a 1.91 acre lot.
- C. In 2005, the petitioner purchased the subject property and the adjoining 1.91 acre lot. The petitioner intended to live on the property, but personal reasons have prevented him from doing so.
- D. In 2011, the petitioner sold the 1.91 acre lot to the adjoining landowner to the west.

By selling the 1.91 acre lot the petitioner created the need for the Variance because the subject property by itself does not meet minimum lot area or lot width requirements, and is not considered a good zoning lot. When both lots were under common ownership they would have been considered

one zoning lot and in conformance with dimensional requirements. Without the proposed Variance a Zoning Use Permit cannot be authorized on the subject property.

The subject property was created and was within the ETJ of the Village of Bondville after the Village had adopted a comprehensive plan. The creation of this lot should have received subdivision approval at that time, but it did not. The petitioner received subdivision approval from the Village of Bondville on February 28, 2013.

### EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Bondville, a municipality with zoning.

### LEGAL NOTICE ERROR

The original legal notice published in the Mahomet Citizen advertised the incorrect date of the public hearing. Staff submitted a revised notice with the correct date, and it was published in the July 4, 2013, edition of the Mahomet Citizen. The publication on July 4, 2013, will not meet the 15 day notification requirement. The Board can hear testimony and work through the findings at the July 11, 2013, public hearing, but a final determination should not be made until a future hearing to allow for the statutory notification period.

### EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Residential	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

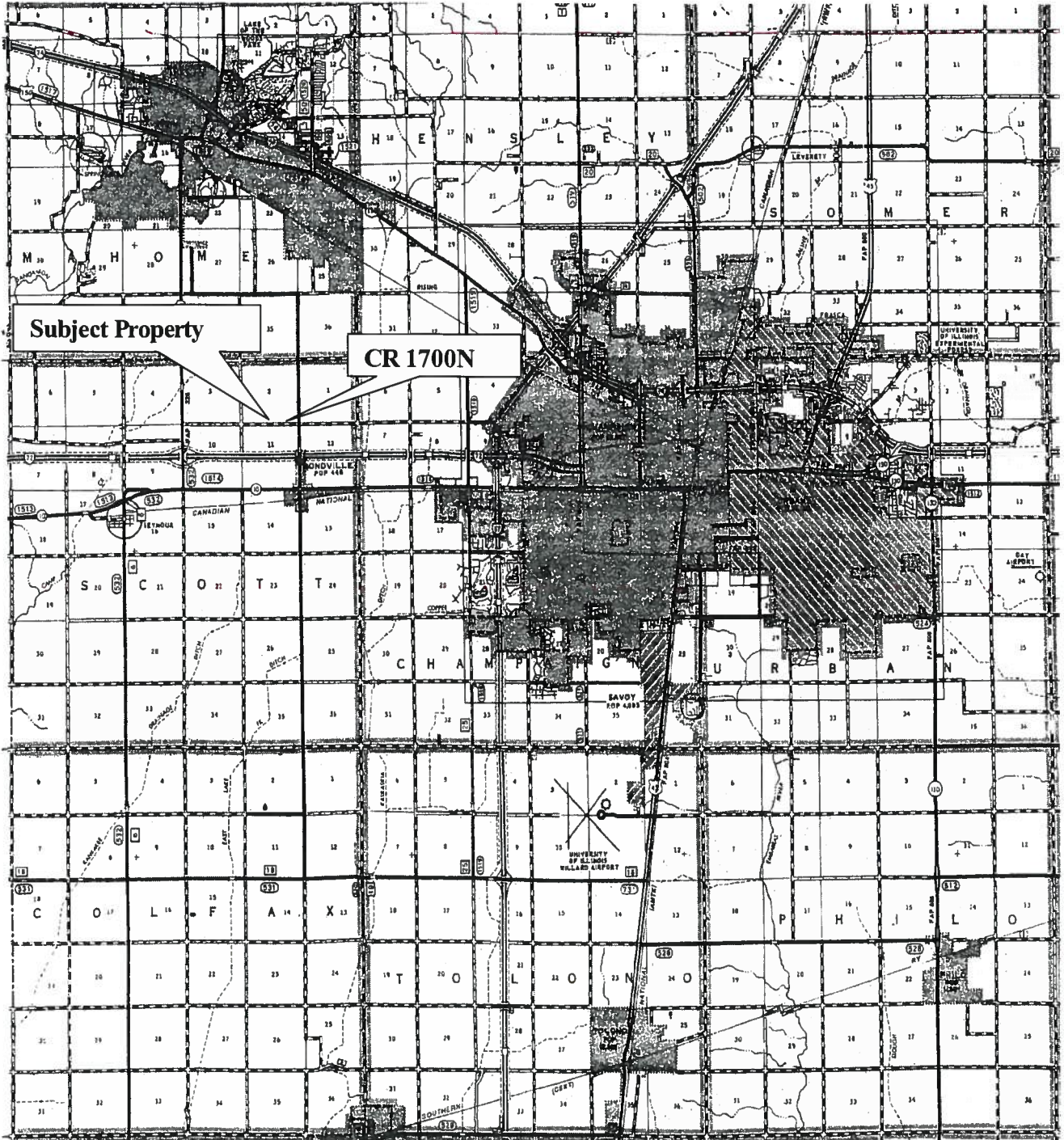
### ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B KH Farms Approved Subdivision Plat received May 16, 2013
- C 1980 Tax Atlas Map for Sections 2 and 11 of Scott Township
- D 1998 Tax Atlas Map for Sections 2 and 11 of Scott Township
- E Letter from Dale Munds, Mayor, Village of Bondville, to Nick Taylor, Realtor, RE Max Realty, dated July 10, 2012
- F Letter of Support signed by John and Marilyn Litchfield, received May 22, 2013
- G Letter of Support signed by James, Christie, and Reba Karr, received June 26, 2013
- H Letter of Support from Noel Farms, LLC, received June 26, 2013
- I Pictures of subject property and adjacent property received May 16, 2013
- J Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)

