

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: March 13, 2014
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 (January 16, 2014, January 30, 2014 and February 13, 2014)
5. Continued Public Hearings

*Note: The full ZBA packet is now available
on-line at: www.co.champaign.il.us.*

***NOTE: TIME CHANGE AT 7:00 P.M.**

Case 766-AM-13 and Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping

Case 766-AM-13 Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13, on the subject property below.**

* Case 767-S-13 Request: **On the subject property described below, authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:**

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

Location: **A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
March 13, 2014

Case 769-AT-13 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement which can be summarized as follows:**

- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)**
- II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)**
- III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)**
- IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)**
- V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance.**
- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)**
- VII. Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)**

6. New Public Hearings
7. Staff Report
8. Other Business
 - A. Review of Docket
 - B. Cancellation of March 27, 2014, meeting
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61801

7 **DATE:** January 16, 2014

PLACE: Lyle Shield's Meeting Room
1776 East Washington Street

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

Urbana, IL 61802

10 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol

11 **MEMBERS ABSENT :** Roger Miller, Eric Thorsland

12 **STAFF PRESENT :** Connie Berry, John Hall, Susan Monte (County Planner, RPC)

13 **OTHERS PRESENT :** Lars Johnson, Shawn Bickers, Larry Hall, Julia Hall, Jean Fisher, Mark
14 Fisher

15 **1. Call to Order**

16 The meeting was called to order a 6:30 p.m.

DRAFT

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

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

19 Mr. John Hall, Zoning Administrator stated that Mr. Thorsland is absent tonight due to a medical
20 procedure that he has scheduled for tomorrow.

21 Mr. John Hall informed the Board that due to the absence of Mr. Thorsland the Board needs to appoint an
22 acting Chair for tonight's meeting. He entertained a motion for appointment of an acting chair

23 **Mr. Passalacqua moved, seconded by Mr. Randol to appoint Ms. Capel as acting Chair for tonight's
24 meeting. The motion carried by voice vote.**

25 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must
26 sign the witness register for that public hearing. She reminded the audience that when they sign the
27 witness register they are signing an oath

28 **3. Correspondence**

29 None

30 **4. Approval of Minutes**

1 None

2

3 **5. Continued Public Hearing**

4

5 **Case 764-V-13 Petitioner: Lars Johnson with agent Shawn Bickers Request to authorize the following**
6 **in the R-4 Multiple Family Residence Zoning District: Part A. Authorize the following variance for**
7 **an existing townhouse: (1) lot coverage of 44% in lieu of the maximum allowed 40%; and (2) a front**
8 **setback of 40 feet from the centerline of Briar Hill Drive in lieu of the minimum required 55 feet; and**
9 **(3) a front yard of 20 feet in lieu of the minimum required 25 feet. Part B. Authorize the following**
10 **variance for an addition to an existing townhouse: (1) authorize construction of a building addition in**
11 **a recorded utility easement in lieu of the requirement that no construction shall take place in a**
12 **recorded utility easement; and (2) a side yard of 1 foot in lieu of the minimum required 5 feet.**
13 **Location: Lot 1 of Wisegarver’s Subdivision in the Southeast Quarter of Section 21 of Champaign**
14 **Township and commonly known as the townhome at 2120 Briar Hill Drive, Champaign.**

15

16 Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone
17 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of
18 hands for those who would like to cross examine and each person will be called upon. She requested that
19 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that
20 those who desire to cross examine are not required to sign the witness register but are requested to clearly
21 state their name before asking any questions. She noted that no new testimony is to be given during the
22 cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
23 exempt from cross examination.

24

25 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must
26 sign the witness register for that public hearing. She reminded the audience that when they sign the
27 witness register they are signing an oath.

28

29 Mr. Passalacqua stated that he has a few construction projects out for bid in which Mr. Shawn Bickers,
30 co-petitioner, will be a sub-contractor for those projects, therefore due to this conflict he must remove
31 himself from this case.

32

33 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

34

35 Mr. Lars Johnson, who resides at 1956 Berwyn, Chicago, stated that he had no new information to add
36 tonight.

37

38 Ms. Capel asked Mr. Hall if he had any new information to add to the case tonight.

39

40 Mr. Hall, Zoning Administrator, stated that he had no new information to add to the case. He said that the
41 information that was included in the mailing packet was very clear. He said that he would be happy to
42 answer any questions that Board members may have regarding the case. He said that extra copies of

1 Wisegarver's Subdivision were provided to the Board. He said that this was the same copy that was
2 included in the Preliminary Memorandum but since it was the subject of a lot of the discussion at the last
3 meeting staff thought that the Board might appreciate receiving fresh copies of the plat for review.
4

5 Ms. Capel asked Mr. Bickers if he had any new information to add to the case tonight.
6

7 Mr. Shawn Bickers, who resides at 4306 Summerfield Road, Champaign, stated that he had no new
8 information to add to the case tonight.
9

10 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding
11 Case 764-V-13 and there was no one.
12

13 Ms. Capel closed the witness register.
14

15 Ms. Capel asked the Board if there were any questions for staff.
16

17 Ms. Griest stated the there is a proposed special condition relating to prohibition of rebuilding a structure
18 that is not yet built if it were destroyed by 50% or more. She said that the rationale behind this special
19 condition is a little bit askew to her.
20

21 Mr. Hall stated that he noticed in the minutes that there was a question regarding the proposed special
22 condition. He said that while he won't argue with Ms. Griest's view of the proposed special condition, but
23 when preparing the materials for the Board's review it is not known what state of mind the Board will be in
24 and one thing that staff has been very sensitive to lately is the irritated state that the Board gets in due to
25 unauthorized construction that subsequently requires a variance. He said that the proposed special
26 conditions were prepared early in the case and in his own mind if he had not proposed the special condition
27 so early he might have not proposed it at all. He said that in the beginning we were posed with unauthorized
28 construction and if it wasn't approved by the Board it would require removal and the fact that there may be
29 less than 50% in place now was not as important as thinking that the Board may not want this to stay
30 permanently unless there is a vacation of that part of the easement. He said that he would prefer no
31 conditions if possible but early in the process he believed that such conditions may be necessary for the
32 Board to make the necessary positive findings.
33

34 Ms. Lee stated that the petitioners are requesting a one foot side yard in lieu of the required five foot. She
35 said that the petitioners have indicated that the garage type door would be relocated to the west side of the
36 structure but in essence they will be moving their golf cart past the new addition and across the neighbor's
37 yard. She said that it appears strange that the Board would indicate that it is okay to have an easement across
38 the neighbor's yard to the extent that the golf cart exceeds one foot in width.
39

40 Mr. Hall stated that there is some question regarding how the golf cart will move from the storage area to the
41 street. He said that there may be some overlap over the property line and there has been some discussion
42 about maintenance of the lawn has always been based on an assumption that the lot line was down the

1 middle of the large open area when in fact the open area is all on the neighbor's lot. He said that he was
2 assuming that Mr. Johnson and the neighbors could come to some sort of mutual agreement regarding the
3 general maintenance of that part of the other lot in exchange for any golf cart traffic that occurs. He said that
4 if the Board is skeptical that such an agreement would work and desires to see information regarding how
5 the landscaping will be rearranged so that the golf cart can travel straight to the street and then down the
6 street to the golf course then the Board would be within its bounds to require such.

7
8 Mr. Johnson stated that the golf cart idea has been abandoned. He said that the storage area will be for the
9 personal storage of his lawnmower, tools, etc. He said that they realized that the Board had previous
10 questions regarding the golf cart access therefore they decided that the golf cart storage was not that
11 important and moved the access to the west towards the street. He said that Mr. Bickers resubmitted the new
12 plans indicating the change.

13
14 Mr. Hall stated that the plan that was received on December 11, 2013, still indicates "golf cart bay."

15
16 Mr. Johnson stated that Mr. Bickers was informed that he should not change the designation of the area.

17
18 Mr. Hall asked Mr. Johnson if he is testifying tonight that what was previously indicated as a "golf cart bay"
19 should now be understood to be "lawnmower and other equipment storage."

20
21 Mr. Johnson stated yes.

22
23 Ms. Lee thanked Mr. Johnson.

24
25 Ms. Capel asked the Board if there were any additional questions regarding the special conditions.

26
27 Ms. Capel asked Mr. Johnson if he agreed with the proposed special conditions.

28
29 Mr. Johnson stated yes.

30
31 Ms. Capel entertained a motion to approve the proposed special conditions.

32
33 **Mr. Randol moved to approve the proposed special conditions.**

34
35 Ms. Capel called for a second for Mr. Randol's motion.

36
37 Mr. Hall noted that a motion must be called three times before it fails.

38
39 Ms. Capel called for a second to Mr. Randol's motion for a final time.

40
41 **The motion failed due to the lack of a second.**

1 **Ms. Griest moved to approve proposed special conditions A.(1); A.(2); B and C and exclude A.(3).**
2

3 Ms. Griest stated that she cannot support a special condition that allows building something that will not be
4 allowed to be replaced. She said that she cannot ethically support building something that she would
5 prohibit rebuilding should it be destroyed. She said that the structure is less than 50% built currently and she
6 realizes that the contractor started work without authorization and that is unfortunate but she has an ethical
7 dilemma in allowing them to continue building something that would not be allowed to be rebuilt if it were
8 destroyed. She said that her position and the bottom line is whether the Board is going to allow the
9 petitioner to build his structure and keep it or not to allow them to build it at all.

10
11 Mr. Hall stated that he would say that there is no need for a special condition if the Board is inclined to allow
12 the structure to be completed and the structure to be used and there is no need for a special condition if the
13 Board is inclined to think that there is not a special condition sufficient to allow construction to be
14 completed therefore no special condition is needed for either one of those polar opposites. He said that
15 somewhere in between there a special condition may be needed but it may not be any of the proposed
16 conditions but if the option is either one of those two then he thinks it is real simple, no special condition is
17 required.

18
19 Ms. Griest stated that she appreciates Mr. Hall’s recommendation and withdrew her motion.

20
21 Ms. Capel stated that the Board will proceed with no special conditions.

22
23 Mr. Hall stated that he does not want to make this any more complicated than necessary but Ms. Lee asked a
24 question about what the Board is approving regarding the use of the structure. He said that if the Board
25 approves the variance the Board will be approving a site plan and currently the site plan does not indicate
26 golf cart storage but unless the Board makes a condition that it cannot be used for golf cart storage there is
27 no prohibition in the future that it can be used for such in the future. He said that if the Board is really
28 concerned about the storage of a golf cart then a special condition should be considered. He said that he is
29 not recommending such a condition but he is putting the option out there for the Board’s consideration in
30 case one member believes it is necessary.

31
32 Mr. Randol stated that at the last meeting there was discussion that there was a mutual agreement between
33 Mr. Johnson and the neighbors to allow moving back and forth through the area between the two structures.
34 He said that if that travel ever became an issue it would be an issue between the neighbors and would have
35 no affect on the ZBA because the property was one foot where everyone thought it was in the middle of the
36 yard. He said that there is a maintenance agreement in place between the neighbors.

37
38 Mr. Johnson stated that there is a maintenance agreement in place and it has existed for almost 20 years. He
39 said that if the neighbors didn’t like something they would voice their concerns.

40
41 Mr. Hall stated that if the Board is comfortable with the neighbor’s agreement then there is nothing else that
42 needs to be done in that regard.

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Mr. Randol stated that he is comfortable with just the neighbor’s agreement. He said that sometimes the Board tries to get too involved in some of this stuff.

Ms. Capel stated that there is not a lot of difference between a riding lawnmower and a golf cart in terms of width and driving over the neighbor’s property.

Mr. Randol agreed.

Ms. Lee stated that the present neighbors may be willing to allow Mr. Johnson to go over the property line but is the ZBA willing to, in effect, grant an easement of use. She said that a permanent easement could be granted between the neighbors.

Mr. Hall stated that he does not consider granting this variance to be the same thing as acquiescing to traveling over a neighbor’s property because the door was moved and there is no need to travel over the property and testimony received tonight indicates that traveling over the property will not be the situation anyhow. He said that if the Board is so concerned that no golf cart storage should be allowed then the Board can certainly impose such a condition. He said that he would not want to have to make inspections to see what is being stored there but again, it is whatever the Board feels is necessary and justifiable. He noted that any condition would have to be accepted by the petitioner and the petitioner has already stated that the site plan doesn’t indicate golf cart storage any longer. He said that the petitioner may accept a condition prohibiting golf cart storage or the petitioner may believe that the Board is getting too detailed.

Ms. Capel asked the Board if they were ready to proceed to the Finding of Fact.

Ms. Capel entertained a motion to proceed to the Finding of Fact for Case 764-V-13.

Ms. Griest moved, seconded by Mr. Randol to proceed to the Finding of Fact for Case 764-V-13. The motion carried by voice vote.

Finding of Fact for Case 764-V-13:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 764-V-13 held on November 14, 2013, December 12, 2013, and January 16, 2014, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the

1 same district because of the undisputed boundary line for years and the unknown issues with utility
2 easements and the sanitary district had no problem with the construction.

3
4 Ms. Capel stated that the buildable area on the subject property is significantly smaller than on the other lots.

5
6 Mr. Hall stated that at the end of Mr. Randol's statement he mentioned that the utility companies had no
7 problem with the construction. He asked Mr. Randol to explain his response.

8
9 Mr. Randol stated that at the last public hearing regarding this case there was a question whether or not there
10 were sewer lines in the easement. He said that the Urbana Champaign Sanitary District indicated that there
11 were no lines within the easement and that they had no problem with the structure being constructed.

12
13 Ms. Griest asked Mr. Randol if his statement intended to include all of the other utility companies that were
14 involved. She said that although Illinois American Water stipulated that they have nothing running through
15 the easement and that they would have no objection to vacating, Ameren was unwilling to vacate the
16 easement.

17
18 Ms. Capel stated that what Ameren actually said was that the fact that they were willing to allow did not
19 imply a vacation. She said that the wording that Ameren used did not constitute a vacation.

20
21 Mr. Hall stated that Ameren's statement is included as item #11.E(3) in the Summary of Evidence.

22
23 Ms. Griest stated that item #11.E(3) does indicate that there are electric facilities within the easement along
24 the north and east easement and that there is no immediate plan to use the south easement, but it is not a
25 vacation of the south easement.

26
27 Ms. Capel stated that Ameren did not indicate their willingness one way or the other.

28
29 Ms. Griest stated that she would disagree and would interpret Ameren's statement as their willingness to not
30 object does not mean that they are vacating it in any way. She said that she has no problem with Mr.
31 Randol's statement indicating that the UCSD has no problem with the construction but it would be
32 inaccurate if Ameren were included.

33
34 Ms. Griest stated that Illinois American Water had no interest in the easement and did not object to a
35 vacation of the easement.

36
37 Mr. Hall read the Board's findings as follows:

- 38
39 • **Of the undisputed boundary line for years and the unknown issues with utility**
40 **easements and the sanitary district had no problem with the construction; and**
41 • **Illinois American Water had no interest in the easement and did not object to the**
42 **vacation of the easement; and**

- 1 • **The buildable area on the subject property is significantly smaller than on the other**
- 2 **lots; and**
- 3

4 Ms. Capel stated that an additional point to add to the finding is that there is adequate space for utility
 5 maintenance between the two buildings.

- 7 • **There is adequate space for utility maintenance between the two buildings.**
- 8

9 Ms. Capel asked the Board if they agreed with Finding #1 and the Board agreed.

- 11 2. **Practical difficulties or hardships created by carrying out the strict letter of the**
- 12 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
- 13 **the land or structure or construction.**
- 14

15 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
 16 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or
 17 construction due to the open area between the two structures.

19 Ms. Capel stated that the townhome could not be reconstructed in the event of damage without the variance.
 20 She said that the addition, which is required for Mr. Johnson’s business, would not obstruct the view to the
 21 golf course.

23 Ms. Griest asked Ms. Capel if she would entertain a minor revision to her previous statement. She said that
 24 the finding could read as follows: There is no alternative buildable area on the side of the building without
 25 obstructing views to the golf course.

27 Ms. Capel stated that she agreed with Ms. Griest’s amended finding.

29 Mr. Hall read the Board’s findings for Finding #2 as follows:

- 31 • **Of the open area between the two structures**
- 32 • **The townhome could not be reconstructed in the event of damage without the variance**
- 33 **in Part A.**
- 34 • **There is no alternative buildable area on the side of the building without obstructing**
- 35 **the views to the golf course.**
- 36

37 Ms. Capel asked the Board if they agreed with the findings for Finding #2 and the Board agreed.

- 39 3. **The special conditions, circumstances, hardships, or practical difficulties DO result**
- 40 **from actions of the applicant.**
- 41

42 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO result

1 from actions of the applicant because construction began prior to the issuance of a zoning use permit. She
2 said that her recommendation would have been different if the construction had not begun and not moved
3 forward with the request because the construction had begun. She said that this is a choice by the applicant
4 to build this structure in this location and even if they had not begun the construction the applicant is
5 choosing to place the structure in the proposed location therefore it would be an action on their part. She
6 said that if someone has an opposing position on this finding and they would like to state that position she
7 would be happy to hear it.

8
9 Ms. Capel stated that Part A. does not fall under Ms. Griest's finding. She said that Part A. involves the
10 construction of the townhome itself and a permit that was issued in error. She said that Part A. includes lot
11 coverage of 44% in lieu of the maximum allowed 40%; and a front setback of 40 feet from the centerline of
12 Briar Hill Drive in lieu of the minimum required 55 feet; and a front yard of 20 feet in lieu of the minimum
13 required 25 feet.

14
15 Ms. Griest asked Mr. Hall how the Board should respond to a finding when some parts of the variance apply
16 to DO and some parts apply to DO NOT.

17
18 Mr. Hall stated that the Board does have to keep Part A. and Part B. in mind. He said that Finding #3 is
19 talking about the special conditions which the Board has already said existed. He said that if the Board goes
20 back and reviews Finding #1 the Board indicated that there was an undisputed boundary line and unknown
21 issues with utility easements, two major utilities who have indicated that they do not have a problem with it,
22 and smaller buildable area than on the other lots and adequate space for utility maintenance between the two
23 buildings. He said that the Board could add that the project was begun without authorization but the Board
24 needs to be careful with that because these findings are supposed to be about the property and building
25 without a permit is not related to the property but is related to carelessness. He asked the Board to think
26 about what it is about the property that DOES or DOES not support the variance. He said that the Board's
27 findings in Finding #1 are all related to the property and construction without a permit is not related to the
28 property.

29
30 Ms. Capel stated that the evidence states that the subcontractor was under the impression that there was a
31 permit and stopped construction when it became apparent that there was no permit. She said that she would
32 assume that the variance would have been applied for earlier had the misunderstanding not occurred.

33
34 Mr. Hall stated that this could work here if there was unauthorized construction indicated under Finding #1
35 because it would be consistent but in his mind there is a legal question about the Board focusing on things
36 that are not related to the land. He said that he is not an attorney and he does not want to ever play like he is
37 an attorney but he will give the Board whatever advice that he can.