# ATTACHMENT A. LOCATION MAP

Case 754-V-13

July 5, 2013



Champaign  
County  
Department of  
PLANNING &  
ZONING

Attachment A: Land Use Map  
Case 754-V-13  
July 5, 2013



 Subject Property

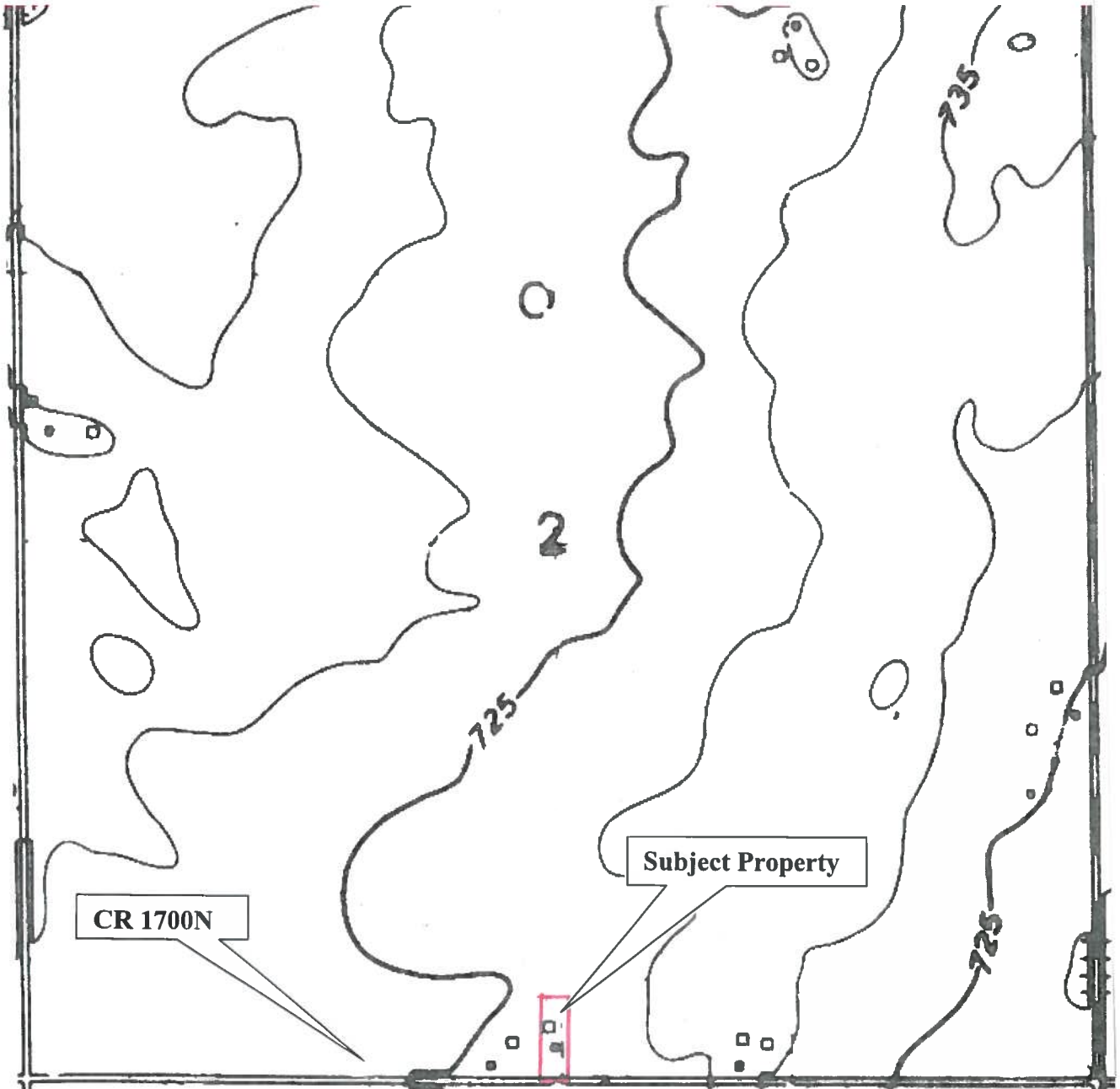
1 inch = 400 feet



# ATTACHMENT A. ZONING MAP

Case: 754-V-13

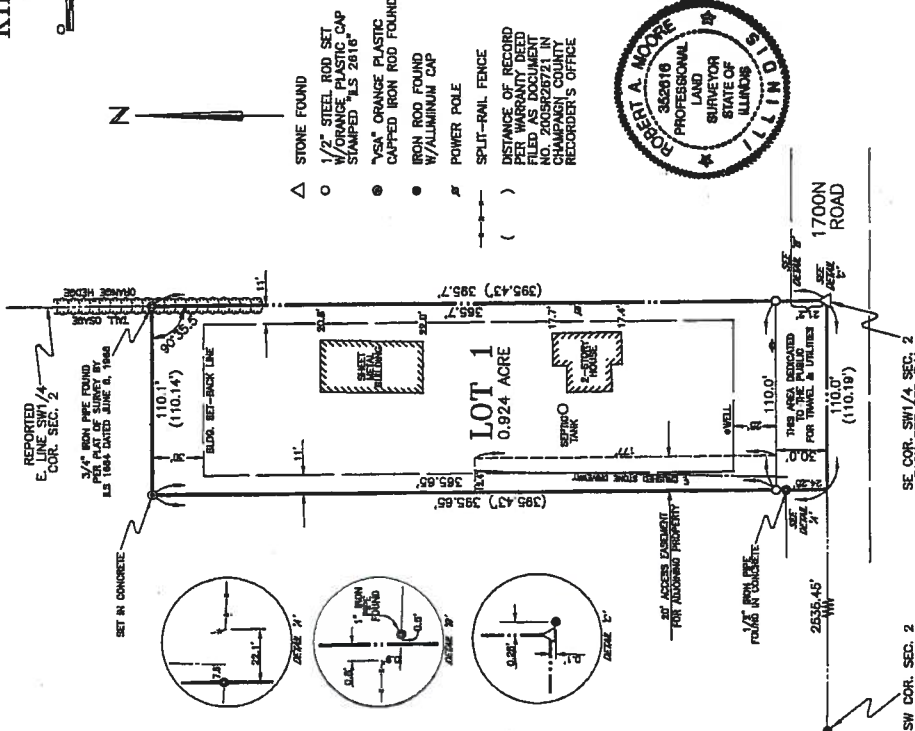
July 5, 2013



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH <b>Champaign County</b> Department of <b>PLANNING &amp; ZONING</b>
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

**KH FARMS SUBDIVISION**  
IN SW 1/4 SEC. 2 T19N R8E 3RD P.M  
CHAMPAIGN COUNTY, ILLINOIS

0 50 100 150 FEET



**SURVEYOR'S CERTIFICATION**  
I, Robert A. Moore, Professional Illinois Land Surveyor, No. 2816, do hereby certify that the plat of the subdivision of the land shown on this document, number 2006828721 in the office of Champaign County Recorder described as:

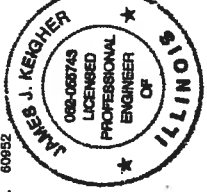
Part of the Southwest Quarter of the Southwest Quarter of Section 2, Range 8 North, East of the East Third Principal Meridian, in Champaign County, Illinois, described as follows:  
Beginning at the Southeast corner of the Southwest Quarter of said Section 2, thence West along the South line of said Southwest Quarter, 110.19 feet to a point, thence Northerly 386.43 feet to a point, thence West 111.14 feet to a point, thence Northerly 111.14 feet to the East line of said Southwest Quarter of Section 2; thence southerly along said East line of the Southwest Quarter of Section 2, 386.43 feet to the point of beginning, in Champaign County, Illinois.

for the purpose of subdividing said tract as shown hereon. I further certify as follows:  
1. This tract is not within 600 feet of a surface drain or waterway serving a tributary area of 640 acres or more.  
2. This tract, as subdivided, is to be known as KH FARMS SUBDIVISION and is to be shown on the plat within 1 1/2 miles of the corporate limits of the Village of Bondville, Illinois.  
3. The property covered by this plat is not within a flood hazard area identified by the Federal Emergency Management Agency.  
4. Lot 1 is intended for a single family residence.  
5. Lot 1 is not in a drainage district.  
6. Lot 1 has an existing septic tank and leach field.  
7. Lot 1 is not in a flood plain.