38
39 Ms. Griest stated that she is having difficulty because she understands the conditions for the property when
40 Mr. Johnson purchased it and the items in the variance that are related to the original construction but this is
41 also including a request for additional construction which are a choice by the petitioner to include in this.
42 She said that she is having difficulty being able to separate those two and if this was two separate cases it

1 would be much easier. She said that she has no problem with the lot coverage area and the setbacks in the
2 front yard but her problem is with the proposal for the construction on the utility easement and up to within
3 one foot of the side property line. She said that she can be flexible with the side yard variance but requesting
4 to build something within the utility easement isn't part of the original construction therefore she can see
5 both sides but there isn't a maybe or sort of in the DO and DO NOT.

6
7 Mr. Hall stated that this is why staff advertised this case in two parts. He said that if the evidence supports it
8 he could imagine approval of one part and denial of the other part.

9
10 Ms. Griest asked if the Board should be preparing their findings as related to Part A. and findings related to
11 Part B.

12
13 Mr. Hall stated yes. He said that if the Board wants to provide the possibility of clear approval of one part
14 and clear denial of another then the findings need to be prepared separately. He said that the Board can
15 return to Finding #1 and discuss Part A. and Part B. separately. He said that doing Parts A. and B separately
16 does not lock the Board into any definite outcome but provides flexibility for the Board and if the Board
17 needs that flexibility then that is what should be done.

18
19 Ms. Capel stated that there will be a finding for Part A. and Part B. She asked Mr. Hall if both findings have
20 to be either negative or positive or could the Board find a positive finding for one part and a negative finding
21 for the other part.

22
23 Mr. Hall stated yes, the Board could have different findings for each part.

24
25 Ms. Griest stated that there could be two final determinations, one on Part A. and one on Part B.

26
27 Mr. Hall stated yes. He asked the Board if they want to do anything else on Finding #3 or would they like to
28 return to Finding #1 and resort.

29
30 Ms. Lee stated that if the Board is dealing with Part A. we are just dealing with lot coverage of 44% in lieu
31 of the maximum allowed 40%; and the front setbacks which all go back to the original construction. She
32 said that the Board will also deal with the front yard of 20 feet in lieu of the minimum required 25 feet.

33
34 Ms. Griest asked if Part A.(1) is prior to the addition or after the addition. She said that she would think that
35 it is after the addition.

36
37 Mr. Randol stated that it is from the original construction.

38
39 Ms. Capel stated that there was an existing deck there and the construction is just taking the place of that
40 deck.

41
42 Mr. Hall stated that a deck would not have been counted as part of the lot coverage. He said that he does not

- 1 believe that the area of the addition is 4% of the lot area therefore he is pretty certain that it was over the lot
2 coverage in the beginning.
3
- 4 Mr. Randol stated that if the lot coverage is not taken as the original construction then the whole building
5 will need to be changed. He said that the building was built over 40 years ago.
6
- 7 Ms. Lee stated that there was a Supplemental Memorandum on November 14, 2013, which indicated the
8 following: Authorize the construction of an addition to an existing townhouse. She said that the
9 memorandum indicates that the lot coverage is 44% in lieu of the maximum allowed 40% therefore she
10 would believe that the original construction and the addition would be calculate to the 44%.
11
- 12 Ms. Griest asked Mr. Hall if the percentage does not include the addition is the variance adequate if the
13 addition were approved.
14
- 15 Ms. Lee stated that the memorandum indicates that the total lot area is 14,840 square feet and the original
16 square foot age of the house is 6,496.
17
- 18 Mr. Hall stated that the 264 square foot addition is nowhere near 4% of the lot area. He said that the existing
19 building with no addition already exceeds the lot coverage limit. He apologized for not having this specific
20 information included in the Summary of Evidence.
21
- 22 Ms. Griest stated that her calculations including the addition, indicates lot coverage of 45.55%. She said that
23 Part A. is without the addition and the pre-construction lot coverage is 44%.
24
- 25 Ms. Lee stated that Part A. is incorrect.
26
- 27 Mr. Randol asked why the Board is trying to approve a variance for a structure that was built over 40 years
28 ago rather than just taking care of what is proposed currently.
29
- 30 Ms. Capel stated that the building cannot be rebuilt if there was fire without a variance.
31
- 32 Ms. Griest stated that the variance would make the existing building compliant which gives them the ability
33 to rebuild.
34
- 35 Ms. Capel asked Mr. Hall if the Board needs to vote on separating the findings into Part A. and Part B.
36
- 37 Mr. Hall stated that the Board only needs to vote on findings when there is reason to think that there are not
38 four Board members in support of the finding. He said that separating the finding into parts does make a lot
39 of sense. He said that the only way to provide the Board with the flexibility to approve one part and deny the
40 other is to actually make complete findings for each part and he does not see any way that this one finding
41 can apply to both parts. He asked the Board if they want to deal with each part separately or move through
42 both parts concurrently through all of the findings.

1
2 Ms. Capel stated that the Board should move through each part separately.
3

4 **Separation of Findings of Fact for Part A. and Part B of Case 764-V-13:**
5

- 6 1. **Special conditions and circumstances DO exist for Part A which are peculiar to the**
7 **land or structure involved, which are not applicable to other similarly situated land**
8 **and structures elsewhere in the same district.**
9

10 Ms. Lee stated that special conditions and circumstances DO exist which are peculiar to the land or structure
11 involved, which are not applicable to other similarly situated land and structures elsewhere in the same
12 district because a permit was issued even though the building did not comply with the Ordinance
13 requirements.
14

15 Ms. Capel stated that the lot has significantly smaller buildable area than any of the other lots in the
16 subdivision.
17

18 Ms. Griest stated that this unit is of similar size and shape to the adjoining three units on the subject
19 property.
20

21 Mr. Hall pointed out that other than the aerial photography there is no evidence specific to Ms. Griest's
22 finding.
23

24 **The Board's Findings for Finding 1, Part A.:**
25

- 26 • **The zoning use permit was approved even though the building did not comply with the**
27 **Ordinance requirements; and**
28 • **The buildable area on the subject property is significantly smaller than on the other**
29 **lots; and**
30 • **This unit is of similar size and shape to the adjoining three units on the subject**
31 **property.**
32

33 **The Board's Findings for Finding 1, Part B.:**
34

- 35 1. **Special conditions and circumstances DO exist for Part B which are peculiar to the land**
36 **or structure involved, which are not applicable to other similarly situated land and**
37 **structures elsewhere in the same district because:**
38
39 • **Of the undisputed boundary line for years and the unknown issues with utility**
40 **easements and the sanitary district had no problem with the construction; and**
41 • **Illinois American Water had no interest in the easement and did not object to the**
42 **vacation of the easement; and**

- 1 • **The buildable area on the subject property is significantly smaller than on the other**
- 2 **lots**
- 3 • **There is adequate space for utility maintenance between the two buildings.**
- 4

5 Mr. Hall asked the Board if they agreed to the findings for Finding 1 Parts A and B and the Board agreed.

6
7 **The Board’s Findings for Finding 2, Part A:**

- 8
- 9 2. **For Part A, Practical difficulties or hardships created by carrying out the strict letter of**
- 10 **the regulations sought to be varied WILL prevent reasonable or otherwise permitted**
- 11 **use of the land or structure or construction because:**
- 12
- 13 • **The townhome could not be reconstructed in the event of damage without the variance**
- 14 **in Part A.**
- 15

16 **The Board’s Findings for Finding 2, Part B.:**

- 17
- 18 **For Part B, Practical difficulties or hardships created by carrying out the strict letter of**
- 19 **the regulations sought to be varied WILL prevent reasonable or otherwise permitted**
- 20 **use of the land or structure or construction because:**
- 21
- 22 • **Of the open area between the two structures; and**
- 23 • **There is no alternative buildable area on the side of the building without obstructing**
- 24 **the views to the golf course.**
- 25

26 Mr. Hall asked the Board if they agreed to the findings for Finding 2 and the Board agreed.

27
28 **The Board’s Findings for Finding 3, Part A.:**

29
30 **For Part A, The special conditions, circumstances, hardships, or practical difficulties**

31 **DO NOT result from actions of the applicant because:**

32
33 Ms. Lee stated that for Part A, the special conditions, circumstances, hardships, or practical difficulties DO

34 NOT result from actions of the applicant because the structure was built in the 1970’s which was long before

35 the applicant came into the picture.

- 36
- 37 • **The construction happened in the 1970’s long before the applicant owned the property.**
- 38

39 Ms. Lee asked Mr. Hall if the applicant had any idea that the structure was built out of compliance with the

40 Zoning Ordinance.

41
42 Mr. Hall stated that he does not believe the applicant or anyone else was aware that the structure was built

1 out of compliance with the Zoning Ordinance.

2

3 **The Board’s Findings for Finding 3, Part B.:**

4

5 **For Part B, The special conditions, circumstances, hardships, or practical difficulties**
6 **DO result from actions of the applicant.**

7

8 Ms. Griest stated that for Part B, the special conditions, circumstances, hardships, or practical difficulties
9 DO result from actions of the applicant because the petitioner has proposed building in a recorded utility
10 easement and with a size that would yield a one foot side yard in lieu of the required five feet.

11

12 Ms. Capel stated that the Board needs to revisit Finding #1, Part B to review what special conditions exist.

13

14 Mr. Hall stated that in the terms of the logic of the findings the Board could have a special condition in
15 Finding #1 that construction was begun without a zoning use permit then later Finding 3, Part B, could be
16 indicated that the special conditions, circumstances, hardships, or practical difficulties DO result from
17 actions of the applicant.

18

19 The Board agreed to add the following to Finding #1, Part B: Construction was begun without a zoning use
20 permit.

21

22 Mr. Hall read the Board’s finding for Finding #3, Part B. as follows:

23

- 24 • **The proposed construction will reduce the side yard to one foot in lieu of the required**
- 25 **five feet.**

26

27 Mr. Hall stated that the one thing that the Board should be thinking about is that this finding would indicate
28 that this is causing some injury to the district. He said that Finding #5 refers to injury to the district therefore
29 hopefully the Board will have some idea as to what injury has been done or will be caused.

30

31 Ms. Lee stated that Ms. Griest also mentioned that the petitioner was building within a recorded utility
32 easement.

33

34 Mr. Hall revised the Board’s finding as follows:

35

- 36 • **The petitioner proposed construction within a recorded utility easement with a size that**
- 37 **would require a reduced side yard of one foot in lieu of the required five feet.**

38

39 Mr. Hall asked the Board if they agreed with the Finding for Finding 3, Part B.

40

41 Mr. Randol stated that he does not understand why this finding should be there when it has been agreed that
42 everyone involved in the utility easement has indicated that they have no problem with the proposed

1 construction.
2
3 Mr. Hall stated that Mr. Randol’s concern is an important consideration.
4
5 Mr. Randol stated that the finding indicates a negative impact and everyone involved has indicated that they
6 have no problems with it.
7
8 Mr. Hall stated that the Board could move forward with the Finding of Fact and once completed the Board
9 could revisit all of the findings before they are adopted.
10
11 Ms. Capel asked if it would be appropriate to insert a contrary statement in the finding.
12
13 Mr. Hall stated that the Board could insert a contrary statement as long as the finding remains clear.
14
15 Ms. Griest asked Mr. Hall if this would be an appropriate place to reiterate the Summary of Evidence
16 information that the UCSD, Illinois American Water and Ameren have no existing utilities in the easement
17 and have no plans to place utilities in the easement however none of them have vacated the easement. She
18 said that it is significant information that none the three utility companies have vacated the easement even
19 though they do not have any utilities located in it.
20
21 Mr. Hall stated that the UCSD’s position, as he understands it, is that they have no easement to vacate and
22 Illinois American Water indicated that they would be happy to support vacating the easement but Ameren
23 only made clear that even though they had nothing at risk they would not vacate the easement. He said that
24 he does not know what this information would do for the finding but he could certainly add it if the Board
25 desires.
26
27 Mr. Randol stated that a ten foot easement is not big enough for water and sewer both because there must be
28 a ten foot separation unless the sewer is two foot below the water. He said the water main is already located
29 in front of the subject property.
30
31 Mr. Hall read Item 11.E(3) as follows: In an email dated October 10, 2013, from Elmer Crawford, Ameren
32 Illinois Senior Engineering Representative, to Shawn Bickers, co-petitioner, Mr. Crawford indicated that
33 there are electric facilities within the easement along the north and east easement and that there is no
34 immediate plan to use the south easement, but is not a vacation of the south easement. He asked the Board if
35 that they believe that this is the same as saying that Ameren is opposed to vacation of the easement.
36
37 Ms. Capel stated no.
38
39 Ms. Griest stated that she disagreed with Ms. Capel.
40
41 Mr. Hall stated that the Board could vote on the interpretation.
42

1 Ms. Capel stated that the Board cannot vote on someone else's intent. She said that she and Ms. Griest are
2 interpreting Mr. Crawford's statement in two different ways.
3

4 Mr. Hall stated that the Board can vote on which interpretation the majority of the Board will support.
5

6 Ms. Lee stated that it is her opinion that if there is a recorded easement that the utility companies are not
7 vacating then there is still a recorded easement.
8

9 Mr. Hall stated that Ms. Griest has suggested evidence which is her understanding that Ameren is opposed to
10 the easement. He said that he wants the Board to be very careful because if this goes to court the Board does
11 not have an email from Ameren indicating that they were opposed to the vacation of the easement.
12

13 Ms. Capel stated that the only evidence that the Board has is the email which indicates that they have not
14 vacated the easement. She suggested that perhaps the finding should quote the email from Mr. Crawford.
15

16 Ms. Griest agreed that quoting the email would be appropriate.
17

18 Mr. Hall stated that quoting from the email will be difficult to do because the actual words are in the context
19 of a broader statement.
20

21 Mr. Hall stated that the finding would read as follows:
22

- 23 • **Even though the proposed construction is located within a recorded utility easement,
24 neither the UCSD nor Illinois American Water are opposed to vacation of the easement,
25 Ameren made clear in an email dated 10/10/13 from Elmer Crawford, Senior
26 Engineering Representative, that there is no immediate plan to use the south easement,
27 but it is not a vacation of the south easement."**
28

29 Mr. Hall stated that he wants to make sure that the Board is comfortable with this being a finding related to
30 whether or not the special conditions result from the applicant.
31

32 **The Board's Findings for Finding 4, Part A.:**
33

- 34 **4. For Part A, the requested variance IS in harmony with the general purpose and intent
35 of the Ordinance.**
36

37 Ms. Lee stated that For Part A, the requested variance IS in harmony with the general purpose and intent of
38 the Ordinance because the initial mistake in the permit should not bring consequences to bear in later years.
39

40 Mr. Hall stated that legally, to allow something like this to go on for 40 years and then all of sudden deciding
41 that it is so terrible to continue is very questionable.
42

1 Ms. Capel stated that the variance corrects an error that was made during the original construction.

2
3 Mr. Hall stated that the variance corrects the error and this criteria is the one the Board reviews why there is
4 a lot coverage limit. He said that the requirement is to allow a certain amount of light and air into the units
5 and the Board needs to decide if the units have adequate light and air.

6
7 Ms. Lee asked if there have been previous cases regarding similar lot coverage issues.

8
9 Mr. Hall stated yes, but each case is so unique that to try a draw some kind of rules from all of the previous
10 cases is virtually impossible.

11
12 Ms. Griest stated that the building has always been like this and there has never been any detriment to the
13 public health, safety, or welfare caused by the building. She said that the Champaign Township Highway
14 Commissioner has no objection to the variance and the Fire Protection District has not provided comments.
15 She said that it should be noted that the structure shares a common wall with an adjoining housing unit.

16
17 Mr. Hall stated that it may be appropriate to note that the structure is adjacent to a large golf course that
18 provides ample light and air. He said that the variance is literally for the entire building and not just for Mr.
19 Johnson's portion of that building.

20
21 Ms. Lee stated that she believes that it is appropriate to note that the structure is adjacent to a large golf
22 course that provides ample light and air.

23
24 Ms. Griest stated that the property is bordered by a golf course on two sides and an open space for the
25 interstate on a third side with a building on only one side that is 50 feet away from the subject building.

26
27 Ms. Lee asked if the open land to the south of Mr. Johnson's property is entirely owned by the property
28 owner to the southeast.

29
30 Mr. Hall stated yes.

31
32 Ms. Capel stated that the subject property is at the end of Briar Hill Drive and it is very unlikely that the
33 street will ever be widened or extended.

34
35 Mr. Hall read the Board's findings as follows:

- 36
37 • **The building has always been like this and there has never been any detriment to the**
38 **public health, safety, or welfare caused by the building; and**
39 • **The Champaign Township Highway Commissioner has no objection to the variance;**
40 **and**
41 • **The Fire Protection District has not provided any comments; and**
42 • **The property is bordered by a golf course on two sides and an open space for the**

- 1 interstate on a third side with a building on only one side that is 50 feet away from the
- 2 subject building; and
- 3 • The property is at the end of Briar Hill Drive and it is unlikely that the street will ever
- 4 be widened.
- 5 •

6 **The Board’s Findings for Finding 4, Part B.:**

7
8 **For Part B, the requested variance IS in harmony with the general purpose and intent of the**
9 **Ordinance.**

10
11 Mr. Randol stated that For Part B, the requested variance IS in harmony with the general purpose and intent
12 of the Ordinance because this is an established subdivision that has been in existence since 1976.

13
14 Ms. Capel stated that the construction will not disturb existing utilities. She said that the property is
15 bordered by a golf course on two sides and an open space for the interstate on a third side and the property is
16 at the end of Briar Hill Drive and further development requiring additional utilities in this area is very
17 unlikely.

18
19 Mr. Hall read the Board’s findings as follows:

- 20
- 21 • **This is an established subdivision; and**
- 22 • **The construction will not disturb existing utilities; and**
- 23 • **The property is bordered by a golf course on two sides and an open space for the**
- 24 **interstate on a third side and the property is at the end of Briar Hill Drive; and**
- 25 **further development requiring additional utilities in this area is very unlikely;**
- 26

27 Ms. Griest stated that there are two similar additions constructed on townhomes on the property to the south.

28
29 Mr. Hall read Ms. Griest’s finding as follows:

- 30
- 31 • **There are two other similar additions constructed on townhomes on the property to the**
- 32 **south.**
- 33

34 **The Board’s Findings for Finding 5, Part A.:**

35
36 **For Part A, the requested variance WILL NOT be injurious to the neighborhood or otherwise**
37 **detrimental to the public health, safety, or welfare.**

38
39 Ms. Capel stated that for Part A, the requested variance WILL NOT be injurious to the neighborhood or
40 otherwise detrimental to the public health, safety, or welfare because the building has always been like this
41 and there has never been any detriment to the public health, safety, or welfare caused by the building.

42

1 Ms. Griest stated that the Champaign Township Highway Commissioner has no objection to the variance
2 and the Fire Protection District has not provided any comments.