*Robert A. Moore*  
Robert A. Moore  
Illinois Land Surveyor No. 2816  
License due for renewal 11/30/2014  
Date 2-27-2013



**DRAINAGE CERTIFICATION**  
We hereby certify to the best of our knowledge and belief that the subdivision shown on this plat is not within a flood hazard area and that the subdivision is not within a flood hazard area which will not be deposited on the property of adjoining land owners in such concentration as may cause damage to the property because of the concentration of this subdivision.  
*James J. Keigher*  
James J. Keigher, P.E. No. 05743  
Date 3-7-13



ENGINEER  
JAMES J. KEIGHER  
12701 100TH RD  
MELVIN, ILL. 60952

OWNER  
KH FARMS, INC.  
801 W. CHAMPAIGN AVE #1-A  
PANTOUL, ILL. 61868

SURVEYOR  
MOORE SURVEYING & MAPPING  
601 W. CHAMPAIGN ST  
PAXTON, ILL. 60957

**RECEIVED**  
KEIGHER ENGINEERING  
MELVIN, ILLINOIS FEB 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT

**OWNER'S CERTIFICATION**  
I, Khalid Hussain, do hereby certify that as principal of KH Farms, Inc., I have read the plat of the subdivision of the land shown on this document, number 2006828721 in the office of Champaign County Recorder described as:  
Part of the Southwest Quarter of the Southwest Quarter of Section 2, Range 8 North, East of the East Third Principal Meridian, in Champaign County, Illinois, described as follows:  
Beginning at the Southeast corner of the Southwest Quarter of said Section 2, thence West along the South line of said Southwest Quarter, 110.19 feet to a point, thence Northerly 386.43 feet to a point, thence West 111.14 feet to a point, thence Northerly 111.14 feet to the East line of said Southwest Quarter of Section 2; thence southerly along said East line of the Southwest Quarter of Section 2, 386.43 feet to the point of beginning, in Champaign County, Illinois.  
I further certify as follows:  
1. This tract is not within 600 feet of a surface drain or waterway serving a tributary area of 640 acres or more.  
2. This tract, as subdivided, is to be known as KH FARMS SUBDIVISION and is to be shown on the plat within 1 1/2 miles of the corporate limits of the Village of Bondville, Illinois.  
3. The property covered by this plat is not within a flood hazard area identified by the Federal Emergency Management Agency.  
4. Lot 1 is intended for a single family residence.  
5. Lot 1 is not in a drainage district.  
6. Lot 1 has an existing septic tank and leach field.  
7. Lot 1 is not in a flood plain.  
*Khalid Hussain*  
Khalid Hussain  
Date 3-7-2013

**VILLAGE CLERK'S CERTIFICATION**  
I, Patricia A. Kirby, Village Clerk of the Village of Bondville, Illinois, do hereby certify that I have received all Plats fees and the required surety bonds in connection with the attached Plat.  
Given under my hand and seal at Bondville, Illinois, this 28 day of February, A.D. 2013

**BONDVILLE VILLAGE BOARD CERTIFICATION**  
Approved this 28 day of February, A.D. 2013  
BOARD OF TRUSTEES OF VILLAGE OF BONDVILLE  
*Patricia A. Kirby*  
Patricia A. Kirby  
Village Clerk

**CERTIFICATE OF COUNTY SUPERINTENDENT OF HIGHWAYS**  
I, Jeff Blive, County Superintendent of Highways of Champaign County, do hereby certify that this Plat has been examined by me and found to comply with the applicable highway requirements.  
Dated this 11 day of March, A.D. 2013  
*Jeff Blive*  
Jeff Blive  
County Superintendent of Highways

REV. FEB. 12, 2013	DATE	FILE NO.	BOOK	ACRES
	FEB. 7, 2013			5325

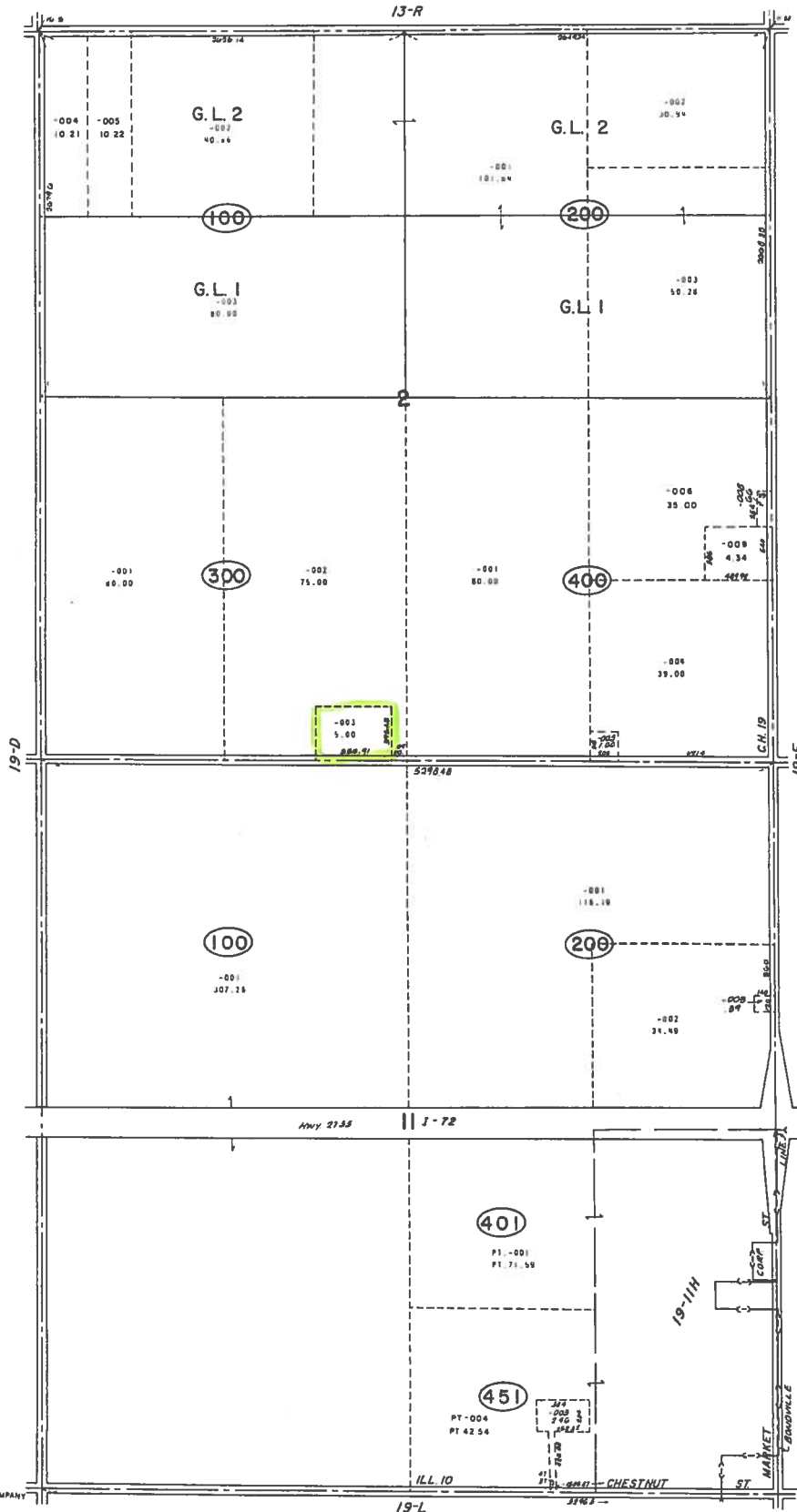
MOORE SURVEYING & MAPPING  
PAXTON, ILLINOIS

REV. FEB. 12, 2013  
KHALID HUSSAIN



REVISED JAN 1 1980

1980



Copyright 1980 THE SOWELL COMPANY

SCALE: 1" = 400'

19 - E

SCOTT TWP  
SECS. 2 & 11 T.19N. R.7E.