3
4 Mr. Hall read the Boards findings as follows:

- 5
- 6 • **The building has always been like this and there has never been any detriment to the**
- 7 **public health, safety, or welfare caused by the building; and**
- 8 • **The Champaign Township Highway Commissioner has no objection to the variance;**
- 9 **and**
- 10 • **The Fire Protection District has not provided any comments; and**
- 11

12 Ms. Capel stated that the following finding could be added: Adequate light and air is provided by the
13 abundant open space around the building.

14
15 Mr. Hall read Ms. Capel’s finding as follows:

- 16
- 17 • **Adequate light and air is provided by the abundant open space around the building.**
- 18

19 **The Board’s Findings for Finding 5, Part B.:**

20
21 **For Part B, the requested variance WILL NOT be injurious to the neighborhood or otherwise**
22 **detrimental to the public health, safety, or welfare.**

23
24 Ms. Capel stated that for Part B, the requested variance WILL NOT be injurious to the neighborhood or
25 otherwise detrimental to the public health, safety, or welfare because similar additions exist on townhomes
26 to the south and have not been found to be injurious to the neighborhood. She said that it is unlikely that the
27 existing easement will be required for new utilities as there are currently no utilities within the easement.

28
29 Mr. Hall stated that the water lines are within the easement but are in a different location.

30
31 Ms. Capel stated that she thought that the water lines were across the property line and in the easement on
32 the property to the south.

33
34 Mr. Hall stated that Ms. Capel is thinking of the sanitary sewer lines.

35
36 Ms. Capel stated that the water line runs across the front of the property.

37
38 Mr. Randol stated that the water line does run across the front of the property and is not in the easement on
39 the side of the property and actually there is nothing within the side easement.

40
41 Ms. Capel stated that the Champaign Township Highway Commissioner has no objection to the variance and
42 the Fire Protection District has not provided any comments.

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Ms. Griest stated that two items of evidence could be added. She said that items 7.H (1) and (2) of the Summary of Evidence could be added as follows: (1) The subject property is a one lot subdivision that is unlikely to ever be expanded; and (2) The subject property is at the end of Briar Hill Drive and is bordered by the Lincolnshire Fields Golf Course on the east and north and Interstate 57 is on the opposite side of the street so it is unlikely that future development will occur in the vicinity or that new utilities will be needed in the existing utility easement.

Mr. Hall read the Board’s findings as follows:

- **There are two other similar additions constructed on townhomes on the property to the south which have not been injurious; and**
- **There are no utilities in the south utility easement; and**
- **The subject property is a one lot subdivision that is unlikely to ever be expanded; and**
- **The property is bordered by a golf course on two sides and an open space for the interstate on a third side and the property is at the end of Briar Hill Drive and further development requiring additional utilities in this area is very unlikely; and**
- **The Champaign Township Highway Commissioner has no objection to the variance; and**
- **The Fire Protection District has not provided any comments.**

Ms. Griest stated that she would like to return to Finding 1, Parts A and B and add items of evidence that she believes is relevant. She said that Items 7.G (1) and (2) should be added to Parts A and B as follows: (1)The subject property has an average lot width of only 140 feet and has a 10 foot wide utility easement on each side lot line for an overall net buildable lot width of only 120 feet; and (2) The other five lots on the North side of Briar Hill Drive have similar sized buildings and are similar in use to the subject property but the lots are 145 feet wide or wider and 3 of the 4 shared lot lines have no utility easements and therefore the smallest net buildable lot width among those five lots appears to be Lot 2 with a buildable lot width of 145 feet. She said that both of these items speak to the overall coverage, setbacks, and utility easement issues. She said that overall she believes that these findings add weight to won’t be injurious to the neighborhood and the general intent. She said that it shows the evolution of the development in that they made the changes but continued to build the same sized structures.

Mr. Hall asked Ms. Griest if the recommendation is to add Items #7.G(1) and (2) from page 11 of the January 10, 2014, Draft Summary of Evidence, these items have been added to Finding 1, Parts A and B.

Ms. Griest stated yes. She said that the fact that no utility easement exists on three of the four other shared lines is a significant factor.

Mr. Hall added Items #7.G.(1) and (2) to Finding 1, Parts A and B.

The Board’s Findings for Finding 6, Part A.:

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For Part A, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Griest stated that for Part A, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because there is no additional land available for purchase. She said that the Board has not received any evidence that indicates that no additional land is available for purchase but the recorded plat and the current aerial indicates such.

Ms. Capel asked if the Board needs to address that the lot coverage is 44% without the proposed construction and 46% with the proposed construction and does the case require re-advertisement.

Mr. Hall stated that he does not believe that the case requires re-advertisement.

Ms. Griest stated that the 44% is for the existing structure and if the Part B variance were approved that gave approval for the additional 2% in lot coverage.

Ms. Capel agreed.

Ms. Griest stated that an additional finding could be as follows: it maintains the overall appearance of the neighborhood.

Mr. Hall read the Board’s findings as follows:

- **There is no additional land available for purchase; and**
- **It maintains the overall appearance of the neighborhood.**

The Board’s Findings for Finding 6, Part B.:

For Part B, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Capel stated that for Part B, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because there is no additional land available for purchase and the addition cannot be sited on any other part of the lot without blocking the view to the golf course.

Mr. Hall read the Board’s findings as follows:

- **There is no additional land available for purchase; and**
- **The addition cannot be sited on any other part of the lot without blocking the view to the golf course.**

1 Ms. Griest stated that the addition is consistent in appearance with similar additions on townhomes to the
2 south.

3
4 Mr. Hall read Ms. Griest’s finding as follows:

- 5
- 6 • **The addition is consistent in appearance with similar additions on townhomes to the**
- 7 **south.**
- 8

9 **The Board’s Finding for Finding 7:**

10 **No Special conditions are hereby imposed.**

11
12
13 Ms. Capel stated that the Board found positive findings on the following: Finding 1, Parts A and B; and
14 Finding 2, Part A and B; and Finding 3, Part A; Finding 4, Parts A and B; and Finding 5, Parts A and B; and
15 Finding 6, Parts A and B; and Finding 7. She said that the Board found a negative finding on Finding 3, Part
16 B.

17
18 Ms. Lee asked if there was testimony regarding the one foot space and the neighbor not being opposed.

19
20 Mr. Hall stated that notices were sent out and staff did not receive any calls from the neighbors voicing
21 concerns therefore he believes that there were no concerns.

22
23 Ms. Lee said that the neighbor who believed that the lot line was located in a different area didn’t voice
24 concerns regarding the addition either.

25
26 Mr. Hall stated that the Board has no evidence indicating that.

27
28 Ms. Griest that she does believe that the proposal by the applicant clearly is their action and the finding
29 should be negative however Items #7.G(1) and (2) speaks volumes towards the DO NOT finding for Finding
30 3, Part B. She said that there are no utility easements on the 3 of the 4 shared lot lines and the fact that this is
31 a smaller parcel. She said that the evidence for Finding 1, Parts A and B could also be appropriate for
32 Finding 3, Part B in support of a finding for DO NOT. She said that if the Board desires to change their
33 finding for Finding 3, Part B, to DO NOT there might be some alternatives to consider.

34
35 Mr. Hall stated that the Board must consider that even though construction was begun without a permit there
36 are other factors that really suggest that the variance is reasonable. He said that there are three findings
37 which indicate strong support for approval of the variance.

38
39 Ms. Griest stated that the Board originally included statements regarding the construction beginning without
40 a permit because it wasn’t critical to the Board’s findings. She said that the Board could indicate that even
41 though the construction would be located within a recorded utility easement neither the UCSD nor Illinois
42 American Water are opposed to a vacation of the easement.

1
2 Ms. Capel stated that a separate statement could indicate the following: Ameren made clear in an email
3 dated October 10, 2013, from Elmer Crawford, Senior Engineering Representative, that “there is no
4 immediate plan to use the south easement.”

5
6 Ms. Griest stated that the last item would show that there are no similar easements on similar properties that
7 are adjacent to the subject property which gives a less likelihood that they would ever want to use them.

8
9 Mr. Hall read the Board’s amended finding for Finding 3, Part B as follows:

10
11 **The Board’s amended Findings for Finding 3, Part B:**

12
13 **For Part B, the special conditions, circumstances, hardships, or practical difficulties DO NOT**
14 **result from actions of the applicant because:**

- 15
16 • **The subject property has an average lot width of only 140 feet and has a 10 feet wide**
17 **utility easement on each side lot line for an overall net buildable lot width of only 120**
18 **feet; and**
19 • **The other five lots on the North side of Briar Hill Drive have similar sized buildings**
20 **and are similar in use to the subject property but the lots are 145 feet wide or wider and**
21 **3 of the 4 shared lot lines have no utility easements and therefore the smallest net**
22 **buildable lot width among those five lots appears to be Lot 2 with a net buildable lot**
23 **width of 145 feet; and**
24 • **Even though the proposed construction is located within a recorded utility easement,**
25 **neither the UCSD nor Illinois American Water are opposed to vacation of the**
26 **easement; and**
27 • **Ameren made clear in an email dated 10/10/13 from Elmer Crawford, Senior**
28 **Engineering Representative, that “there is no immediate plan to use the south**
29 **easement.” ; and**
30

31 Ms. Griest stated that Items 7.H.(1) and (2) could be added to the Finding as well to support a DO NOT
32 finding.

33
34 Mr. Hall read the findings as follows:

- 35
36 • **The subject property is a one lot subdivision that is unlikely ever to be expanded; and**
37
38 • **The subject property is at the end of Briar Hill Drive and is bordered by the**
39 **Lincolnshire Fields Golf Course on the east and north and Interstate 57 is on the**
40 **opposite side of the street so it is unlikely that future development will occur in the**
41 **vicinity or that new utilities will be needed in the existing utility easement.**
42

- 1 Ms. Lee stated that Item # 7.E(2)(j) indicates that the neighbors have been very cooperative in discussing the
2 addition. She asked if Item # 7.E(2)(j) is discussing the neighbors to the south.
3
- 4 Ms. Capel stated yes. She said that Item #7.#(2)(J) is evidence from a previous hearing. She said that the
5 other thing is that there is 50 foot distance between the two buildings. Ms. Capel stated that a new finding
6 for Finding #3, Part B, could read as follows: Even though the proposed construction will reduce the side
7 yard to one foot in lieu of the required five feet, Mr. Bickers, co-petitioner, testified that the neighbors have
8 been very cooperative in discussing the addition and the nearest building is approximately 50 feet away.
9
- 10 Mr. Hall read the Board's finding as follows:
- 11 • **Even though the proposed construction will reduce the side yard to one foot in lieu of**
12 **the required five feet, Mr. Bickers, co-petitioner, testified that the neighbors**
13 **have been very cooperative in discussing the addition and the nearest building is**
14 **approximately 50 feet away.**
- 15
- 16 Ms. Capel asked the Board if they agreed with the amended Finding 3, Part B and the Board agreed,
17
- 18 Ms. Capel asked Mr. Hall if the Documents of Record included in the January 10, 2014, Draft Summary of
19 Evidence and Finding of Fact was current.
20
- 21 Mr. Hall stated yes.
22
- 23 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
24 Fact as amended for Part A.
25
- 26 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record**
27 **and Findings of Fact as amended for Part A. The motion carried by voice vote.**
28
- 29 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
30 Fact as amended for Part B.
31
- 32 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record**
33 **and Findings of Fact as amended for Part B. The motion carried by voice vote.**
34
- 35 Ms. Capel entertained a motion to move to the Final Determination for Case 764-V-13.
36
- 37 **Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 764-V-13.**
38 **The motion carried by voice vote.**
39
- 40 Ms. Capel informed the petitioners that two Board members are absent and one Board member has abstained
41 from the case therefore it is at their discretion to either continue Case 764-V-13 until a full Board is present
42 or request that the present Board move forward to the Final Determination. She informed the petitioners that

1 four affirmative votes are required for approval.

2
3 Mr. Johnson and Mr. Bickers requested that the present Board move to the Final Determination.

4
5 **Final Determination for Case 764-V-13:**

6
7 **Ms. Griest moved, seconded by Mr. Randol that the Champaign County Zoning Board of Appeals**
8 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
9 **requirements for approval in Section 9.1.9C HAVE been met, and pursuant to the authority granted**
10 **by Section 9.1.6B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
11 **Champaign County determines that the Variance requested in Case 764-V-13 is hereby GRANTED to**
12 **the petitioners Lars Johnson and Shawn Bickers (agent) to authorize the following in the R-4 Multiple**
13 **Family Residence Zoning District:**

- 14 **Part A. Authorize the following variance for an existing townhouse:**
 - 15 **(1) lot coverage of 44% in lieu of the maximum allowed 40%; and**
 - 16 **(2) a front setback of 40 feet from the centerline of Briar Hill Drive in lieu of**
 - 17 **the minimum required 55 feet; and**
 - 18 **(3) a front yard of 20 feet in lieu of the minimum 25 feet.**

- 19
- 20 **Part B. Authorize the following variance for an addition to an existing townhouse:**
 - 21 **(1) authorize construction of a building addition in a recorded utility**
 - 22 **easement in lieu of the requirement that no construction shall take place**
 - 23 **in a recorded utility easement; and**
 - 24 **(2) a side yard of 1 foot in lieu of the minimum required 5 feet; and**
 - 25 **(3) lot coverage of 45.5% in lieu of the maximum allowed 40%.**

26
27 Ms. Capel requested a roll call vote:

28			
29	Lee-yes	Randol-yes	Capel-yes
30	Griest-yes	Miller-absent	Passalacqua-abstained
31	Thorsland-absent		

32
33 Mr. Hall informed Mr. Johnson and Mr. Bickers that they have received an approval for their requested
34 variance.

35
36 **6. New Public Hearings**

37
38 **Case 768-AT-13 Petitioner: Zoning Administrator Request: Amend the Champaign Zoning**
39 **Ordinance by adding the following standard conditions and special provisions to Section 6.1.3: Part**
40 **A. Revise the use category “heliport/restricted landing area” to heliport-restricting landing area: and**
41 **revise the existing standard conditions and special provisions for the use category “heliport-restricted**
42 **landing area” and add new standard conditions and special provisions, as follows: (1) Number the**

1 existing standard condition and special provision 1. (2) Add the following standard conditions and
 2 special provisions for a limited time not to exceed 365 days from the date of adoption: (a) Add a
 3 standard condition and special provisions to require the Final Approach and Takeoff Area to be no
 4 closer than 800 feet from the nearest CR District when measured in a straight line from the Final
 5 Approach and Takeoff Area in an approach/takeoff path and no closer than 500 feet when measured
 6 from the Final Approach and Takeoff Area in other than an approach/takeoff path and that no part
 7 of the approach/takeoff path may be less than 100 feet above the nearest CR District. (b) Add a
 8 standard condition and special provision to require that the Final Approach and Takeoff Area may be
 9 no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-
 10 restricted landing area. (c) Add a standard condition and special provision to require that the Final
 11 Approach and Takeoff Area may be closer than 300 feet from the nearest property under different
 12 ownership than the heliport-restricted landing area. Part B. Revise the existing standard conditions
 13 and special provisions for the use category "restricted landing area" and add new standard conditions
 14 and special provisions as follows: (1) Number the existing standard conditions and special provisions
 15 for the use category "restricted landing area" and add new standard conditions and special provisions
 16 as follows: (1) Number the existing standard conditions and special provisions 1-4; and (2) Add the
 17 following standard conditions and special provisions for a limited time not to exceed 365 days from
 18 the date of adoption: (a) Add a standard condition and special provision to require the end of the
 19 runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from
 20 the end of the runway and not less than 500 feet when measured from the edge of the runway and that
 21 no part of the approach surface may be less than 100 feet above the nearest CR District. (b) Add as
 22 standard condition and special provision to require that the runway may be no closer than 1,320 feet
 23 from the nearest dwelling under different ownership than the restricted landing area. (c) Add a
 24 standard condition and special provision to require that the runway may be no closer than 300 feet
 25 from the nearest property under different ownership than the restricted landing area.

26
 27 Ms. Capel entertained a motion to continue Case 768-AT-13 to the January 30, 2014, meeting and docket
 28 Case 768-AT-13 as the first case to be heard at that meeting.

29
 30 Ms. Griest moved, seconded by Ms. Lee to continue Case 768-AT-13 to the January 30, 2014, meeting
 31 and docket Case 768-AT-13. The motion carried by voice vote.

32
 33 Ms. Griest moved, seconded by Mr. Passalacqua to move Case 768-AT-13 as the first hearing on the
 34 January 30, 2013, agenda to be heard to accommodate those who attended tonight's hearing. The
 35 motion carried by voice vote.

36
 37 **7. Staff Report**

38
 39 None

40
 41 **8. Other Business**

42 **A. Review of Docket**

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Mr. Randol asked Mr. Hall why Case 765-V-13 is not indicated on the docket.

Mr. Hall stated that Case 765-V-13 has been withdrawn.

B. 2014 Zoning Board of Appeals Calendar

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

None

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

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

The meeting adjourned at 9:26 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61801

7 **DATE:** January 30, 2014

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

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

11 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol,
12 Eric Thorsland

14 **MEMBERS ABSENT :** Roger Miller

16 **STAFF PRESENT :** Connie Berry, John Hall, Susan Monte (County Planner, RPC)

18 **OTHERS PRESENT :** Jean Fisher, Mark Fisher, Larry Hall, Julia Hall, Alena Nierenhausen, Kenny
19 Nierenhausen, Kevin Cagle, Scott Reifsteck, Eric Sebens

22 **1. Call to Order**

24 The meeting was called to order at 6:30 p.m.

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

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

30 **3. Correspondence**

32 None

DRAFT

34 **4. Approval of Minutes (December 12, 2013)**

36 Mr. Thorsland stated that staff emailed an amended version of the minutes for the Board's review. He asked
37 the Board if there were any additional corrections to the minutes and there were none.