# VILLAGE OF BONDVILLE

BONDVILLE, ILLINOIS 61815

July 10, 2012

Nick Taylor  
RE Max Realty  
116 S. Lombard  
Mahomet, IL 61853

RE: Khalid Hussain, owner  
---  
PIN 23-19-02-300-005 (house with about 1 acre)  
PIN 23-19-02-300-008 (about 1.9 acres)

Dear Mr. Taylor:

This letter will memorialize the action and direction of the Board of Trustees of the Village of Bondville, Illinois pertaining to Mr. Khalid Hussain's property described above, which is generally located north west of Bondville just less than 1.5 miles from the Village corporate limits. At its regular Board meeting on July 9, 2012, the Board unanimously agreed that the above described properties are NOT in violation of Bondville's Subdivision Ordinance. As such, the Village has no objection to the owner's sale of the lots separately. Of course, as the properties are outside of the Village limits, I direct you to the County to address any zoning issues.

Thank you for your attention to this matter.

Yours very truly,

VILLAGE OF BONDVILLE, ILLINOIS

BY: *Dale Munds*  
Dale Munds, Mayor

RECEIVED

MAY 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT

May 17, 2013

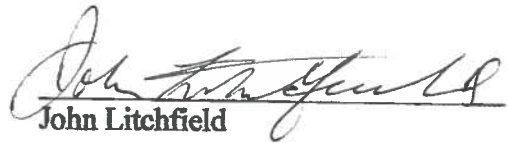
Chair & Members  
Zoning Board of Appeals  
c/o John Hall  
Brookens Administrative Center  
1776 E. Washington  
Urbana, IL 61802

**Re:**            *KH Farms, Inc. – Application for Variance*

Dear Board:

We are writing this letter to express support for the request by Petitioner, KH Farms, Inc., for a variance regarding the zoning ordinance provisions on minimum lot size and lot width. As land owners adjacent to 456 County Road 1700 North, we have no complaints about the application for variance.

Sincerely,

  
John Litchfield

  
Marilyn Litchfield

240 County Road 1300 N.  
Seymour, IL 61875

RECEIVED  
MAY 22 2013  
CHAMPAIGN CO. P & Z DEPARTMENT

May 17, 2013

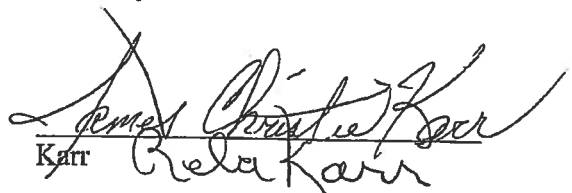
Chair & Members  
Zoning Board of Appeals  
c/o John Hall  
Brookens Administrative Center  
1776 E. Washington  
Urbana, IL 61802

**Re:** *KH Farms, Inc. – Application for Variance*

Dear Board:

We are writing this letter to express support for the request by Petitioner, KH Farms, Inc., for a variance regarding the zoning ordinance provisions on minimum lot size and lot width. As land owners adjacent to 456 County Road 1700 North, we have no complaints about the application for variance.

Sincerely,

  
Karr Reba Karr

James, Christie & Reba Karr  
1411 County Road 300E 300E  
Seymour, IL 61875

RECEIVED

JUN 26 2013

CHAMPAIGN CO. P & Z DEPARTMENT

May 17, 2013

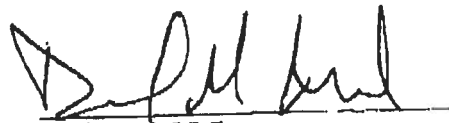
Chair & Members  
Zoning Board of Appeals  
c/o John Hall  
Brookens Administrative Center  
1776 E. Washington  
Urbana, IL 61802

*Re: KH Farms, Inc. - Application for Variance*

Dear Board:

I am writing this letter to express support for the request by Petitioner, KH Farms, Inc., for a variance regarding the zoning ordinance provisions on minimum lot size and lot width. As a land owner adjacent to 456 County Road 1700 North, I have no complaints about the application for variance.

Sincerely,



Noel Farm, LLC  
P.O. Box 625  
Champaign, IL 61824

RECEIVED

JUN 26 2013

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED

MAY 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT

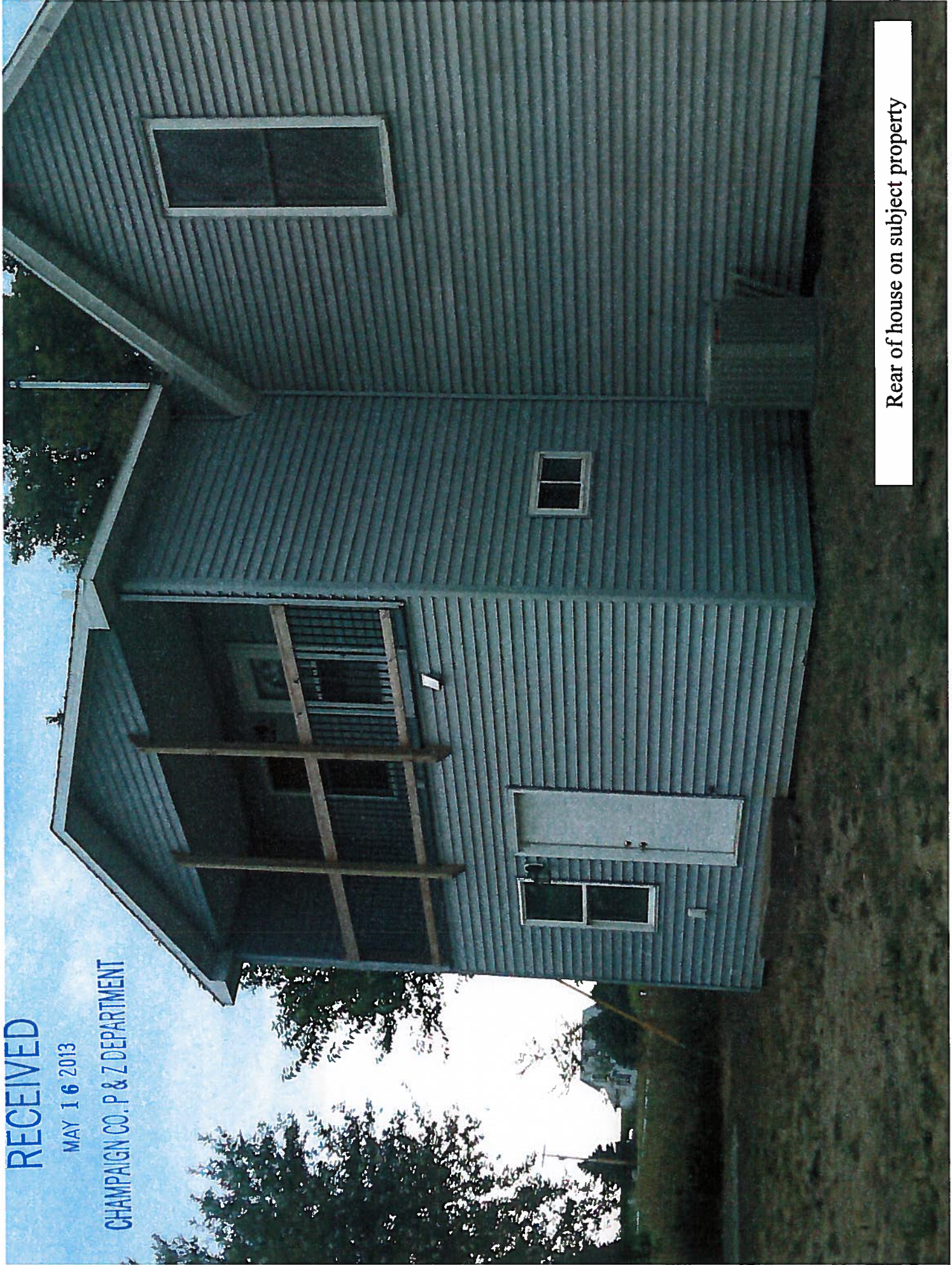


Front of the farmhouse on subject property

RECEIVED

MAY 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT



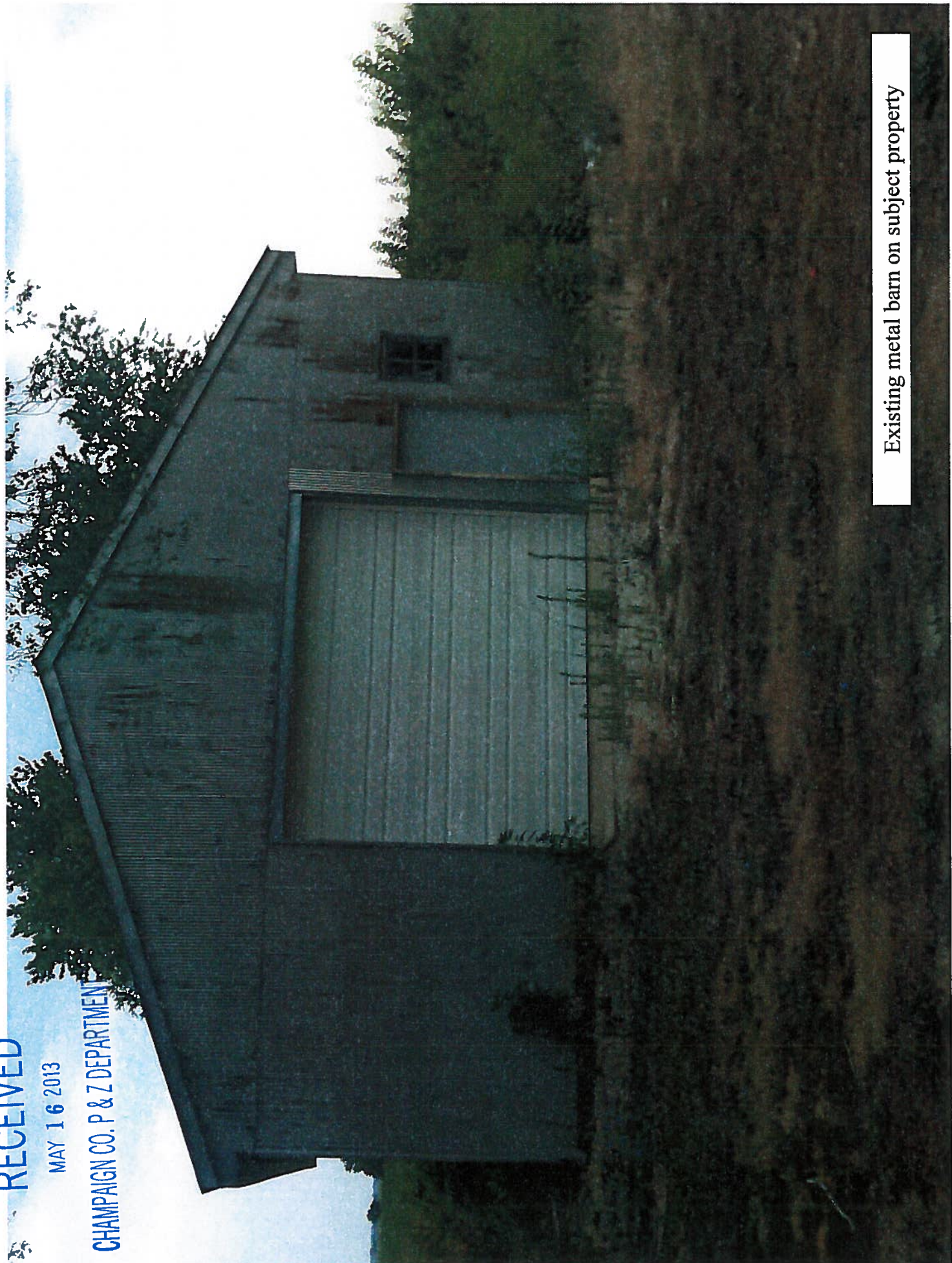
Rear of house on subject property



RECEIVED

MAY 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT

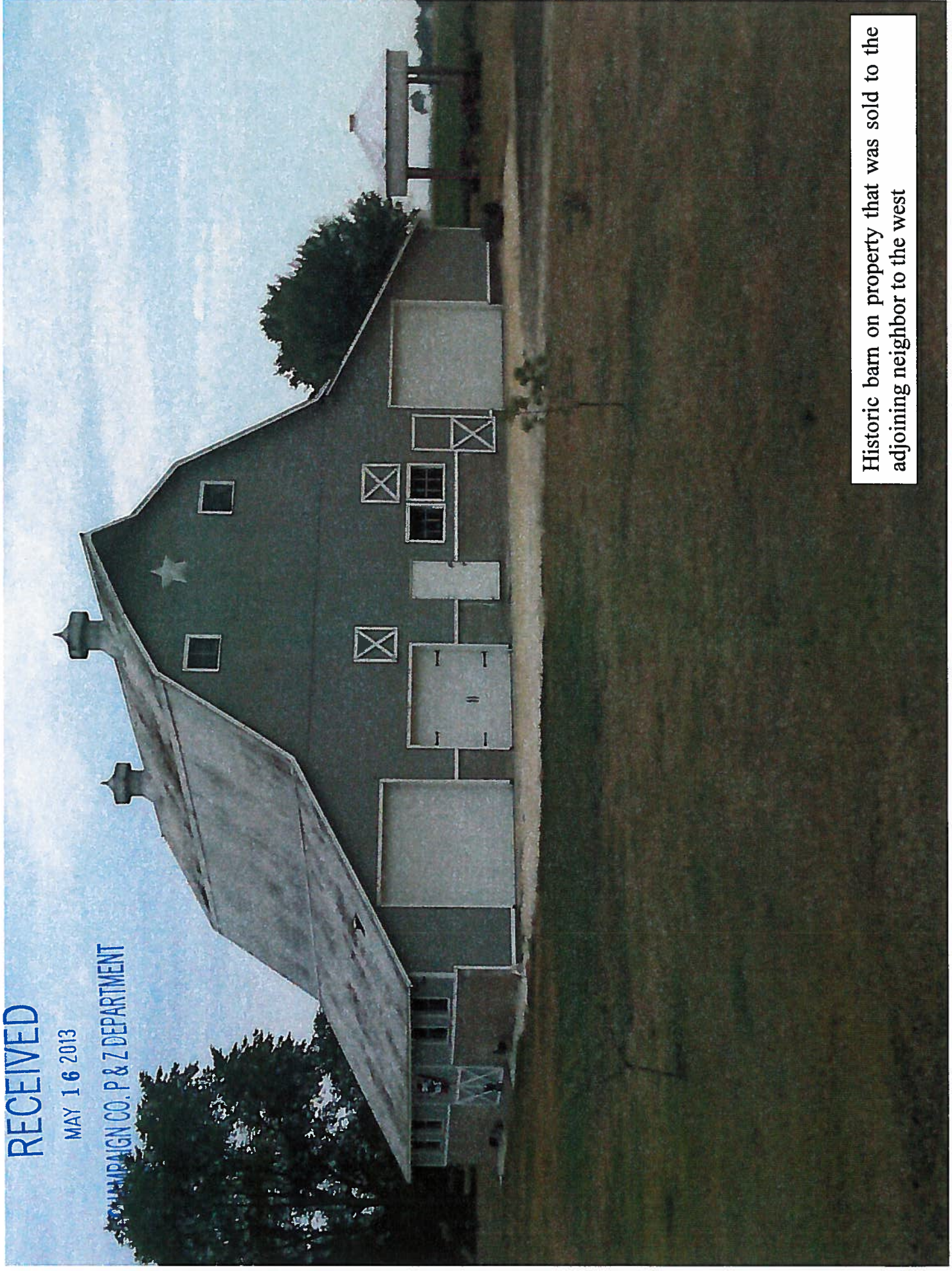


Existing metal barn on subject property

RECEIVED

MAY 16 2013

CHAMPAIGN CO. P & Z DEPARTMENT

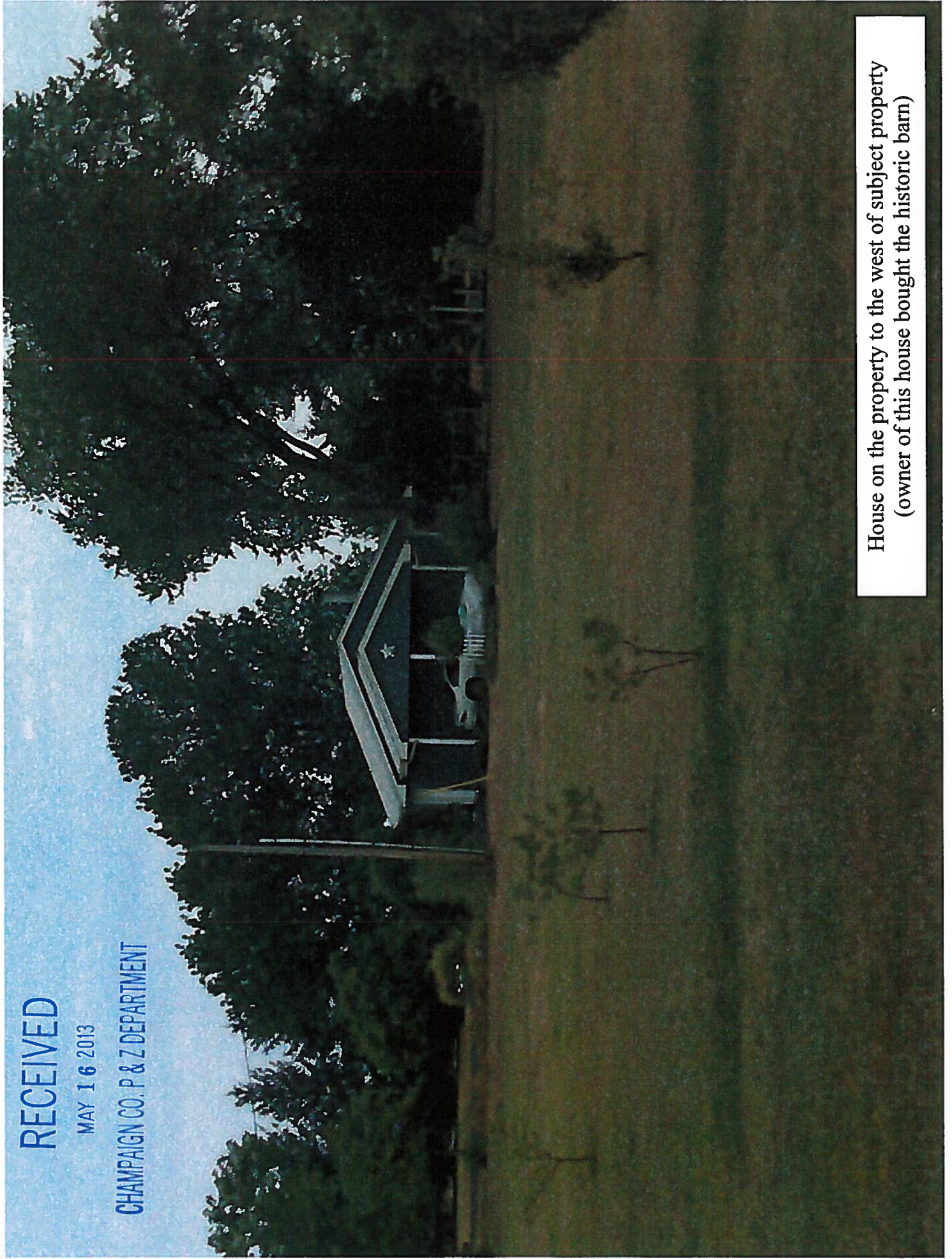


Historic barn on property that was sold to the adjoining neighbor to the west

RECEIVED

MAY 16 2013

CHAMPAIGN CO. P. & Z DEPARTMENT



House on the property to the west of subject property  
(owner of this house bought the historic barn)

**SOLD**  
BY THE TAYLOR TEAM



**Nick Taylor**  
[www.taylor-realty.com](http://www.taylor-realty.com)



**RE/MAX**  
Realty Associates **355-0700**

RECEIVED  
MAY 16 2016

Sold from my subject property  
RE/MAX REALTY ASSOCIATES

**PRELIMINARY DRAFT**

**754-V-13**

**SUMMARY OF EVIDENCE, FINDING OF FACT,  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

---

Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS/ DENIED}*

Date: **July 11, 2013**

Petitioners: **KH Farms, Inc.**

Request: Authorize the following in the AG-1 Zoning District:

Part A. Variance for a lot area of .924 acre in lieu of the minimum required 1 acre.