39 Mr. Thorsland entertained a motion to approve the December 12, 2013, minutes as amended.

41 **Mr. Randol moved, seconded by Ms. Griest to approve the December 12, 2013, as amended. The**
42 **motion carried by voice vote.**

44 **5. Continued Public Hearing**

46 **Case 768-AT-13 Petitioner: Zoning Administrator Request: Amend the Champaign Zoning**
47 **Ordinance by adding the following standard conditions and special provisions to Section 6.1.3: Part**
48 **A. Revise the use category "heliport/restricted landing area" to heliport-restricting landing area: and**

1 revise the existing standard conditions and special provisions for the use category “heliport-restricted
2 landing area” and add new standard conditions and special provisions, as follows: (1) Number the
3 existing standard condition and special provision 1. (2) Add the following standard conditions and
4 special provisions for a limited time not to exceed 365 days from the date of adoption: (a) Add a
5 standard condition and special provisions to require the Final Approach and Takeoff Area to be no
6 closer than 800 feet from the nearest CR District when measured in a straight line from the Final
7 Approach and Takeoff Area in an approach/takeoff path and no closer than 500 feet when measured
8 from the Final Approach and Takeoff Area in other than an approach/takeoff path and that no part
9 of the approach/takeoff path may be less than 100 feet above the nearest CR District. (b) Add a
10 standard condition and special provision to require that the Final Approach and Takeoff Area may be
11 no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-
12 restricted landing area. (c) Add a standard condition and special provision to require that the Final
13 Approach and Takeoff Area may be closer than 300 feet from the nearest property under different
14 ownership than the heliport-restricted landing area. Part B. Revise the existing standard conditions
15 and special provisions for the use category “restricted landing area” and add new standard conditions
16 and special provisions as follows: (1) Number the existing standard conditions and special provisions
17 for the use category “restricted landing area” and add new standard conditions and special provisions
18 as follows: (1) Number the existing standard conditions and special provisions 1-4; and (2) Add the
19 following standard conditions and special provisions for a limited time not to exceed 365 days from
20 the date of adoption: (a) Add a standard condition and special provision to require the end of the
21 runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from
22 the end of the runway and not less than 500 feet when measured from the edge of the runway and that
23 no part of the approach surface may be less than 100 feet above the nearest CR District. (b) Add a
24 standard condition and special provision to require that the runway may be no closer than 1,320 feet
25 from the nearest dwelling under different ownership than the restricted landing area. (c) Add a
26 standard condition and special provision to require that the runway may be no closer than 300 feet
27 from the nearest property under different ownership than the restricted landing area.
28

29 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
30

31 Mr. John Hall, Zoning Administrator stated that this case was spurred when a group of citizens, who had
32 attended hearings regarding a map amendment and an RLA Special Use Permit over the past few years,
33 made a request to ELUC to amend the Ordinance to add some separations that the citizen’s felt were
34 warranted. He said that ELUC discussed the citizen proposal, but staff put together a proposal that staff felt
35 was a little more realistic and presented that proposal to ELUC for review. He said that the case before the
36 ZBA tonight is the proposal prepared by staff. He said that the Supplemental Memorandum that was
37 prepared for the January 16, 2014, meeting included an analysis of the RLAs in the County and it was a more
38 factual analysis than the information that what he had given to ELUC to review. He said that the
39 Supplemental Memorandum included staff’s recommendation of lowering the separation distance to the
40 nearest dwelling under different ownership to 940 feet based on the average of the current separations in the
41 County. He said that he doubts that the lower separation distance will be well received by the neighbors of
42 the previous zoning case because obviously they are interested in seeing the greatest amount of separation as

1 possible but as in most cases this is the ZBA and the Board should make the separation as to what the ZBA
2 believes it should be after they hear of the evidence.
3

4 Mr. Hall stated that no new information has been provided for this case tonight and he assumes that the
5 Board saw that this is a text amendment which will only be in place for one year after it is adopted. He said
6 that the hope is that making it a temporary amendment will help spur this public hearing along so that this
7 amendment can be adopted as quickly as possible and then the ZBA will have another text amendment
8 which will either make the separations permanent or if more research is required staff will do that for the
9 permanent amendment. He said that he would like to see this amendment get in place before the County has
10 any more applications for a new RLA. He said that hopefully staff has answered all of the Board's questions
11 at this point but only time will tell.
12

13 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
14 sign the witness register for that public hearing. He reminded the audience that when they sign the
15 witness register they are signing an oath
16

17 Mr. Thorsland called Larry Hall to testify.
18

19 Mr. Larry Hall, who resides at 177 North CR 1600E, Villa Grove, stated that he would like to ask Mr. John
20 Hall a question before he reads his prepared statement.
21

22 Mr. Thorsland allowed Mr. Larry Hall to ask Mr. John Hall his question.
23

24 Mr. Larry Hall asked Mr. John Hall if he is correct in understanding that the separation distance was changed
25 to 940 feet.
26

27 Mr. John Hall stated that he only reminded everyone that the Supplemental Memorandum which was
28 distributed at the last meeting recommended reducing the separation to a dwelling under other ownership
29 from the proposed 1,320 feet to 940 feet simply based on that being the average. He said that he did a more
30 careful analysis for this public hearing and found that it was actually an average of 940 feet.
31

32 Mr. Larry Hall stated that he obviously missed that revision therefore he was not aware that it was included
33 in the Supplemental Memorandum.
34

35 Mr. John Hall stated that he wanted to be clear that the Board has not done anything about staff's
36 recommendation for a lower separation.
37

38 Mr. Larry Hall stated that after approximately two years of personally dealing with a disputed case, which
39 most of the ZBA here tonight experienced or tolerated, he came to believe that there needed to be some
40 reasonable restrictions imposed to clarify and minimize future events and protect the concerns that the
41 citizens of the area had. He said that the sentiment was echoed at that time by the Zoning Administrator
42 therefore at the September 5, 2013, ELUC meeting he presented, on behalf of residents of Champaign

1 County, detailed and proposed revisions and/or amendments to the Champaign County Zoning Ordinance
2 regarding future approvals of RLAs. He said that the Board received their proposal as Attachment B in the
3 last mailing for the January 16, 2014, meeting.
4

5 Mr. Larry Hall stated that as discussed at the ELUC meeting there were a few differences between their
6 proposal and the one presented by the Zoning Administrator. He said that during his original statement he
7 was going to indicate that they have reviewed the differences and felt that the request from John Hall,
8 Zoning Administrator, satisfactorily addresses the concerns for public safety and for conservation area
9 preservation that they had stressed. Mr. Larry Hall stated that he can only speak for himself, he has not
10 discussed this with the neighbors, but the reduction of the separation distance from a non-participating
11 dwelling to 940 feet is not acceptable. He said that if 940 feet is an average he does not recall what the
12 extremes were in the examples but he would still strongly recommend a separation of 1,320 feet because it is
13 a compromise from the original request that was presented to ELUC which was a 2,000 feet separation. He
14 said that Mr. John Hall previously stated that 1,320 feet seemed a lot more reasonable than the 2,000 feet and
15 Mr. Larry Hall stated that he would concede that it does seem more reasonable and he would endorse it. Mr.
16 Larry Hall stated that with the exception of the separation change from 1,320 feet to 940 feet, which he does
17 not recommend or agree with, he would otherwise support the request that is submitted by the Zoning
18 Administrator and urge the ZBA's expedient approval and adoption of additions and amendments to the
19 standards and special provisions for both a Heliport-RLA and regular RLAs as stated in the Champaign
20 County Zoning Ordinance.
21

22 Mr. Thorsland asked the Board if there were any questions for Mr. Larry Hall and there were none.
23

24 Mr. Thorsland asked if staff had any questions for Mr. Larry Hall and there were none.
25

26 Mr. Thorsland called Julia Hall to testify.
27

28 Ms. Julia Hall, who resides at 177 North CR 1600 East, Villa Grove, thanked the Zoning Administrator for
29 doing so much diligent work in drafting the proposed amendment to the Zoning Ordinance for the RLA with
30 or without a Heliport. She said that as her husband indicated they have spent the better part of two years
31 opposing an RLA that would have been 100 feet from their property and approximately 140 feet from their
32 bedroom. She said that these restrictions need to be made whether they are set at 940 feet or 1,320 feet
33 because any additional restrictions which are more than 140 feet from her bedroom window would be
34 appreciated. She said that the restrictions would hopefully alleviate anyone from having to endure what they
35 have endured as well as saving everyone a lot of time, money and energy. She said that the proposed
36 restrictions will ensure public safety and comfort and will mitigate the services to the habitat in the CR
37 District. She said that sounds ammoniating from an RLA in the vicinity of the CR District or residential area
38 could well disturb the peace of either and the closer that an RLA is to the CR District or to a residential area
39 the more disturbance there would be. She said that she is in support of the originally proposed restriction of
40 1,320 feet from property under different ownership and she hopes that the proposed restrictions will become
41 permanent.
42

1 Mr. Thorsland asked the Board if there were any questions for Ms. Hall and there were none.

2

3 Mr. Thorsland asked if staff had any questions for Ms. Hall and there were none.

4

5 Mr. Thorsland called Ms. Fisher to testify.

6

7 Ms. Jean Fisher, who resides at 195 North CR 1600E, Villa Grove, thanked the Board for allowing her to
8 address this matter tonight. She said that she would also like to express her gratitude to the RPC staff, and
9 Planning and Zoning staff for their promotions and efforts in trying to update and correct the Champaign
10 County Zoning Ordinance in regards to the definition of RLAs and Heliport-RLAs use on non-conservation
11 property. She said that during previous ZBA meetings she has stated that Champaign County only has 1% of
12 its area in the CR Zoning District. She said that Champaign County has deemed these limited areas
13 necessary to the vitality of the large trees in the forested area and protection of wildlife species living within
14 them of great importance and crucial for the filtration of water flow which includes streams and aquifer. She
15 said that the discussion for Case 768-AT-13, an eventual permanent ordinance, benefits all people residing in
16 Champaign County as well as people that use these areas for recreation and other allowable uses in the CR
17 District. She said that it strengthens and affirms the importance of CR District vitality to the general public
18 and it strengthens and corrects the promotion and integrity of the beauty and lasting natural resources that
19 she and her family specifically selected and have lived at their home for 26 years.

20

21 Ms. Fisher stated that she cannot express her gratitude and support of this amendment. She said that she is
22 in favor of the originally proposed 1,320 separation distance from a separate property under different
23 ownership and everything else that is included in the proposed amendment. She expressed her support of the
24 amendment and urged the Board to vote in favor of the Ordinance tonight.

25

26 Mr. Thorsland asked the Board if there were any questions for Ms. Fisher and there were none.

27

28 Mr. Thorsland asked if staff had any questions for Ms. Fisher and there were none.

29

30 Mr. Thorsland called Mark Fisher to testify.

31

32 Mr. Mark Fisher, who resides at 195 North CR 1600E, Villa Grove, stated that 80% of the County is already
33 zoned appropriately for an RLA and he doesn't know how much more of the County the ZBA wants
34 available for RLA zoning.

35

36 Mr. Thorsland asked the Board if there were any questions for Mr. Fisher and there were none.

37

38 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
39 regarding Case 768-AT-13 and there was no one.

40

41 Mr. Thorsland closed the witness register.

42

1 Mr. Thorsland stated that the Supplemental Memorandum dated January 16, 2014, indicates the proposed
2 change to the separation from a dwelling under different ownership. He said that the chart included in the
3 memorandum on page 3 indicates that the minimum separation was 590 feet to the nearest dwelling under
4 other ownership and 10 feet separation to the nearest property line. He said that the average of 940.9 feet
5 came from the high of 1,600 feet and the minimum of 590 feet. He asked the Board if there was discussion
6 regarding the 940 feet separation. He reminded the Board that this amendment is effective for one year and
7 at that time the Board will review the amendment again to affirm the numbers and make the Ordinance
8 revision permanent.

9
10 Ms. Lee stated that she strongly feels that the Board should retain the separation distance of 1,320 feet. She
11 said that her husband had his own airplane for years and he always told her that the most dangerous time in
12 operating the airplane was during the landing and the take-off. She said that she resides in the rural area and
13 feels that 1,320 feet is a more preferable separation.

14
15 Ms. Griest asked Mr. Hall why we approached the separation distance by taking an average rather than the
16 original approach of one-quarter mile.

17
18 Mr. Hall stated that he did not want to argue for a separation distance of 1,320 feet when the County has
19 never had any complaints about the six RLAs included in the chart therefore there is no record of
20 incompatibility based on them.

21
22 Ms. Griest stated that if no complaints have been received regarding the Schmidt RLA, which has the lowest
23 separation distance to the nearest dwelling under other ownership, then the 940 feet separation average is
24 consistent.

25
26 Mr. Thorsland asked Mr. Hall if staff had any data regarding the average use of the RLAs that exist in the
27 County currently.

28
29 Mr. Hall stated no. He said that it may be relevant evidence to add but to be truthful the previous petitioner
30 in the last RLA case was willing to settle for restrictions and it was never really clear as to how much those
31 restrictions were going to be. Mr. Hall said that he compared and graphed those restrictions and the
32 proposed 940 feet separation to the nearest dwelling versus the RLAs included in the chart where there are
33 no restrictions but he did not include it as a Document of Record. He said that the restrictions that the
34 previous petitioner was willing to accept actually argued for a greater amount of separation because on the
35 face of it even that petitioner saw how reasonable it was to limit the use of the RLA based on proximity.

36
37 Mr. Passalacqua stated that the chart is handy but he believes that the most recent RLA case illustrated that it
38 is not necessarily a chart that can be applied because of the unique layout of the where the landing strip was
39 going to be in comparison to the non-participating dwelling. He said that the average may not be applicable
40 to every RLA case. He said that if everything was a perfect square and was laid out on a grid then the
41 County could use averages more accurately but because every single zoning case is either erratically shaped
42 or "L" shaped or some other oddity the County cannot use averages. He said that he supports the one-quarter

1 mile separation.

2
3 Mr. Thorsland stated that he senses a consensus of support for a separation of 1,320 in lieu of the 940 feet.

4
5 The Board agreed.

6
7 Mr. Thorsland asked the Board if there were other parts of the amendment that the Board desired to work on
8 or does the Board desire to move to the Finding.

9
10 Mr. Hall stated that when this amendment is forwarded to the County Board for final approval or denial all
11 of the questions that he needs to ask the Board must be answered. He reminded the Board that in regards to
12 the proposed separation to a property line was advertised at 300 feet and in the course of preparing this
13 evidence he realized that 300 feet on either side of a runway makes it just wide enough that it will not fit on
14 a typical narrow 40 acre parcel. He said that he does not know how many such parcels are in the County but
15 at a certain point when the Board does adopt regulations like this it always helps to recognize the common
16 way that land is divided in the County and a narrow 40 acre parcel is not unusual. He said that if the 300 feet
17 is adopted and someone desires to put an RLA on a narrow parcel they could ask for a waiver but if he
18 knows one thing it is not to make people have to ask for waivers when a little bit could have been changed in
19 the beginning therefore not needing a waiver.

20
21 Ms. Griest asked Mr. Hall how much of a difference he is discussing.

22
23 Mr. Hall stated 20 feet.

24
25 Ms. Griest agreed. She said that this separation does not affect glide slope in or out. She said that the most
26 vulnerable time is during the take-off and landing and that occurs in the glide slope and not out to the tips of
27 the wings. She asked Mr. Hall if Aero-Place was included in the review or is it exempt from the discussion.

28
29 Mr. Hall stated that Aero-Place is exempt and it was not originally an RLA but it may be now under IDOT's
30 regulations but it is so hard to obtain a determination therefore he hasn't followed up on it. He said that the
31 Department of Planning and Zoning has spent hundreds of hours over the years dealing with complaints
32 about Aero-Place but since the second special use permit was granted on Aero-Place staff has not received
33 one complaint therefore it is difficult to see where Aero-Place fits into this review.

34
35 Mr. Thorsland stated that the Board has come to the conclusion that the Final Approach and Takeoff Area
36 may be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-
37 restricted landing area and no part of the Final Approach and Takeoff Area may be closer than 280 feet from
38 the nearest property under different ownership than the Heliport-Restricted Landing Area. He said that Parts
39 A(5) and B(8) of the amendment, which are indicated on pages 26 and 27 of the Preliminary Draft Finding
40 of Fact and Final Determination dated January 16, 2014, should be revised to reflect this change.

41
42 Mr. Passalacqua stated that this change is to the property line and not the dwelling.

1

2 Mr. Thorsland stated that Mr. Passalacqua was correct.

3

4 Mr. Hall stated that he would appreciate any evidence that the Board could offer to justify a separation that is
5 400 feet more than our average separation.

6

7 Ms. Lee stated that all it takes is one accident.

8

9 Mr. Thorsland stated that perhaps the Board could turn Ms. Lee's comment into a finding.

10

11 Ms. Capel stated that one of the ways would be to determine the amount of use of the RLA.

12

13 Mr. Hall stated that perhaps an item of evidence could be that the Board knows what the separations are but
14 does not know the frequency of use therefore increasing the separation distance would be equivalent to a
15 factor of safety.

16

17 Ms. Griest stated that this is an interim step that will only be in place for one year and the Board will be
18 taking at approach to provide the highest degree of separation while examining it further to see if a more
19 reduced level could be provided in the final Ordinance.

20

21 Mr. Randol asked why this amendment is only for one year.

22

23 Mr. Hall stated that the Board has done this in at least one other instance when the Board wanted to get
24 something on the books as quickly as possible. He said that many people believe that a moratorium can be
25 imposed but that is not true because this is the Zoning Ordinance and any change has to go through a public
26 hearing process. He said that he fears that an amendment like this could result in a rush of RLAs so that
27 someone could have it proposed before the new regulations are adopted. He said that it is good to get a
28 conservative regulation in place and then take a year to make sure that nothing was overlooked or if the
29 regulation needs reduced. He said that the Board works diligently on amendment cases and he would never
30 want to rush the Board unless it is an interim amendment and then he will prod as much as he can just to get
31 something in place.

32

33 Mr. Passalacqua stated that the Board could say that they could well argue for 1,600 feet therefore 1,320 feet
34 is a compromise.

35

36 Ms. Capel asked Mr. Hall if the case would require re-advertisement.

37

38 Mr. Hall stated no, only if the Board were increasing any of the original proposals by a significant amount.

39

40 Mr. Thorsland asked Mr. Hall where he would like to insert the evidence proposed by Ms. Griest.

41

42 Mr. Hall stated that much to the disappointment of everyone present for this case tonight he would request

1 that the Board continue the case to the February 13, 2014, meeting. He said that there is no ELUC meeting
2 in February therefore not taking action on this case tonight will not slow down how quickly it gets adopted
3 and we are all much better off if evidence does not have to be invented during the public hearing.
4

5 Mr. Thorsland entertained a motion to continue Case 768-AT-13 to the February 13, 2014, meeting.
6

7 **Ms. Griest moved, seconded by Ms. Capel to continue Case 768-AT-13 to the February 13, 2014,**
8 **meeting. The motion carried by voice vote.**
9

10 Ms. Griest noted that two Board members will be absent from the February 13th meeting.
11

12 Mr. Hall stated that he overlooked the fact that two members will be absent at the February 13th meeting. He
13 said that the Board could continue Case 768-AT-13 to the February 27th meeting and it could be added
14 tentatively to the March ELUC agenda based on the discussion that the Board has had tonight. He said that
15 continuing the case to February 27th would allow maximum ZBA member participation and still get the case
16 to ELUC with no loss in time.
17

18 Mr. Thorsland stated that five Board members will be present at the February 13th meeting and the consensus
19 of the Board present tonight appears to agree with what is being proposed and amended.
20

21 Mr. Hall stated that he is fine with February 13th.
22

23 **6. New Public Hearings**

24

25 **Case 766-AM-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Amend the**
26 **Zoning Map to change the zoning district designation from the AG-1, Agriculture Zoning District to**
27 **the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related**
28 **zoning Case 767-S-13. Location: A 5-acre tract in Tolono Township in the East Half of the Southeast**
29 **Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third**
30 **Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.**
31

32 **Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Authorize the**
33 **following as a Special Use in the B-1 Rural Trade Center Zoning District: Part A. Authorize multiple**
34 **principal buildings on the same lot consisting of the following: (1) a landscape contractor's facility**
35 **with outdoor storage that was originally authorized in Case 101-S-97; and (2) Self-Storage**
36 **Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.**
37 **Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to**
38 **individual units as a special use. Location: A 5-acre tract in Tolono Township in the East Half of the**
39 **Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the**
40 **Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E,**
41 **Champaign.**
42

- 1 Mr. Thorsland informed the audience that Case 767-S-13 is an Administrative Case and as such the County
2 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
3 show of hands for those who would like to cross examine and each person will be called upon. He requested
4 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
5 that those who desire to cross examine are not required to sign the witness register but are requested to
6 clearly state their name before asking any questions. He noted that no new testimony is to be given during
7 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
8 exempt from cross examination.
9
- 10 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
11 sign the witness register for that public hearing. He reminded the audience that when they sign the
12 witness register they are signing an oath.
13
- 14 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
15
- 16 Mr. Eric Sebens, who resides at 3008 Cherry Hills Drive, Champaign, stated that he is proposing to have his
17 zoning changed from AG-1 to B-1 with a Special Use Permit. He said that the rezoning and Special Use
18 Permit will allow a dual purpose use of his property that he has owned for 17 years. He said that he is
19 proposing to erect self-storage units on the south side of his property and removing the older dilapidated
20 buildings which includes what is left of a barn and a garage.
21
- 22 Mr. Sebens stated that he has not prepared any plans for his proposed use but he has contacted an architect to
23 start beginning some preliminary plans to outline what he plans to do on his property.
24
- 25 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Sebens.
26
- 27 Mr. Hall asked Mr. Sebens if he has contacted an engineer regarding stormwater drainage and detention or
28 does he have someone in mind that he desires to contact soon.
29
- 30 Mr. Sebens stated yes. He said that the architect that he spoke with today employs an engineering firm to
31 review the regulations which need to be met and to review stormwater drainage. He said that he has an
32 existing water drainage area that comes from Willard Airport under the road and runs to the southeast corner
33 of his property. He said that this drainage area provides excellent drainage for the property because the
34 property is sloped in that direction and often during the biggest rains very little water comes through there.
35
- 36 Mr. Hall stated that one thing that will be discussed a lot during the review of the stormwater plan is that this
37 is the most complicated situation that one can find in Champaign County which is property on a sloping site
38 with nothing but farmland below and somehow we have to manage the stormwater in a detention basin
39 without causing erosion downhill.
40
- 41 Mr. Sebens stated that the location where he is proposing to construct the buildings actually slopes down to
42 the grassy area where the stormwater runoff travels through and it is an established waterway which has a

1 purpose of preventing erosion.
2
3 Mr. Hall stated that the 2011 aerial photograph included in the memorandum mentioned that up in the
4 northwest corner of the property it appears that there has been some field erosion. He said that field erosion
5 can have multiple causes but one thing that the aerial does show is that the subject property does drain in two
6 different directions and that should be considered during the stormwater design. He said that he is glad that
7 Mr. Sebens has an engineer on board who can figure out what needs to be done because it will be a
8 challenge.
9
10 Mr. Sebens stated that he understands the challenge and in having an agricultural background he also
11 understands what water can do to bare soil. He said that this issue has been addressed by himself and Mr.
12 Scott Reifsteck, tenant farmer for the surrounding farmland, because they installed a drain tile that terminates
13 at the edge of his parking lot where he had built a catch basin to funnel the water that is coming off of the
14 parking lot into the drain tile.
15
16 Mr. Hall stated that the drain tile and the catch basin should be indicated on the engineering plans so that it is
17 documented.
18
19 Mr. Passalacqua stated that Building #3, indicated on the site plan, would not be acceptable due to its
20 location in the swale.
21
22 Mr. Hall stated no and he hopes that neither the building nor the paving would be acceptable in that swale.
23
24 Mr. Passalacqua asked Mr. Hall if the rule of thumb is 60 feet.
25
26 Mr. Hall stated that 60 feet is more than he is familiar with.
27
28 Mr. Passalacqua stated 60 feet from side to side and 30 feet from the centerline of the swale.
29
30 Mr. Hall stated yes, that is typical.
31
32 Ms. Lee asked if the water flows northeast to the southwest.
33
34 Mr. Hall stated yes.
35
36 Mr. Sebens stated that if the Board would visit the property they would find that approximately two-thirds to
37 three-quarters of the property is sloped towards Duncan Road to the southeast corner of the property.
38
39 Mr. Passalacqua asked Mr. Sebens if the swale runs southwest.
40
41 Mr. Sebens stated yes.
42

1 Mr. Thorsland asked the Board if there were any additional questions for Mr. Sebens and there were none.

2

3 Mr. Thorsland called Mr. Scott Reifsteck to testify.

4

5 Mr. Scott Reifsteck, who resides at 1341 CR 600N, Tolono, stated that he is present tonight on behalf of
6 himself and his aunt, who owns adjoining property to the subject property. He said that he has been the
7 tenant farmer on his aunt's property for over 20 years and he has some concerns regarding the request by Mr.
8 Sebens. He said that he would like to make it clear that he has known Mr. Sebens for a long time and he has
9 had nothing but a good relationship in working with Eric and he does not want of any of comments to be
10 construed to be negative to Eric's business or to Eric personally. Mr. Reifsteck stated that his comments are
11 to address his concerns regarding the requested zoning change and also some of the impacts that he has seen
12 with Mr. Sebens' existing business in relation to the drainage. He said he and Mr. Sebens have tried to work
13 together to address the drainage issues but there are some things that he sees with the development which
14 could very adversely affect what is going on with the drainage and not just with the additional mini-
15 warehouses but with the change of relative use near the landscaping shed and what has happened in that area.

16

17 Mr. Reifsteck stated that he does not believe that there is a need to rezone the subject property because the
18 use currently is fairly compatible with the agriculture district and he and Mr. Sebens have worked well
19 together for 17 years but there are some issues. He said that the aerial shows the drainage area coming from
20 the west on the northern part of the property has always been there but over the years as this property has
21 been developed and the big shed that was built changed a lot of the water flow and significantly increased
22 the amount of water that goes down that drainageway. He said that he tried to address the water issue in
23 various ways and in 2011 he ran a six-inch tile up to the property line and built a small retaining wall around
24 the inlet to try to catch all the water to keep it from coming down into the field. He said that he is concerned
25 that if more construction is allowed on the property a lot of the water activity that is now going to the south
26 and east of that spot will greatly impact the amount of water that he has to deal with that comes down
27 through that area.

28

29 Mr. Reifsteck stated that when the landscaping shed was built there was some re-grading done to the
30 property which actually increased some of the water that comes that way from where it was originally. He
31 said that originally there was very little area there that drained down that way but now he receives a lot of
32 water off of the shed that comes down through there and it has accelerated the runoff and generated a lot of
33 the problems. He said that drainage has been a continual issue that he has tried to address and hopefully he
34 has found a solution with the tile but the tile is very limited in capacity and if more buildings are allowed on
35 the property he is afraid that the six-inch tile will not be sufficient enough to handle the problem.

36

37 Mr. Reifsteck stated that in regards to the water that flows to the south and east into the drainage swale that
38 runs down through the subject property, there is currently an eight or ten-inch tile that runs through the swale
39 that drains the agricultural land on the east of the road. He said that this issue will have to be addressed to
40 provide drainage to the farmland which is located east of the road if there is a detention pond installed on the
41 subject property. He said that drainage is a very serious issue through the subject property and there hasn't
42 been much running water through there but since the landscaping business has gone in the area immediately

1 to the east and south has a tendency for the ground to be more saturated than it had in the past and if you are
2 subjecting more water to the area it will stay wet for a longer period of time. He said that this an issue that
3 must be addressed and taken care of because the extra water will have further consequences down in the
4 waterway where there are already problems.

5
6 Mr. Reifsteck stated that if more construction is placed on the subject property and the landscaping business
7 is moved to the north to further confine it that area will become more impervious therefore the proposal will
8 affect both drainageways. He said that he installed the tile at his own expense to try to eliminate the
9 drainage problems and Mr. Sebens cooperated in trying to build a berm across there to hold the drainage
10 onto his property but any additional drainage is something that we will have to keep an eye on.

11
12 Mr. Reifsteck stated that in regards to the use as a storage facility, approximately one-quarter of a mile there
13 is a gravel road that abuts I-57 and for years he has hauled dump truck loads of other people's refuse out of
14 that area and he is concerned that a storage facility south of that road will exacerbate that problem. He said
15 that he knows that people do not intend to dump their refuse but when people fill a storage facility with items
16 and they run out of room he is concerned that some of those items will end up on that road to the north. He
17 said that the Tolono Township Highway Commissioner has been very forthcoming in the last five or six
18 years and has been very proactive in keeping stuff out of there but that dead end road has been a problem
19 with dumped trash and Mr. Reifsteck is afraid that this type of a facility will make that problem worse.

20
21 Mr. Reifsteck stated that the traffic generated by the proposed storage facility is not something that is desired
22 in an agricultural area. He said that a potential problem with blowing debris should be addressed and at a
23 minimum perhaps some type of fencing should be required around the subject property to maintain any
24 debris within the property. He said that regardless of the property owner's best intentions and efforts, there
25 is still debris which blows onto adjacent properties and interferes with combines and other equipment. He
26 said that on the west side of the property there has been an issue with encroachment and Mr. Sebens has
27 done his best to contain it but when there are as many employees that park on a property as there are for Mr.
28 Sebens' business it is hard to regulate. Mr. Reifsteck stated that even though he understands that it is not
29 intentional the landscaping business also tends to creep further onto his property. He said that he and Mr.
30 Sebens have been good neighbors for years and he does not want these requests to affect that relationship but
31 he does have concerns about this type of development on the subject property.

32
33 Mr. Reifsteck stated that he has not seen any LESA data on the subject property and he does not know if it is
34 even relevant but he would tend to think that, with the surrounding agricultural area, a business use of this
35 type would not be in the best interest of the County.

36
37 Mr. Thorsland asked the Board if there were any questions for Mr. Reifsteck.

38
39 Mr. Randol asked Mr. Reifsteck if the ten-inch drainage tile was located within a formal drainage district.

40
41 Mr. Reifsteck stated that the ten-inch drainage tile is not located within a formal drainage district. He said
42 that at one time it used to be an Embarras River Mutual Drainage District tile and when the airport came in it

- 1 restricted some of the use of the tile but there is approximately 240 acres that drains through there from the
2 east and drains to the north side of the swale. He said that he installed a stand pipe in the bottom of the
3 waterway when he did the other tile work and that has helped alleviate the saturated water condition there
4 but it has not cured it.
5
- 6 Mr. Randol asked Mr. Reifsteck if the west side of Duncan Road is typically lower than the roadway itself.
7
- 8 Mr. Reifsteck stated that on the south of the subject property yes, but to the north of Duncan Road it is high.
9 He said that the subject property sort of comes down off of the hill and to the north of the subject property
10 the road is lower than the adjoining field and to the south it is higher.
11
- 12 Mr. Randol stated that he would think that the natural retention on the subject property could not be changed.
13
- 14 Mr. Reifsteck stated that he won't say that the natural retention on the subject property could not be changed
15 into a detention pond but the issue will definitely have to be addressed.
16
- 17 Mr. Passalacqua asked Mr. Reifsteck if the saturated area meets the culvert on the east side of Duncan Road.
18
- 19 Mr. Reifsteck stated no. He said that saturated area is about twenty feet north of the property line and then
20 south 150 feet out into his aunt's property. He said that the grass grows in that area but the water table is
21 extremely high and he installed a surface inlet there and it has alleviated the problem somewhat but it has not
22 cured the issue.
23
- 24 Mr. Passalacqua asked Mr. Reifsteck if the road to the north that he discussed during his testimony accesses
25 the pond along I-57. He asked Mr. Reifsteck who maintains that road.
26
- 27 Mr. Reifsteck stated that Mr. Passalacqua was correct and that the Tolono Township Highway
28 Commissioner maintains the road currently.
29
- 30 Mr. Passalacqua stated that the property to the north does not have anything to do with the subject property.
31 He asked Mr. Reifsteck if he included it in his testimony because he has seen the debris being dumped on it.
32
- 33 Mr. Reifsteck stated that he included the property in his testimony because for years he was responsible for
34 keeping the property cleaned up.
35
- 36 Mr. Passalacqua noted that the debris that was being dumped was not a result of Mr. Seben's landscaping
37 business.
38
- 39 Mr. Reifsteck stated that he did not mean to imply that it was from Mr. Seben's landscaping business but it
40 is local dumping area for people.
41
- 42 Mr. Thorsland stated that Mr. Sebens must submit a new site plan which includes elevations. He said that

- 1 the memorandum indicates several items which the Board requires for review. He asked the Board if there
2 are other items which need to be submitted or included on the site plan before the Board moves forward with
3 these cases.
4
- 5 Mr. Passalacqua stated that the third building will be a problem and with the drainage concerns on the
6 property it may not be feasible at all. He stated that Mr. Sebens should obtain input from an engineer
7 regarding the third building before he puts a lot of effort towards it.
8
- 9 Mr. Thorsland asked the Board if there were any questions for Mr. Reifsteck and there were none.
10
- 11 Mr. Thorsland asked if staff had any further questions for Mr. Reifsteck and there were none.
12
- 13 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Reifsteck regarding Case 767-S-13
14 and there was no one.
15
- 16 Mr. Thorsland requested that Mr. Sebens return to the witness microphone.
17
- 18 Mr. Thorsland informed Mr. Sebens that if a sign is anticipated for the storage facility then it should be
19 included on the site plan. He said that staff may have informed him that there are lighting requirements for
20 any special use permit therefore he should review those requirements.
21
- 22 Mr. Sebens stated that his goal is to improve the property and the area and he would not do the proposed use
23 unless it was done well and in compliance.
24
- 25 Mr. Thorsland stated that Mr. Reifsteck mentioned the possibility of installing a fence around the storage
26 facility. He said that the farmer north of Walmart on Prospect Avenue called his self a bag farmer because
27 he was farming a lot of bags therefore Mr. Sebens should consider fencing around the storage facility to keep
28 any debris within the confines of the subject property.
29
- 30 Mr. Hall stated that Mr. Sebens worked a little bit with the previous Associate Planner and he wonders if Mr.
31 Kass discussed the issue of security at the self-storage warehouse. He said that the Board has seen self-
32 storage warehouses with locked access as a way for users to get into the facility after hours and the Board has
33 also seen caretaker dwellings on the subject property so that the facility is staffed 24 hours. He said that
34 security is not something that is written into the Ordinance and it depends on what the ZBA believes is
35 necessary at a given location so there is only so much guidance that staff can give the petitioner ahead of
36 time. He said that this would be a good time to receive input from the ZBA as to what they feel is necessary
37 for security.
38
- 39 Mr. Passalacqua stated that the plan that Mr. Jesse presented to the Board was excellent and it might be a
40 good example for Mr. Sebens to review as a point of reference.
41
- 42 Mr. Thorsland stated that he is sure that staff could provide a copy of Mr. Jesse's plan. He asked Mr. Sebens

1 if he had an idea of how he would provide security to the self-storage warehouse. He asked Mr. Sebens if
2 the units would have individual doors and locks or was it going to be more elaborate.

3
4 Mr. Sebens stated that if you look at other storage unit facilities in the area you will find a little bit of
5 everything. He said that most of the facilities are not fenced and the units have locks. He said that
6 encompassing his facility with a fence is certainly something that could be done to make it more secure and
7 he also has plans to provide adequate lighting to detour any activity.

8
9 Ms. Lee asked Mr. Sebens if he is planning on three or four storage facility buildings.

10
11 Mr. Sebens stated that after reviewing the plans again he is proposing only three buildings. He said that as
12 Mr. Passalacqua pointed out earlier the third building will be difficult due to its location. He said that the
13 plan that was submitted was completed by himself through his own CAD system and it was not generated by
14 an architect or engineer.

15
16 Mr. Randol stated that in reviewing the layout he believes that a detention pond is required. He asked Mr.
17 Sebens if the detention pond could be placed in the western portion of the property.

18
19 Mr. Sebens stated that the grass area could be utilized as an area for the detention pond. He said that he only
20 keeps this area mowed and Mr. Reifsteck uses it for parking his agricultural equipment when he is in the
21 field.

22
23 Mr. Randol stated that he is not talking about the wet green area but the area to the west where it appears that
24 there is landscape debris being stored. He asked if the area to the west of that area could be used for a
25 detention pond in order to stay away from the natural drainage area.

26
27 Mr. Sebens stated that this area could also be used for the detention pond. He said that the road may be
28 slightly higher than his landscaping shed but from the south side of his parking lot slopes to the south and
29 there is a ridge along the west property line that separates his property and Mr. Reifsteck's field which also
30 slopes to the east.

31
32 Mr. Passalacqua stated that he understands that the old buildings will be demolished but having purchased
33 green material from Mr. Sebens before he wonders where he would stock his trees and other items for his
34 landscaping business if he builds the storage units.

35
36 Mr. Sebens stated that this is part of the reason why he has scaled the size of the buildings back. He said that
37 as a result of the economy his business is now less than one-half of the size that it was four years ago. He
38 said that at one time he would stock as many as 300 balled and burlaped trees but last year he didn't stock
39 any trees. He said that his landscape business has been scaled back and he does not do as much as he used to
40 and if he did decide to stock some trees he has adequate area to do so.

41
42 Mr. Passalacqua stated that any storage for the landscaping materials should be indicated on the complete

1 site plan.

2
3 Mr. Sebens stated that at one time he indicated four buildings on the site plan, three long buildings and one
4 short building, but after review he eliminated the fourth building and now the third building will have to be
5 scaled back to probably half of what is indicated on the preliminary site plan. He said that if he has to
6 construct a detention pond he may find that the third building is not even feasible. He said that the proposed
7 use will help supplement his landscape business, provide a service to the public and help pay for the
8 property.

9
10 Mr. Thorsland stated that the Board is requiring a complete site plan and if there are things that may be done
11 on the property in the future they should be indicated as well.

12
13 Mr. Hall stated that if we were looking at the aerial photo today as a proposed plan for a contractor's facility
14 Mr. Sebens would have to have detention but this was done under the old Stormwater Management Policy
15 and we were not as careful defining when detention was necessary. He said that in the old Stormwater
16 Policy the fact that Mr. Sebens had gravel wasn't considered to the degree that it is considered today. He
17 said that if Mr. Sebens was doing just the contractor's facility today he would need stormwater detention but
18 he didn't need it in 1997. He said that there has been discussion about existing problems and presumably the
19 Board will consider all of the existing problems as well as the proposal to create more impervious area with
20 the self-storage. He said that the drainage plan needs to address all of the gravel paving that exists on the
21 site because it is considered impervious and is considered gravel when it comes to the design for stormwater
22 detention. He said that he hopes that Mr. Sebens' engineer will find out that there is a lot of detention
23 necessary for just the contractor's facility and that is because there are in fact problems which Mr. Sebens
24 and Mr. Reifsteck have attempted to correct and yet the engineer will be able to tell them if they have done
25 enough or if Mr. Sebens will have to do some more. Mr. Hall stated that it is unusual for the Board to
26 receive testimony where there have been problems but both landowners have worked together to resolve
27 them. He said that he is eager to hear what Mr. Sebens' engineer comes up with and what Mr. Reifsteck
28 thinks about it. He encouraged Mr. Sebens to work closely with Mr. Reifsteck as well as his engineer so that
29 when the cases come back to the ZBA everyone will be reasonably satisfied. He noted that Mr. Sebens does
30 not have to do exactly what Mr. Reifsteck wants but Mr. Sebens will have to address all those issues and he
31 has already proven that he can do so which is all good news but there is a lot more to do.