Part B. Variance for an average lot width of 110.17 feet in lieu of the minimum required 200 feet.

---

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **July 11, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner KH Farms, Inc., owned by Khalid Hussain owns the subject property.
2. The subject property is Lot 1 of KH Farms Subdivision in the Southwest Quarter of Section 2 of Scott Township and commonly known as the house and outbuilding at 456 CR 1700N, Champaign.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Bondville, a municipality with zoning.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned AG-1 Agriculture, and is in residential use.
  - B. Land to the north is zoned AG-1 Agriculture, and is in agricultural use.
  - C. Land to the east is zoned AG-1 Agriculture, and is in agricultural use.
  - D. Land to the west is zoned AG-1 Agriculture, and is in residential use.
  - E. Land to the south is zoned AG-1 Agriculture, and is in agricultural use.

***GENERALLY REGARDING THE PROPOSED SITE PLAN***

5. Regarding the site plan of the subject site:
  - A. The subject property is approximately .924 acre in area.
  - B. The Subdivision Plat for KH Farms Subdivision received May 16, 2013, indicates the following:
    - (1) The location of an existing 2-story house (existed prior to October 10, 1973).
    - (2) The location of an existing sheet metal building (existed prior to October 10, 1973).
    - (3) The location of the water well.
    - (4) The location of the septic tank.
    - (5) A 20 feet wide access easement for the adjoining property to the west.

- C. The requested variance is as follows:
- (1) Variance for a lot area of .924 acre in lieu of the minimum required 1 acre.
  - (2) Variance for an average lot width of 110.17 feet in lieu of the minimum required 200 feet.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
- (1) "AREA, LOT" is the total area within the LOT LINES.
  - (2) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
  - (3) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
  - (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
  - (5) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
  - (6) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE. In the case of a triangular or gore shaped lot or where the lot comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at a maximum distance from the FRONT LOT LINE or said tangent.
  - (7) "LOT LINES" are the lines bounding a LOT.
  - (8) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
  - (9) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a

**PRELIMINARY DRAFT**

parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:

- (a) MAJOR STREET: Federal or State highways
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
  - (c) MINOR STREET: Township roads and other local roads.
- (10) “STRUCTURE, MAIN or PRINCIPAL” is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (11) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- H. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- I. Section 5.3 of the *Zoning Ordinance* establishes the minimum LOT AREA of 1 acre in the AG-1 Agriculture Zoning District.



- J. Section 5.3 of the *Zoning Ordinance* establishes the minimum AVERAGE LOT WIDTH of 200 feet in the AG-1 Agriculture Zoning District.

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“Petitioner purchased two adjacent tracts in Scott Township from Martin and Tracy Teare in 2005. PIN 23-19-02-300-005, the subject property consists of 1 acre gross (before subtracting the right-of-way for County Road 1700 North) and has a farmhouse that was restored by the petitioner and a metal building on it. PIN 23-19-02-300-008 consists of 1.91 acres and has an historic barn that the Petitioner recently restored on it. In 2011 land was offered for sale and petitioner accepted an offer from the adjoining landowner to the west to purchase PIN 23-19-02-300-008 (consisting of 1.9 acres) and that transaction closed. This year he listed the subject property (PIN 23-19-02-300-005-one acre) for sale.”**
- B. The history of the subject property is as follows:
- (1) In 1980, the subject property was a sliver of a 75 acre parcel and was separated from the rest of that parcel by an adjacent 5 acre parcel.
  - (2) By 1998, the subject property had been divided without subdivision approval with the area and average lot width substantially the same as it exists, but without variances so the parcel did not conform to the *Zoning Ordinance*. Also by this time the 5 acre parcel had been divided into three parcels, none of which conform to the *Zoning Ordinance*, one of which was a 1.91 acre lot.
  - (3) In 2005, the petitioner purchased the subject property and the adjoining 1.91 acre lot. The petitioner intended to live on the property, but personal reasons have prevented him from doing so.
  - (4) In 2011, the petitioner sold the 1.91 acre lot to the adjoining landowner to the west.
  - (5) In 2013, the petitioner received subdivision approval from the Village of Bondville for the subject property. Approval from Bondville was sought because the lot was created after Bondville had adopted a comprehensive plan and was in the ETJ of the Village at that time.
- C. When the subject property and the adjacent 1.91 acre lot were under common ownership they would have been considered to be in conformance with the dimensional requirements of the *Zoning Ordinance*. Since the two properties are no longer under common ownership

*PRELIMINARY DRAFT*

the subject property alone does not meet the dimensional requirements, and is therefore not a good zoning lot.

*GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE*

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application, **“Petitioner is subject to hardship in the sense that the subject property cannot be sold. Due to family situations, petitioner is not able to move to the property (petitioner’s place of employment is in Rantoul and he lives there.) The property is not currently saleable because at least some banks will not approve financing due to the appraisers raising a concern. If the property is not sold to someone who can live in and care for the property it will decay and become a public nuisance. Petitioner has spent extensive sums remodeling the historic farmhouse, as well as the historic barn, and had originally hoped to himself live in the house but die to employment and family logistics is not able to do so.”**
  - B. Without the proposed Variance a Zoning Use Permit cannot be authorized on the subject property.
  - C. The petitioner has indicated in comments on the application that without the Variance it may be difficult for potential buyers to secure financing to purchase the subject property.
  - D. Expanding the lot to the north would not increase the width of the lot. Only expansion to the west is feasible to increase the width of the lot. This would require taking agricultural land out of production.
  - E. When the subject property and the adjacent 1.91 acre lot were under common ownership they would have been considered to be in conformance with the dimensional requirements of the *Zoning Ordinance*. Since the two properties are no longer under common ownership the subject property alone does not meet the dimensional requirements, and is therefore not a good zoning lot.
  - F. It is unknown if the petitioner has pursued the option of purchasing additional land.

*GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT*

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application, **“No. The petitioner merely sold off one of the two divided parcels that corresponded to a preexisting separate tax ID number (23-19-02-300-008) while retaining ownership of the second tax ID number (23-19-02-**

300-005). It was not the impression of the petitioner that this would cause any difficulties. Petitioner in fact expended substantial sums remodeling the historic barn that was sold to the adjoining landowner. Petitioner spent substantial sums remodeling the farmhouse that is on the subject property. No new buildings are being built. Formal subdivision approval has been given by the Village of Bondville.”

- B. The history of the subject property is as follows:
- (1) In 1980, the subject property was a sliver of a 75 acre parcel and was separated from the rest of that parcel by an adjacent 5 acre parcel.
  - (2) By 1998, the subject property had been divided without subdivision approval with the area and average lot width substantially the same as it exists, but without variances so the parcel did not conform to the *Zoning Ordinance*. Also by this time the 5 acre parcel had been divided into three parcels, none of which conform to the *Zoning Ordinance*, one of which was a 1.91 acre lot.
  - (3) In 2005, the petitioner purchased the subject property and the adjoining 1.91 acre lot. The petitioner intended to live on the property, but personal reasons have prevented him from doing so.
  - (4) In 2011, the petitioner sold the 1.91 acre lot to the adjoining landowner to the west.
  - (5) In 2013, the petitioner received subdivision approval from the Village of Bondville for the subject property. Approval from Bondville was sought because the lot was created after Bondville had adopted a comprehensive plan and was in the ETJ of the Village at that time.

***GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE***

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
  - A. The Petitioner has testified on the application, “**From the viewpoint of the public there will be no change in the existing usage of the property. The historic barn was by the adjoining property owner to the west so that they could make use of the historic barn and maintain it. Petitioner has made extensive renovations to said barn allowing it to be preserved as a part of the historical agricultural heritage of the county. Allowing the farmhouse on the subject property to be sold to someone who can care for it as a single family residence and take ownership in the subject property as an owner occupied residence is the highest and best use of the subject property and will result in enhanced surrounding property values and a preservation of an historic Champaign County farmhouse.**”

***PRELIMINARY DRAFT***

- B. Regarding the requested Variance:
- (1) The requested variance for a lot area of .924 acre is 92% of the minimum required 1 acre for a variance of 8%.
  - (2) The requested variance for an average lot width of 110.17 feet is 55% of the minimum required 200 feet for a variance of 45%.
- C. Regarding the minimum required lot area and minimum required average lot width:
- (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the AG-1 District has always required a minimum lot are of one acre and a minimum average lot width of 200 feet.
  - (2) The County reviewed the minimum lot area and minimum average lot width requirements in Case 847-AT-93. That case established the importance of accommodating onsite wastewater treatment on lots without connection to a sanitary sewer system. As amended, following Case 847-AT-93, the Ordinance requires a minimum lot area of 30,000 square feet minimum lot area and a minimum average width of 150 feet in the AG-1 District if there is no sanitary sewer and no public water supply. Further, if a connected public water supply system is available, Paragraph 4.3.4.B. only requires a minimum lot area of 20,000 square feet and a minimum average lot width of 100 feet.
  - (3) Besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum lot area and average lot width requirement, other considerations are as follows:
    - (a) Adequate light and air: The subject property has an existing single family home and a detached sheet metal building. There are residential uses to the west of the property and agricultural uses to the north, south, and east.
    - (b) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Scott Township Fire Protection District and the station is approximately 1.6 road miles from the subject property.
    - (c) Aesthetics may also play a part in the minimum lot area requirement.
- D. All existing structures on the subject property meet or exceed the minimum required setback and yard standards.
- E. The requested variance is not prohibited by the *Zoning Ordinance*.

***GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE***

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application: **“Petitioner has already expended extensive sums remodeling the adjoining barn and farmhouse. The barn was sold to the neighbor to the west. The adjoining property owner to the west has a vested interest in taking care of the barn since their residence is located on the adjacent property. The sale of the subject property to a new buyer who will most likely occupy the historic farmhouse as an owner occupied residence will increase surrounding property values as opposed to allow the historic farmhouse to decay. From the perspective of the public, there would be no additional construction of new residences or additional traffic over what would already take place in the absence of petitioner selling the historic barn to the adjacent owner.”**
  - B. The Township Road Commissioner and the County Engineer have received notice of this variance but no comments have been received.
  - C. The Fire Protection District has been notified of this variance but no comments have been received.
  - D. In a letter dated July 10, 2012, from Dale Munds, Mayor, Village of Bondville, to Nick Taylor, Realtor, RE Max Realty, Mr. Munds indicates that the Village Board agreed unanimously that the properties are not in violation of the Village of Bondville’s Subdivision Ordinance, and the Village has no objection to the sale of the properties.
  - E. Letters of support have been received from the following neighboring landowners:
    - (1) James, Christie, and Reba Karr, 1411 CR 300E, Seymour.
    - (2) John and Marilyn Litchfield, 240 CR 1300N, Seymour.
    - (3) Noel Farms, LLC, P.O. Box 625, Champaign.
12. When asked on the application what other circumstances justify the Variance the Petitioner stated: **“Petitioner merely sold one of two parcels which he had earlier purchased to the adjoining property owner because that property owner wanted to own the historic barn. The two parcels had separate PIN numbers previously and separate legal descriptions on the deed. The transfer to the adjoining property owner was made pursuant to Plat Act exception contained in 765 ILCS 205(b)(3) (the sale or exchange of parcels of land between owners of adjoining land). Subdivision approval has been given by the Village of Bondville.”**

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

13. Regarding proposed special conditions of approval:

*No Special Conditions are proposed at this time.*

**DOCUMENTS OF RECORD**

1. Variance Application signed by Alan Singleton (Attorney for the Petitioner) received on May 16, 2013, with attachments:
  - A KH Farms Approved Subdivision Plat
  - B Letter from Dale Munds, Mayor, Village of Bondville, to Nick Taylor, Realtor, RE Max Realty, dated July 10, 2012
  - C Deed from when the petitioner purchased both properties
  - D Deed from when the petitioner sold the property to the adjacent landowner
  - E Picture of the front of the farmhouse on the subject property
  - F Picture of the rear of the farmhouse on the subject property
  - G Picture of the existing metal building on the subject property
  - H Picture of the historic barn on property that was sold to the adjoining neighbor to the west
  - I Picture of the house on the property to the west if the subject property
  - J Picture of sold sign on subject property
2. Lot Inquiry of subject property
3. Letter of Support signed by John and Marilyn Litchfield, received May 22, 2013
4. Letter of Support signed by James, Christie, and Reba Karr, received June 26, 2013
5. Letter of Support signed by Noel Farms, LLC, received June 26, 2013
6. Preliminary Memorandum dated July 5, 2013 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B KH Farms Approved Subdivision Plat received May 16, 2013
  - C 1980 Tax Atlas Map for Sections 2 and 11 of Scott Township
  - D 1998 Tax Atlas Map for Sections 2 and 11 of Scott Township
  - E Letter from Dale Munds, Mayor, Village of Bondville, to Nick Taylor, Realtor, RE Max Realty, dated July 10, 2012
  - F Letter of Support signed by John and Marilyn Litchfield, received May 22, 2013
  - G Letter of Support signed by James, Christie, and Reba Karr, received June 26, 2013
  - H Letter of Support from Noel Farms, LLC, received June 26, 2013
  - I Pictures of subject property and adjacent property received May 16, 2013
  - J Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **754-V-13** held on **July 11, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



6. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because:

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7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

**FINAL DETERMINATION**

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/HAVE NOT}* 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:

The Variance requested in Case **754-V-13** is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **KH Farms, Inc.** to authorize the following in the I-1 Light Industry Zoning District:

**Part A. Variance for a lot area of .924 acre in lieu of the minimum required 1 acre.**

**Part B. Variance for an average lot width of 110.17 feet in lieu of the minimum required 200 feet.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date