32
33 Mr. Passalacqua stated that the packet addressed that the current parking is too close to the property line
34 therefore the new site plan should indicate compliancy to the Ordinance.

35
36 Mr. Hall stated that any parking or any storage area has to be at least five feet from the property line and he
37 would recommend a grass filter strip around all of the landscaping area.

38
39 Mr. Passalacqua stated that all of this stuff is subtracting from useful square footage.

40
41 Mr. Thorsland stated that Mr. Sebens did mention that the architect will indicate proper setbacks on the
42 complete site plan.

- 1
2 Mr. Thorsland asked Mr. Sebens how much time will be required to obtain a complete site plan.
3
4 Mr. Sebens stated that he spoke with the architect today therefore he could probably have preliminary plans
5 put together within a couple of weeks.
6
7 Mr. Thorsland asked Mr. Sebens if the February 27th meeting would allow ample time for the architect to
8 have his plans completed.
9
10 Mr. Sebens stated yes.
11
12 Mr. Thorsland asked the Board and staff if there were any additional items that are required for the site plan
13 and there were none at this time.
14
15 Mr. Hall stated that for the case to be before the Board on February 27th staff will send out a mailing on
16 February 19th therefore staff requires information for that mailing a few days before the mailing for review.
17 He said that if the information is received on the day of the mailing the information can be sent out without
18 review by staff but when staff does not have a chance to review it the meeting is not very productive. He
19 said that sending out the information the day that staff receives it will at least give the Board the opportunity
20 to see what kind of progress has been made in four weeks.
21
22 Ms. Griest suggested that Cases 766-AM-13 and 767-S-13 be continued to the March 13, 2014, public
23 hearing. She said that she does not believe that continuing these cases to February 27th would give staff
24 adequate time to give the Board a good analysis of what has been submitted.
25
26 Mr. Thorsland stated that he agrees because March 13th would give Mr. Sebens plenty of time to get the
27 information to staff and then staff could provide commentary to the Board in a memorandum form.
28
29 Mr. Sebens agreed.
30
31 Mr. Thorsland entertained a motion to continue Cases 766-AM-13 and 767-S-13 to the March 13, 2014,
32 meeting.
33
34 **Mr. Passalacqua moved, seconded by Ms. Griest to continue Cases 766-AM-13 and 767-S-13 to the**
35 **March 13, 2014, meeting. The motion carried by voice vote.**
36
37 **Case 770-V-13 Petitioner: Kenneth and Alena Nierenhausen Request: Authorize the following variances**
38 **in the AG-2, Agriculture Zoning District on the subject property described below, in order to**
39 **construct a new dwelling to replace a dwelling damaged in the November 17, 2013, tornado: Part A.**
40 **The creation and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum**
41 **allowed three acres on best prime farmland required by Footnote 13 in Section 5.3; and Part B.**
42 **Application fee of \$0 for a Zoning Use Permit Application in lieu of the standard Zoning Use Permit**

1 **Application fee required by Section 9.3.1B.; and Part C. Application fee of \$0 for a Variance**
2 **Application in lieu of the standard \$200 Variance Application fee required by Section 9.3.3B.1.b.**
3 **Location: A proposed 5.79 acre tract in St. Joseph Township in the Northwest Quarter of the**
4 **Northwest Quarter of Section 23 of Township 19 North, Range 10 East of the Third Principal**
5 **Meridian and commonly known as the farmstead located at 1486 CR 2200E, St. Joseph.**
6

7 Mr. Thorsland informed the audience that Case 770-V-13 is an Administrative Case and as such the County
8 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
9 show of hands for those who would like to cross examine and each person will be called upon. He requested
10 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
11 that those who desire to cross examine are not required to sign the witness register but are requested to
12 clearly state their name before asking any questions. He noted that no new testimony is to be given during
13 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
14 exempt from cross examination.
15

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

20 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.
21

22 Ms. Alena Nierenhausen, who resides at 1360 CR 2575E, Homer, stated that she and her husband lost their
23 home in the November 17, 2013, tornado event and they are currently living with her parents. She said that
24 she was born and raised in St. Joseph and when they found the subject property they decided that they would
25 like to purchase the property and build a new home upon it. She said that the property is currently three
26 acres in size and most of it is pretty low and it is not possible to build on it therefore they are requesting an
27 additional two acres to set the new home back further from the road.
28

29 Mr. Thorsland noted that there is an issue with a guard rail as well on the property.
30

31 Ms. Nierenhausen stated yes and that the guardrail is located on most of the property.
32

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

35 Mr. Thorsland asked if staff had any questions for Ms. Nierenhausen and there were none.
36

37 Mr. Passalacqua asked Mr. Hall if Mr. Kurtz, Champaign County Board Chairman, announced that all fees
38 would be waived for reconstruction of homes destroyed during the tornado.
39

40 Mr. Hall stated yes, and we have always waived zoning use permit fees and we have never had a zoning case
41 pursuant to something like this tragic event. He said that many years ago a request like this would have gone
42 to ELUC but that procedure is not provided for in the current Ordinance and neither is waiving zoning use

1 permit fees.

2

3 Mr. Passalacqua asked Mr. Hall if the waivers of the fees should be included in this particular zoning case.

4

5 Mr. Hall stated that the reason why the fees are part of this case is because of the zoning case fees and it is
6 not clear to him that this is something that is unique to the land and therefore a valid variance. He said that it
7 is okay if the Board does not want to deal with Parts B and C.

8

9 Mr. Passalacqua stated that in order to simplify this case it appears that the consensus is to waive the fees
10 and not burden this petitioner with two more steps.

11

12 Mr. Thorsland asked Mr. Hall if it is up to this Board to decide whether or not the ZBA can remove Parts B
13 and C from this case.

14

15 Mr. Hall stated that the Board does need to decide whether or not it is a viable variance. He said that if the
16 Board decides that Parts B and C are not viable variances he will deal with them administratively.

17

18 Mr. Thorsland entertained a motion to remove Parts B and C from Case 770-V-13.

19

20 Ms. Griest stated that she believed that Parts B and C were included because this is not the parcel where the
21 tornado destroyed the structure so having it say that it is a different structure is an inaccurate statement
22 therefore to ensure that the petitioner is as fully protected as possible Parts B and C should be left in the case.

23 She said that even if the County indicated that they would waive all of the fees for properties in Gifford that
24 were affected by the tornado this particular parcel was not within Gifford and the subject parcel was not hit
25 by the tornado therefore she would advocate for leaving Parts B and C in the variance request and waiving
26 the fees.

27

28 Mr. Hall asked Ms. Griest if she could find that this is related to some special condition of this land.

29

30 Ms. Griest stated only that purchase of the land was for the displacement.

31

32 Mr. Passalacqua stated that he was only considering terms of simplicity because the petitioners would not be
33 before us tonight if it were not for the tornado destroying their home.

34

35 Mr. Thorsland stated that the Board does not consider permits in the Village of Gifford.

36

37 Mr. Hall stated that Mr. and Mrs. Nierenhausen lived outside of Gifford and they were located within the
38 County's zoning jurisdiction and their house was destroyed by the tornado. He said that he is perfectly
39 comfortable in waiving both of these fees administratively but when it is an issue that goes to the ZBA he
40 will always give the ZBA a chance to weigh in.

41

42 Ms. Griest stated that if the fees can be waived then they should be waived.

1

2 Mr. Hall stated that having an approved variance is absolutely safe and anything else is administratively
3 done.

4

5 Mr. Thorsland stated that if there is a complaint they can come testify before this Board.

6

7 Mr. Passalacqua stated that the minutes will reflect the Board's discussion.

8

9 **The consensus of the Board was to remove Parts B and C from Case 770-V-13.**

10

11 Mr. Thorsland asked the Board if there were any additional questions for the petitioners.

12

13 Ms. Lee stated that two acres will be taken out of production and in order to the petitioners a larger lot size.

14

15 Ms. Niernenhausen stated that the two acres are not being farmed.

16

17 Mr. Hall stated that the Zoning Ordinance does not recognize that there are things like farmsteads that have
18 never been in row crop production. He said that as far as he can tell this land has never been in row crop
19 production and he would assume that it may have been a pasture. He said that the land is best prime
20 farmland on average and part of it is not even considered best prime farmland but the whole parcel is overall.
21 He said that no land is being taken out of production.

22

23 Ms. Lee stated that the Area Summary submitted by Berns, Clancy and Associates indicates a 40' x 860'
24 strip of land on the east side of the homesite parcel which appears to be farmland.

25

26 Mr. Hall stated that Ms. Lee is correct and he had forgotten about the strip of land to the east. He said that
27 Ms. Lee was also correct in assuming that the strip had been in row crop production.

28

29 Mr. Thorsland asked Ms. Nierenhausen if she is purchasing the additional 40' x 860' strip from the owner of
30 the farmland.

31

32 Ms. Nierenhausen stated yes.

33

34 Mr. Thorsland asked Ms. Nierenhausen if the landowner was present tonight.

35

36 Ms. Nierenhausen stated no.

37

38 Mr. Thorsland asked Ms. Nierenhausen if the sale has already been worked through.

39

40 Ms. Nierenhausen stated yes. She said that the landowner desires selling them the entire five acres.

41

42 Ms. Griest stated that the current farmstead has never been broken off of the larger tract of farmland and is

1 not presently a separate parcel.
2
3 Ms. Nierenhausen stated that Ms. Griest was correct.
4
5 Mr. Hall stated that Ms. Nierenhausen explained it perfectly in that the strip along the east side is two acres
6 in acre and is being taken out of production. He asked Ms. Nierenhausen if he is correct in assuming that the
7 strip will become part of the residential lot or will it remain in production.
8
9 Mr. Nierenhausen stated that it will be taken out of production.
10
11 Mr. Passalacqua asked Ms. Nierenhausen if the new construction will occur in the strip of land or will it just
12 be further back on the lot.
13
14 Ms. Nierenhausen stated that the home will be set back further on the lot,
15
16 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
17 regarding this case.
18
19 Mr. Thorsland called Kevin Cagle to testify.
20
21 Mr. Kevin Cagle, who resides at 1360 CR 2575 E, Homer, stated that in order to meet the County's front
22 yard requirement the house needs to be set further off of the road therefore requiring the additional two acres
23 to the east. He said that the current owner of the entire tract wanted to make the new parcel a full five acres
24 for the Nierenhausen's purchase. He said that there is a guardrail that is located on three-quarters of the
25 frontage and the property slopes down. He said that the old house, garage and small shed will be demolished
26 and removed from the property and the new home will be placed behind the current location of the old home.
27
28 Mr. Passalacqua asked Mr. Cagle if the new home would encroach upon the existing well.
29
30 Mr. Cagle stated that a new well and septic will be required.
31
32 Mr. Thorsland asked the Board if there were any additional questions for Mr. Cagle and there were none.
33
34 Mr. Thorsland asked if staff had any questions for Mr. Cagle and there were none.
35
36 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Cagle and there was no one.
37
38 Mr. Thorsland asked the Board if there were any further questions for Ms. Nierenhausen and there were
39 none.
40
41 Mr. Thorsland closed the witness register.
42

- 1 Mr. Thorsland asked the Board and staff if they desired to add any testimony heard tonight to the Summary
2 of Evidence. He said that a lot of the discussion tonight has already been included in the Summary of
3 Evidence such as the guard rail takes a piece of the subject property and makes it unusable.
4
- 5 Mr. Passalacqua stated that testimony was received tonight indicating that a portion of the property is low.
6
- 7 Mr. Hall stated that Item 7.C and 8.B could be revised as follows: The existing farmstead area has never
8 been in row crop production and appears on the 1973 aerial photograph but the eastern two acres has been in
9 production. He said that Item 9.B should be revised as follows: The subject property is that portion of an
10 existing 40 acre tract of farmland and all but two acres as never been in crop production. He said that the
11 second sentence in Item 9.B should be stricken.
12
- 13 Mr. Thorsland stated in Item 12 the petitioner states the following: "We lost our home in the Gifford
14 tornado and would like to start construction on a new home but without this variance the lot would not be
15 deep enough." He said that the Board could add evidence regarding the guard rail and the slope of the
16 property under Item 12.
17
- 18 Ms. Griest asked if the road has a larger setback than a normal rural road since it is a slab.
19
- 20 Mr. Hall stated that a 40 feet of right-of-way has been dedicated which is more than is expected for a
21 township road but the road is not a County Highway.
22
- 23 Ms. Lee stated that the ditches are fairly deep in this area because of the river to the west.
24
- 25 Ms. Griest stated that she believed that the road was a County Highway.
26
- 27 Mr. Hall stated that he does not believe that the road is a County Highway.
28
- 29 Mr. Thorsland called Kevin Cagle to the witness microphone.
30
- 31 Mr. Thorsland asked Mr. Cagle if the road was considered a County Highway, State Highway or Township
32 Highway.
33
- 34 Mr. Cagle stated that he is pretty sure that the road from Sidney to St. Joseph is maintained by the township.
35
- 36 Mr. Thorsland stated that he would like to add the following evidence to Item 12: The front of the lot has a
37 guard rail, a slope, and a large ditch moving buildable area back from the front lot line.
38
- 39 Mr. Passalacqua stated that this evidence could be added to Finding 1 as well.
40
- 41 Mr. Thorsland stated that no special conditions have been proposed and there are no new Documents of
42 Record therefore the Board can move to the Finding of Fact.

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Finding of Fact for Case 770-V-13:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 770-V-13 held on January 30, 2014, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and or structures elsewhere in the same district because there is a guard rail, relative low elevation at the current home site and a substantial ditch which shrinks buildable area.

Ms. Capel stated that the finding could indicate that there are relative low elevations of significant portions of the lot.

Mr. Randol stated that the finding should indicate that the low elevation is at the front of the lot so that it is not believed that the entire lot is low.

Mr. Hall read the Board’s findings as follows:

- There is a guard rail; relative low elevations of significant portions of the western and northern portions of the lot, and a substantial ditch all reduce buildable area.**

The Board agreed with the findings for Finding 1.

- 2. 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.**

Ms. Capel 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 because adequate setbacks are not possible without the variance.

Mr. Hall read the Board’s findings as follows:

- Adequate setbacks are not possible without the variance.**

The Board agreed with the finding for Finding 2.

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

Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because there is a guard rail, relative low elevations of significant portions of the western and northern portions of the lot, and a substantial ditch at this pre-existing farmstead.

Mr. Griest stated that the subject property is a pre-existing homestead that is being purchased for a new home to replace a home lost in the November 17, 2013, tornado near Gifford.

Mr. Hall read the Board’s findings as follows:

- There is a guard rail, relative low elevations of significant portions of the western and northern portions of the lot, and a substantial ditch at this pre-existing farmstead.
- The subject property is being purchased as a home site for a new home to replace a home lost in the November 17, 2013, tornado near Gifford.

The Board agreed with the findings for Finding 3.

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

Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because this is a minimal variance that will allow construction on the more suitable portion of the subject property.

Ms. Griest stated that it conforms to all other Zoning Ordinance requirements.

Mr. Hall read the Board’s findings as follows:

- This is a minimal variance that will allow construction on the more suitable portion of the subject property.
- It conforms to all other Zoning Ordinance requirements.

Mr. Hall noted that since the Board is not dealing with anything but one variance part the final finding will be prepared in the regular format rather than the three part format. He said that the findings will appear as they do in the Draft Summary of Evidence.

The Board agreed with the findings for Finding 4.

5. The requested variance WILL NOT be injurious to the neighborhood or otherwise

detrimental to the public health, safety, or welfare.

Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because it will be an improvement to a property which has been vacant for two years.

Ms. Griest stated that it will allow an increased setback from the right-of way. She said that no comments have been received from either the Township Highway Commissioner or the Fire Protection District.

Mr. Hall read the Board’s findings as follows:

- **It will allow an improvement to this property that has been vacant for sometime**
- **It will allow an increased setback**
- **No comments have been received from either the Highway Commissioner or the Fire Protection District.**

The Board agreed with the findings for Finding 5.

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

Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

The Board agreed with the finding for Finding 6.

7. No special conditions are hereby imposed.

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

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

Mr. Thorsland entertained a motion to move to the Final Determination for Case 770-V-13.

Ms. Capel moved, seconded by Mr. Randol to move to the Final Determination for Case 770-V-13. The motion carried by voice vote.

Mr. Thorsland informed the petitioners that one Board member is absent tonight therefore it is at their discretion to either continue Case 770-V-13 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are

1 required for approval.

2
3 Ms. Alena Nierenhausen requested that the present Board move to the Final Determination.

4
5 **Final Determination for Case 770-V-13:**

6
7 **Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**
8 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
9 **that the requirements of Section 9.1.9.C HAVE been met, and pursuant to the authority granted by**
10 **Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
11 **Champaign County determines that the Variance requested in Case 770-V-13 is hereby GRANTED to**
12 **the petitioners, Kenneth and Alena Nierenhausen, to authorize the following: Part A. The creation**
13 **and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum allowed three**
14 **acres on best prime farmland required by Footnote 13 in Section 5.3.**

15
16 Mr. Thorsland requested a roll call vote.

17
18 The roll was called:

19			
20	Capel-yes	Griest-yes	Lee-yes
21	Miller-absent	Randol-yes	Passalacqua-yes
22	Thorsland-yes		
23			

24 Mr. Hall informed the petitioners that they have received an approval for their request in Case 770-V-13.

25
26 **7. Staff Report**

27
28 Ms. Lee asked if staff is going to pursue the violation related to Case 765-V-13.

29
30 Mr. Hall stated that notice of violation was mailed today although in October, 2013 he sent out a letter
31 stating that if Case 765-V-13 was not approved that something would have to be done.

32
33 Ms. Griest asked Mr. Hall if the State’s Attorney provided comment regarding the Harshbarger case. She
34 said that the Board’s question was the following: Since Mr. Harshbarger, the current owner, was a party in
35 the petition could the Board approve the same variance that the Board had previously denied to Mr.
36 Harshbarger.

37
38 Mr. Hall stated that he never sent the question to the State’s Attorney and he is lucky to get an answer to
39 questions which are of the most immediate urgency. He said that the Board’s question is no longer urgent
40 and when this Board is presented with a second look at a case like that as long as the Board completes the
41 case properly the case is always subject to a new determination. He said that the Board is not locking itself
42 into something but it does need to be done consistent with all of the Ordinance requirements.

1
2 Mr. Passalacqua stated that if the Board grants the variance for the people who are buying the land the Board
3 is basically removing the responsibility of Mr. Harshbarger in building the structure incorrectly and the fact
4 that the building is still nonconforming.
5
6 Ms. Griest stated that her concern was that the petitioners requesting the variance were not owners of the
7 land.
8
9 Mr. Passalacqua stated that Mr. Harshbarger was given a determination that the building needed to be
10 moved or renovated to meet the Ordinance requirements and the Board's dilemma was that he was going to
11 sell the property and the new owners would be granted a variance for a building that was built outside of the
12 Ordinance. He said that the Board's issue was whether the variance was for Pickle Construction, Mick
13 Harshbarger, or the people who desired to purchase the property. He said that he struggled with the fact that
14 Mr. Harshbarger had already been told to correct the violation and he is going to skate that requirement if the
15 Board approves the requested variance for the new buyer. He said that he was having a hard time with the
16 fact that the Board was going to decide a case for someone who hasn't adhered to the Board's previous
17 finding. He said that he was also having a hard time with the fact that the Board could approve the variance
18 for the new owners but if the sale falls through Mr. Harshbarger will still own the property and the case for
19 the building which violates the Ordinance will just go away.
20
21 Mr. Hall stated that if the Board makes a new finding on a case like that then the Board will make a new
22 finding with the substance of which this is not a problem because the highway commissioner was okay with
23 it, there was a waterway that caused many problems, etc. He said that the Board will make a whole new
24 finding that would presumably stand on its own regardless of who was the petitioner. He said that Mr.
25 Harshbarger could have come back to the Board and requested a new variance.
26
27 Mr. Passalacqua asked if Mr. Harshbarger could come back on his own to request the same variance even
28 though he had been denied previously.
29
30 Mr. Hall stated yes.
31
32 Mr. Passalacqua asked Mr. Hall how many times Mr. Harshbarger could request the same variance.
33
34 Mr. Hall stated that Mr. Harshbarger could request the same variance once per year.
35
36 Mr. Passalacqua stated that the opportunity to come back and request the same variance once per year is
37 ridiculous.
38
39 Mr. Randol asked if Mr. Harshbarger could back every year if he desired.
40
41 Mr. Hall stated that obviously he would not get more than a second time because the Board will do whatever
42 it takes to get is corrected.

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Mr. Passalacqua stated that Mr. Harshbarger already had a final determination that the structure required renovation to meet the Ordinance requirements.

Ms. Griest stated that perhaps the circumstance has changed where Mr. Harshbarger no longer parks his construction equipment at that location.

Mr. Thorsland stated that he could argue that he got rid of the trailer or something.

Mr. Passalacqua stated the testimony was received from the neighbor indicating that the structure was still too close.

Mr. Hall stated that like most neighbors some are interested in penalizing someone and that is not what the Zoning Board of Appeals is about.

Mr. Passalacqua stated that even though he understands Mr. Hall's comments he still would have a hard time with the case.

Ms. Lee stated that there was more evidence received other than attempting to penalize the owner because the neighbor discussed the school bus having to drive over other lots because they could not drive where they needed to drive due to the truck being parked there.

Mr. Randol stated that he believes that the testimony was somewhat exaggerated because the entire street width is 60 feet therefore a truck being parked there would not force a school bus to drive 40 feet out of the way.

Ms. Lee stated that the testimony indicated that the issue was in the turn-around.

Ms. Griest stated that the cul-de-sac or turn-around is located south of Mr. Harshbarger's property but the testimony was discussing when the vehicles owned by Mr. Harshbarger were parked inappropriately that the school bus had to pull around them.

Mr. Randol stated that the school bus may have had to pull over into the grass but a 60 foot street should have provided adequate room for the bus.

Ms. Griest asked Mr. Hall why during Case 765-V-13 staff requested that Mr. Harshbarger, the current owner, be included as a petitioner but did not request that the current owner be included as a petitioner in Case 770-V-13.

Mr. Hall stated that knowing the background on the property for Case 765-V-13 the owner of that property would have to be included in any zoning case.

1 Ms. Griest stated that the Zoning Ordinance does indicate that the current owner must be a co-petitioner to
2 any zoning case for the property.

3
4 Mr. Randol asked if the sale of the Harshbarger property fell through due to the discussion at the meeting for
5 that case.

6
7 Mr. Hall stated that the sale did fall through but staff still receives calls regarding the property because the
8 callers believe that it is a marvelous property.

9
10 Mr. Hall clarified that the Ordinance does not contain the same requirements for ownership to be involved in
11 the application for a variance as it does for a special use permit.

12
13 **8. Other Business**
14 **A. Review of Docket**

15
16 Mr. Hall stated that Case 774-V-14 has been withdrawn. He said that at the February 13th meeting the Board
17 will be beginning one of those text amendments, Case 769-AT-13, that the Board will hate before it is over.
18 He said that Case 769-AT-13 is the text amendment that is on par with the LESA amendment which the
19 Board received a nice notebook which held everything so that the Board could refer back to it every time
20 there were any questions. He said that everyone will receive new notebooks regarding this case and he is not
21 sure how long this will take for the Board but it is a very significant amendment that needs to be done as
22 soon as possible.

23
24 Mr. Passalacqua asked Mr. Hall if Cases 771-AM-13 and 772-S-13 are located on Mr. Courson's old
25 property.

26
27 Mr. Hall stated yes.

28
29 Mr. Passalacqua stated that he thought that the property had two uses on it already.

30
31 Mr. Hall stated that the property was zoned B-3 and for some reason contractor facilities are not allowed. He
32 said that previously the two uses on the property were storage and a commercial nursery but now it will be a
33 contractor's facility which is not allowed in the B-3 District. He said that the owner originally informed staff
34 that there would only be a storage building but employees would be coming there and there would be an
35 office therefore staff informed him that it is not just a storage building but is a second principal use and he
36 required a special use permit. He said that a second large building is also proposed.

37
38 Mr. Passalacqua stated that it is his understanding that the new owner has an option to purchase the land next
39 to the subject property for these cases therefore it is possible that he will obtain more land.

40
41 Mr. Hall noted that the subject property is located in Hensley Township and he hopes that the current owner
42 has discussed his plans with the township.

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B. 2014 Zoning Board of Appeals Calendar

Mr. Thorsland entertained a motion to approve the 2014 Zoning Board of Appeals Calendar.

Mr. Randol moved, seconded by Ms. Griest to approve the 2014 Zoning Board of Appeals Calendar. The motion carried by voice vote.

Mr. Thorsland reminded the Board to complete their electronic Statement of Economic Interest.

Mr. Hall stated that Case 732-AT-12 has been sitting at the County Board since November. He said that Case 732-AT-12 was protested by Hensley Township using facts that the Board addressed in its finding. He said that there has never been enough County Board members at a County Board meeting since November to actually attempt to acquire the 17 votes required to override the Hensley Township protest because there have never been more than 19 Board members in attendance. He said that it is known that at least two County Board members are going vote no. He said that he hopes to get Case 732-AT-12 adopted one of these days.

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

None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

Ms. Griest moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 8:46 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street

4 Urbana, IL 61801

5 **DATE:** February 13, 2014

6 **PLACE:** Lyle Shield's Meeting Room

7 1776 East Washington Street

8 Urbana, IL 61802

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

10 **MEMBERS PRESENT:** Catherine Capel, Marilyn Lee, Brad Passalacqua, Jim Randol, Eric Thorsland

11 **MEMBERS ABSENT :** Debra Griest, Roger Miller

12 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Levy (RPC), Susan Monte(RPC)

13 **OTHERS PRESENT :** Larry Hall, Julia Hall, Jean Fisher, Mark Fisher, Steve Burdin, Herb Schildt,
14 Don Wauthier

15 **1. Call to Order**

16 The meeting was called to order at 6:30 p.m.

DRAFT

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

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

19 **3. Correspondence**

20 None

21 **4. Approval of Minutes (January 16, 2014)**

22 Mr. Thorsland informed the Board that a revised version of the minutes has been distributed tonight for
23 review. He noted that minor corrections have been inserted into the minutes.

24 Mr. Hall stated that staff may have corrected any changes that the Board may have had in mind. He said that
25 if the Board would like to review the revised minutes the approval can be postponed to the next meeting.

26 Mr. Thorsland entertained a motion to continue the approval of the January 16, 2014, minutes to the
27 February 27, 2014, meeting.

28 **Ms. Capel moved, seconded by Mr. Randol to continue the approval of the January 16, 2014, minutes
29 to the February 27, 2014, meeting. The motion carried by voice vote.**

30 **5. Continued Public Hearing**

1
 2 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**
 3 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**
 4 **for any County Board approved special use permit for a Rural Residential Development in the Rural**
 5 **Residential Overlay district as follows: (1) require that each proposed residential lot shall have an**
 6 **area equal to the minimum required lot area in the zoning district that is not in the Special Flood**
 7 **Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with**
 8 **more than two proposed lots that are each less than five acres in area or any RRO that does not**
 9 **comply with the standard condition for minimum driveway separation; (3) require a minimum**
 10 **driveway separation between driveways in the same development; (4) require minimum driveway**
 11 **standards for any residential lot on which a dwelling may be more than 140 feet from a public street;**
 12 **(5) require for any proposed residential lot not served by a public water supply system and that is**
 13 **located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**
 14 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract**
 15 **the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6)**
 16 **require for any proposed RRO in a high probability area as defined in the Illinois State Historic**
 17 **Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy**
 18 **of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the**
 19 **Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of**
 20 **the agency response.**

21
 22 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

23
 24 Mr. John Hall, Zoning Administrator, requested that Case 685-AT-11 be continued to the May 15, 2014,
 25 meeting.

26
 27 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the May 15, 2014, meeting.

28
 29 Mr. Passalacqua moved, seconded by Ms. Lee to continue Case 685-AT-11 to the May 15, 2014,
 30 meeting. The motion carried by voice vote.

31
 32
 33 **Case 768-AT-13 Petitioner: Zoning Administrator Request: Amend the Champaign Zoning**
 34 **Ordinance by adding the following standard conditions and special provisions to Section 6.1.3: Part**
 35 **A. Revise the use category “heliport/restricted landing area” to heliport-restricting landing area: and**
 36 **revise the existing standard conditions and special provisions for the use category “heliport-restricted**
 37 **landing area” and add new standard conditions and special provisions, as follows: (1) Number the**
 38 **existing standard condition and special provision 1. (2) Add the following standard conditions and**
 39 **special provisions for a limited time not to exceed 365 days from the date of adoption: (a) Add a**
 40 **standard condition and special provisions to require the Final Approach and Takeoff Area to be no**
 41 **closer than 800 feet from the nearest CR District when measured in a straight line from the Final**
 42 **Approach and Takeoff Area in an approach/takeoff path and no closer than 500 feet when measured**

1 from the Final Approach and Takeoff Area in other than an approach/takeoff path and that no part
2 of the approach/takeoff path may be less than 100 feet above the nearest CR District. (b) Add a
3 standard condition and special provision to require that the Final Approach and Takeoff Area may be
4 no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-
5 restricted landing area. (c) Add a standard condition and special provision to require that the Final
6 Approach and Takeoff Area may be closer than 300 feet from the nearest property under different
7 ownership than the heliport-restricted landing area. Part B. Revise the existing standard conditions
8 and special provisions for the use category "restricted landing area" and add new standard conditions
9 and special provisions as follows: (1) Number the existing standard conditions and special provisions
10 for the use category "restricted landing area" and add new standard conditions and special provisions
11 as follows: (1) Number the existing standard conditions and special provisions 1-4; and (2) Add the
12 following standard conditions and special provisions for a limited time not to exceed 365 days from
13 the date of adoption: (a) Add a standard condition and special provision to require the end of the
14 runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from
15 the end of the runway and not less than 500 feet when measured from the edge of the runway and that
16 no part of the approach surface may be less than 100 feet above the nearest CR District. (b) Add as
17 standard condition and special provision to require that the runway may be no closer than 1,320 feet
18 from the nearest dwelling under different ownership than the restricted landing area. (c) Add a
19 standard condition and special provision to require that the runway may be no closer than 300 feet
20 from the nearest property under different ownership than the restricted landing area.

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

25
26 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

27
28 Mr. John Hall, Zoning Administrator, stated that no new information is available tonight. He reminded the
29 Board that in addition to those things that were included originally staff did add the revision to Section 4.3.8.
30 He said that Section 4.3.8 is out of date in the Ordinance therefore this amendment updates it and also
31 exempts the restrictions that are being added from requiring a Special Use Permit for homes that may be
32 built in those areas. He said that the Board revised the separation to property line from 300 feet to 280 feet
33 so that an RLA could be fit on a narrow 40 acre tract and it was done for both the RLA and HRLA. He said
34 that the separation to the nearest dwelling is at the original 1,320 feet.

35
36 Mr. Hall stated that when the Board is ready to review the Summary Finding of Fact that was included in the
37 Draft Finding of Fact dated January 16, 2014, he believes that everything is still valid and all of the
38 recommendations still stand. He said that the Supplemental Memorandum dated February 6, 2014, provided
39 the changes to the Finding of Fact for the change from 300 down to 280 feet. He said that the Documents of
40 Record was not updated but should include the following: 1. Preliminary Memorandum dated January 8,
41 2014, with attachments; and 2. Supplemental Memorandum dated January 16, 2014, with attachments; and
42 3. Supplemental Memorandum dated February 6, 2014, with attachments.

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Mr. Hall noted that Case 768-AT-13 is a short case and he believes that it is ready for final action tonight.

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

Mr. Thorsland called Larry Hall to testify.

Mr. Larry Hall, who resides at 177 North County Road 1600E, Villa Grove, stated that he would like to confirm his position that he voiced at the last meeting. He said that his only point of dissention was when the setback was changed from 1,320 to 940 feet from the nearest dwelling under different ownership than the heliport-restricted landing area but that concern was addressed and the 1,320 feet was re-instated. He said that to acknowledge his presence and support on behalf of the citizens of Champaign County and to encourage and support the passage of the amendment as presented he is present to answer any questions that the Board may have.

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

Mr. Thorsland asked if staff had any questions for Mr. Larry Hall and there were none.

Mr. Thorsland called Jean Fisher to testify.

Ms. Jean Fisher, who resides at 195 North County Road 1600E, Villa Grove, stated that she would like to thank the Board and the Department of Planning and Zoning staff for all of their hard work and insight in preparing the proposed amendment. She said that a permanent ordinance would be fabulous for the protection of any of the citizens in Champaign County but the protection and promotion of the conservation district is of upmost importance. She urged the Board's support in passing the amendment.

Mr. Thorsland asked the Board if there were any questions for Ms. Fisher and there were none.

Mr. Thorsland asked if staff had any questions for Ms. Fisher and there were none.

Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present testimony regarding Case 768-AT-13 and there was no one.

Mr. Thorsland closed the witness register for Case 768-AT-13.

Mr. Thorsland asked the Board if there were any comments regarding the changes from the last meeting that were included in the February 6, 2014, Supplemental Memorandum and there were none.

Mr. Thorsland stated that if the Board is ready he will continue to the Summary Finding of Fact.

Summary Finding of Fact for Case 768-AT-13:

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Mr. Thorsland read the Summary Finding of Fact as follows:

From the documents of record and the testimony and exhibits received at the public hearing conducted on, January 16, 2014, January 30, 2014, and February 13, 2014, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of the proposed amendment on the Land Resource Management Plan (LRMP):

A. Regarding Goal 8:

- Objective 8.5 requiring the County to encourage the maintenance and enhancement of aquatic and riparian habitats because while it will either not impede or is not relevant to the other objectives and Policies under this goal it, will *HELP ACHIEVE* the following:
 - Policy 8.5.1 requiring discretionary development to preserve existing habitat, enhance degraded habitat and restore habitat (see Item 18.a.(2)).
 - Policy 8.5.2 requiring discretionary development to cause no more than minimal disturbance to the stream corridor environment (see Item 18.A.(3)).
- Objective 8.6 that avoids loss or degradation of habitat because it will *HELP ACHIEVE* the following:
 - Policy 8.6.2 requiring new development to minimize the disturbance of habitat or to mitigate unavoidable disturbance of habitat (See Item 18.B.(2)).
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to other Objectives and Policies under this goal, the proposed map amendment will *HELP ACHIEVE* Goal 8 Natural Resources.

Mr. Thorsland asked the Board if they agreed with the recommendations in Finding 1.A. and the Board agreed.

B. The proposed amendment will *NOT IMPEDE* the following LRMP goal(s):

- Goal 1 Planning and Public Involvement
- Goal 2 Governmental Coordination
- Goal 3 Prosperity
- Goal 4 Agriculture
- Goal 5 Urban Land Use

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- Goal 6 Public Health and Safety
- Goal 7 Transportation
- Goal 9 Energy Conservation
- Goal 10 Cultural Amenities

C. Overall, the proposed text amendment will *HELP ACHIEVE* the Land Resource Management Plan.

Mr. Thorsland asked the Board if they agreed to the recommendations for Findings 1.B. and 1.C and the Board agreed.

2. The proposed Zoning Ordinance text amendment will *HELP ACHIEVE* the purpose of the Zoning Ordinance because:

- The proposed text amendment *WILL* conserve the value of land, BUILDINGS, and STRUCTURES, throughout the COUNTY (Purpose 2.0(b); see Item 16.B.).
- The proposed text amendment *WILL* promote the public health, safety, comfort, morals, and general welfare (purpose 2.0 (e); see Item 16.E.).
- The proposed text amendment *WILL* regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surroundings buildings and structures (Purpose 2.0 (h); see Item 16.H.).
- The proposed text amendment *WILL* 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 (Purpose 2.0 (i); see Item 16.I.).
- The proposed text amendment *WILL* 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 (Purpose 2.0 (j); see Item 16.J.).
- The proposed text amendment *WILL* fix regulations and standards to which buildings, structures, or uses therein shall conform (Purpose 2.0 (k); see Item 16.K.).
- The proposed text amendment *WILL* prohibit uses, buildings, or structures incompatible with the character of such districts (Purpose 2.0 (l); see Item 16.L.).
- The proposed text amendment *WILL* protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses (Purpose 2.0 (n); see Item 16.n.).
- The proposed text amendment *WILL* protect natural features such as forested areas and watercourses (Purpose 2.0 (o); see Item 16.O.).

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2 Mr. Thorsland asked the Board if they agreed with the recommendations for Finding 2. and the Board
3 agreed.

4
5 Mr. Thorsland entertained a motion to adopt the Finding of Fact, Summary Finding of Fact and Documents
6 of Record as amended.

7
8 **Mr. Passalacqua moved, seconded by Ms. Lee to adopt the Finding of Fact, Summary Finding of Fact
9 and Documents of Record as amended. The motion carried by voice vote.**

10
11 Mr. Thorsland entertained a motion to move the Final Determination for Case 768-AT-13.

12
13 **Ms. Capel moved, seconded by Mr. Randol to move to the Final Determination for Case 768-AT-13.
14 The motion carried by voice vote.**

15
16 Mr. Thorsland informed the petitioner that two Board members are absent tonight therefore it is at his
17 discretion to either continue Case 768-AT-13 until a full Board is present or request that the present Board
18 move forward to the Final Determination. He informed the petitioner that four affirmative votes are required
19 for approval.

20
21 Mr. John Hall requested that the present Board move to the Final Determination.

22
23 **Final Determination for Case 768-AT-13:**

24
25 **Ms. Capel moved, seconded by Mr. Passalacqua that pursuant to the authority granted by Section 9.2
26 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
27 determines that the Zoning Ordinance Amendment requested in Case 768-AT-13 should *BE*
28 *ENACTED* by the County Board in the form attached hereto.**

29
30 Mr. Thorsland requested a roll call vote.

31
32 The roll was called:

33			
34	Lee-yes	Miller-absent	Passalacqua-yes
35	Randol-yes	Capel-yes	Griest-absent
36	Thorsland-yes		
37			

38 Mr. Hall informed the audience that Case 768-AT-13 has received a recommendation of approval therefore
39 the case will be forwarded to the March 6, 2014, Environment and Land Use Committee Meeting.

40
41

6. New Public Hearings

Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to the Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement which can be summarized as follows: I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement); and III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement); and IV. Revised existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement); and V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance; and VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement); and VII. Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement).

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

Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

Mr. John Hall, Zoning Administrator, distributed notebooks to the Board which will be utilized for this case. He said that the notebooks include a Supplemental Memorandum dated February 13, 2014, which includes the legal advertisement as Attachment A. He said that the Supplemental Memorandum also includes a listing of attachments which are included in the notebook and correspond to the lettered dividers M-X. He said that the Board has everything needed to begin putting the evidence together although there will be other handouts

1 for future meetings and generally staff will distribute those handouts at the meetings with new dividers. He
2 said that in addition to the handouts that the Board currently has in front of them tonight there will be new
3 informational handouts to review for when the amendment is adopted and new example appendices
4 regarding an erosion control plan. He said that there will also be a new application form that will be relevant
5 to the proposed amendment.
6

7 Mr. Hall stated that Mr. Andrew Levy, Champaign County Regional Planning Commission Planner, has a
8 Power Point presentation for the Board regarding this case. He said that a copy of the slides for the Power
9 Point presentation is included in the Board's notebook for review.
10

11 Mr. Andrew Levy stated that he is Planner with the Champaign County Regional Planning Commission. He
12 said that the CCRPC works jointly with the Champaign County Planning and Zoning Department regarding
13 long range planning efforts. He said that his background is in geography and he has a Masters Degree in
14 Planning from the University of Illinois and has been with the CCRPC for six years as a professional
15 planner. He said that he has worked on a variety of issues with his primary focus on water related issues and
16 has been involved with some National Pollution Discharge Elimination System Requirements (NPDES)
17 during the past two years. He said that the Power Point presentation is a brief overview to introduce some of
18 the concepts that the Board will be discussing.
19

20 Mr. Levy stated that Champaign County adopted the Champaign Interim Stormwater Management Policy in
21 1991 (Resolution 3160) and the Policy was amended in 2003 (Ordinance 679). He said that the general
22 purpose of the Stormwater Management Policy was to guide developers' attempts to control the
23 transportation or movement of storm water which was well and good at that point but at this point and time
24 there needs to be more done. He said that regulating runoff from impervious areas was the intent in 2003 but
25 now is the time to do more.
26

27 Mr. Levy stated that all of this was mandated by Congress under the *Clean Water Act*, the National Pollution
28 Discharge Elimination System is a comprehensive program for addressing non-agricultural sources of storm
29 water discharge. He said that the *Clean Water Act* prohibits the discharge of pollutants through point
30 sources as opposed to non-point sources unless the discharger has a NPDES permit and is in compliance
31 with the conditions of the permit. He said that Champaign County was identified as a small Municipal
32 Separate Storm Sewer System (MS4), even though the County is not a municipality, and was issued a permit
33 along with Champaign, Urbana, Savoy, University of Illinois and the Fountainhead Drainage District.
34

35 Mr. Levy stated that the NPDES permit is broad and includes six minimum control measures. He said that
36 the control measure that the Board will be dealing with is Construction Site Runoff Control but the Board
37 should be aware that there is a lot to the NPDES permit. He said that the MS4 operator is required to have
38 some regulatory mechanism and the proposed ordinance is the County's compliance for that requirement.
39 He said that the mechanism must have procedures for site plan review of construction plans that consider
40 potential water quality impacts; and procedures for site inspection and enforcement of control measures; and
41 sanctions to ensure compliance (established in the ordinance or other regulatory mechanism); and establish
42 procedures for the receipt and consideration of information submitted by the public.

1
2 Mr. Levy stated that he has provided a graphic which indicates typical erosion rates for land-based activities.
3 He said that the graphic indicates forest land, farm land (active pasture), farm land (cover crop) and bare soil
4 (construction site, etc.). He said the graphic indicates the typical erosion rates for the different land activities
5 and bare soil has vastly higher erosion rates than agricultural land which is under row crop. He said that
6 problems which are associated with construction site runoff are due to the dirty water. He said that soil is a
7 pollutant and can carry other pollutants and that is something that the Clean Water Act seeks to prevent. He
8 said that as storm water flows from construction sites it can pick up sediment, debris and chemicals transport
9 to a nearby storm sewer system or directly into a river or lake. He said that the NPDES permit requires
10 clearing, grading and excavating activities in certain amounts to undertake certain activities to protect against
11 polluted discharges.

12
13 Mr. Levy stated that erosion and sediment control includes things like keeping areas of disturbance small in
14 size. He said that often there are construction sites where they may have partitioned off certain areas, kept
15 grass in certain areas or curtailed off trees to help keep soil in place. He said that stabilizing areas of
16 disturbance before erosion occurs is helpful as well as keeping velocities of water runoff low and protecting
17 areas of disturbance from storm water runoff. He said that routine maintenance on controls is important
18 because if sediment fences are installed correctly a lot of the issues which the *Clean Water Act* intends to
19 prevent are solved.

20
21 Mr. Levy stated that sediment fences and site entrances with gravel into construction sites that are planted in
22 grass eliminates the possibility of sediment to leave the site. He said that the way that the Department of
23 Planning and Zoning can review the sediment control is through the site plans. He said that staff can review
24 the Erosion and Sediment Control Plans and help landowners and developers gain a control on the issues.
25 He said that throughout this process he has tried to identify some specific concerns and practical ways of
26 addressing and complying with those concerns and the chart included in the presentation indicates some of
27 those concerns and a method of compliance for each.

28
29 Mr. Levy stated that a map of the MS4 Jurisdictional Area is included in your notebooks and within this
30 presentation. He said that the MS4 Jurisdictional Area is a relatively small part of Champaign County and
31 includes the City of Champaign, City of Urbana and Savoy. He said that the portion of the MS4 area that
32 Champaign County is responsible for is only about 12 square miles along the urban fringe. He said that the
33 County still needs some control over areas just outside of that fringe to make sure that people protect the
34 existing drainage and water resources and maintain easements.

35
36 Mr. Levy stated that where subdivision approval or Zoning Use Permits are required there is a little bit more
37 that the County will be looking for such as a storm water drainage system, or it may require a drainage plan
38 or Land Disturbance Erosion Control Permit and Rules of Construction.

39
40 Mr. Levy stated that the MS4 map indicates an area which is shown in orange and within the yellow line is
41 the area where the Land Disturbance Erosion Control (LDEC) Permits are placed. He said that the
42 presentation indicates the Sections of the Ordinance that will be applicable to the MS4 area. He said that

1 there are exemptions to the LDEC Permit such as agriculture, land disturbance of less than one acre (in some
2 cases), activities related to cemetery grave sites, emergencies, land disturbances of less than 10,000 square
3 feet, land disturbances on lots in subdivisions subject to a municipal annexation agreement, and land
4 disturbance pursuant to a statewide or regional permit.

5
6 Ms. Capel asked Mr. Levy if mines are included or are they regulated by the State of Illinois.

7
8 Mr. Levy stated that he believes that mines would fall under an industrial permit with the State.

9
10 Mr. Levy stated that an LDEC Permit Minor and an LDEC Permit Major are being proposed. He said that an
11 LDEC Permit Minor is required when less than one acre of land disturbance will occur that is part of a
12 common plan of development or sale of record or if the land disturbance is located in a residential, business
13 or industrial zoning district or if the land disturbance is in an existing subdivision of more than four lots
14 including subsequent replats in the AG-1, AG-2 and CR zoning district. He said that a LDEC Permit Major
15 is required when one acre or more of land disturbance will occur. He said that the requirements for the
16 LDEC Major are already required by the Illinois EPA and the County is not proposing any additional
17 requirement and is only supporting the requirement by including it in the proposed ordinance.

18
19 Mr. Levy stated that administration and enforcement of these regulations will be conducted by the
20 Department of Planning and Zoning and the details for these activities are detailed in Sections 13, 14, and 15
21 of the proposed ordinance. He said that technical appendices are provided to help applicants prepare the
22 necessary applications and plans. He said that the Board is going to have several months to deal with this
23 ordinance and staff wants to make it easier for the public to comply therefore guides will be provided.

24
25 Mr. Levy stated that his presentation summarizes a timeline for the proposed amendment. He said that on
26 January 9, 2014, ELUC recommended referral of the proposed Storm Water Management and Erosion
27 Control Ordinance to the ZBA and tonight, February 13, 2014, the ZBA held its first public hearing
28 regarding Case 769-AT-13. He said that the ZBA will have this case before them for several months with a
29 tentative date of return to ELUC on May 8, 2014, by which they will either affirm or amend the ZBA's
30 recommendation. He said that tentatively on June 5, 2014, ELUC will make a recommendation to the
31 Champaign County Board and hopefully at the June 26, 2014, County Board meeting the County Board will
32 make a final determination regarding Case 769-AT-13.

33
34 Mr. Hall noted that an audit from the Illinois Environmental Protection Agency is anticipated sometime this
35 spring. He said that the County was supposed to have this Ordinance in place several years ago. He said
36 that he hopes that the audit goes well but the IEPA is aware of where the County is at with this process. He
37 said that the Board does not need to approve this until the Board is ready but we do want to get this
38 amendment back to ELUC as soon as possible but he does not expect to have this amendment back to ELUC
39 before the IEPA audit. He said that the Board should work as long and hard on this amendment as the Board
40 needs to but there is a little bit of an incentive to get it done as quickly as possible although that is only when
41 the Board is comfortable with it.

42

1 Ms. Capel asked Mr. Hall how much of a burden will be placed on the Department of Planning and Zoning
2 due to the required reviews and inspections.

3
4 Mr. Hall stated that if it is limited to the MS4 area the department can handle it. He said that the IEPA
5 recommends that the review and inspection process is completed throughout the whole 1,000 square mile
6 rural area which is impossible with a department staffing of only four employees. He said that every other
7 county that has been reviewed has done it throughout their whole countywide area but that is not what the
8 regulations indicate and he hopes that we can do it this way.

9
10 Ms. Capel asked Mr. Hall if there is any way that the County could share those inspections with the City of
11 Champaign or the City of Urbana.

12
13 Mr. Hall stated that if the County Board could be talked into such an arrangement the cities are ready to do it
14 but he cannot conceive that the County Board would to agree to it. He said that he is not opposed to such an
15 arrangement with the cities but he does not believe that there would be enough County Board members who
16 would agree to it.

17
18 Ms. Capel asked Mr. Levy if he could provide an example of when someone would need an LDEC Permit
19 Minor.

20
21 Mr. Levy requested Mr. Hall's input.

22
23 Mr. Hall stated that the easiest thing to imagine is that within the MS4 area, if you sell rural land without
24 having to go through the platting process, subdivision plat or survey plat, someone could sell their by-right
25 lots and would not be part of a larger common plan of development. He said that to use the four rights to
26 create lots that some parcels have, for the last two times the landowner will probably have to do some sort of
27 a plat and the minute a plat is done with two or more lots the landowner has become part of a larger common
28 plan of development. He said that within the MS4 area it is entirely possible that there will be some new
29 rural lots upon which a LDEC Permit Minor is required. He said that there are RROs in the MS4 area and he
30 suspects that there will be future RROs in that MS4 area and every RRO lot will be part of a larger common
31 plan of development expected to disturb an acre or more.

32
33 Ms. Capel asked even a lot that is less than one acre.

34
35 Mr. Hall stated yes, but contributing to disturbance of one acre or more overall and the October 29, 2013,
36 memorandum to the Environment and Land Use Committee included a cost analysis. He said that the costs
37 in the memorandum are compared to the costs that the EPA used in the final rule that was included in the
38 notebook. He said that he has not gone back to use the inflation rate from 1999 to 2013 but even if he did
39 the County's costs are higher than what the EPA anticipated and there are probably reasons for that and at
40 least the EPA took the time to do that in 1999 but the construction costs are generally higher than what they
41 anticipated and also the costs to Champaign County for adding this program. He said that all of this was
42 done through the *Clean Water Act* and it is a requirement that should have been in place a couple of years

1 ago.

2

3 Mr. Thorsland stated that staff emailed the memorandum to ELUC and it is also included in the notebook.
4 He said that the memorandum discussed at least two extra trips for staff and the estimate in the MS4 was
5 five lots that would be affected.

6

7 Mr. Hall stated that for the first eight months of fiscal year 2013 staff had five major permits in the MS4 area
8 therefore if these rules would have been in place there would have been at least 20 inspections conducted.
9 He said that just limiting this to the MS4 area will still be a challenge for staff.

10

11 Ms. Lee asked Mr. Hall if Mr. Sebens' property is in the MS4 area.

12

13 Mr. Hall stated no. He said that before Ms. Lee came onto the Board the ZBA heard a case that was similar
14 to Mr. Sebens' case and that previous case is located in the MS4 area. He said that construction for the
15 previous case has not started yet but will begin before this amendment is adopted.

16

17 Ms. Lee asked if this amendment could create a situation that would allow more water to flow onto adjacent
18 properties which is contrary to what is allowed currently.

19

20 Mr. Hall stated that this amendment should not result in any increased flows. He asked Ms. Lee why she
21 believes that the amendment will increase the flows.

22

23 Ms. Lee stated that Mr. Sebens is proposing to build additional buildings which will create more runoff for
24 the farmland that is downstream.

25

26 Mr. Hall stated that Mr. Sebens' proposal will do that and that is what is already regulated under the Storm
27 Water Management Policy. He said that there will probably be less runoff from Mr. Sebens' property if he
28 goes ahead with the development and does the storm water drainage plan.

29

30 Ms. Lee asked if the runoff will be less than it is currently.

31

32 Mr. Hall stated yes, due to the required detention pond.

33

34 Ms. Lee asked if due to this ordinance there will never be an increase of runoff downstream to any
35 agricultural land.

36

37 Mr. Hall stated no, not as a result of any changes that are being made here.

38

39 Mr. Thorsland stated that the ordinance should reduce the amount of sediment.

40

41 Mr. Passalacqua asked if the person who is required to obtain a minor permit will be held to the same
42 standard as the people who have the major permit in regards to silt screening and practices for construction.

1 He said that the standards will be the same and it is just the criteria for which permit and if a permit is
2 required. He said that nothing is really being changed other than there will be more people involved in this
3 than there was before.

4
5 Mr. Hall stated yes and those are the people who have no interest in erosion control and don't even know
6 what it means because they have never had to do it and that is why the technical appendices for the minor are
7 really essential. He said that this draft ordinance is based on the ordinance that Champaign and Urbana
8 developed when they adopted their erosion control. He said that the County's ordinance is based loosely on
9 the Champaign and Urbana ordinance because it was an ordinance being adopted by a city engineering
10 department staffed by many professional engineers who are present on a daily basis. He said that engineers
11 have more discretion than the County Zoning Administrator has in being a simple planner at the Department
12 of Planning and Zoning. He said that the proposed ordinance looks a lot different than the one for
13 Champaign and Urbana but it is as close as is can be and the technical appendices are copies of what
14 Champaign and Urbana has and the one problem with them is that they do not have good examples for a
15 rural situation. He said that for the major permit the examples are not important because the engineer that is
16 involved will know what to do but for the minor permit the County will need to provide good handouts for
17 its citizens. He said that this will end up looking like what Woodford County has adopted because they have
18 been doing things like this since before 1999 when they came in under the Phase I. He said that Woodford
19 County has a good ordinance and that is what much of the proposed ordinance is based upon. He said that
20 the Woodford County Ordinance is included as an attachment along with their handout. He said that
21 Woodford County has processed 50 minor permits.

22
23 Ms. Capel asked Mr. Hall if Woodford County's Ordinance covers the entire county.

24
25 Mr. Hall stated yes and they do not limit the amount of lots that can be created therefore the lots do not have
26 to be approved by the RRO process or anything similar.

27
28 Mr. Passalacqua stated that the standards which the major permit is being held to are federal EPA
29 requirements but we do not have a federal guidelines for the minor.

30
31 Mr. Hall stated that the minor is actually based on that because the federal guideline indicates one acre of
32 disturbance or more in a common plan of development. He said that this is the biggest change with these
33 rules because right now many people don't realize that they are within a common plan of development but in
34 the future they will know.

35
36 Mr. Passalacqua stated that his subdivision was sold to individuals who purchased small pieces of 17 acres.

37
38 Mr. Hall stated that if, a subdivision like Mr. Passalacqua's could be created now which can't due to the
39 RRO requirements, there would be erosion controls required which is why he will say that RROs out in the
40 remote rural area in the near future will find out that they are part of a common plan of development. He
41 said that they will need to comply but because of the way that the MS4 area is they won't have to get the
42 LDEC permits. He said that they will still have an issue of compliance with the EPA, just like they have

1 today, although they are not aware of it.

2
3 Ms. Lee asked Mr. Hall how this will affect the rural areas and what part of this will apply to them.

4
5 Mr. Hall stated that it is really only going to apply to the rural area when there is a subdivision plat or a plat
6 of survey that shows two or more lots. He said that it will not affect the homes that are already out in the
7 rural areas because under the current rules we are only required to enforce this in the MS4 area and that is
8 based on an EPA requirement. He said that some people think that the EPA requirement will change in the
9 future. He said that if the EPA requirement changes so that this has to be applied in a broader area then we
10 will have to make that change at that time but right now he does not see this ever affecting anyone who is out
11 in the rural area already. He said that as people divide land and sell off lots that the County allows you to do
12 those lots will be subject to it.

13
14 Mr. Randol asked Mr. Hall about land that has a pre-annexation agreement with a municipality. He asked if
15 the land would still be outside the village's jurisdiction and the County would have oversight.

16
17 Mr. Hall stated no. He said that if an annexation agreement results in a larger common plan of development
18 disturbing an acre or more the ILR10 requirements will still apply but will have to be enforced in a different
19 way. He said that the County will not have anything to do with it because once there is an annexation
20 agreement it is between that municipality and the landowner and if it is municipality that is not Champaign,
21 Urbana or Savoy it will be between the landowner and the EPA. He said that other municipalities may not
22 have anything about this in their ordinance but hopefully they do because it is an existing requirement.

23
24 Mr. Hall stated that the hardest thing to understand about this proposed ordinance is what impact it will
25 have in the rural areas. He said that if you are already out in the rural area it won't affect you unless you are
26 disturbing more than one acre. He said that staff often receives calls about people grading large areas of land
27 and the County has no requirements regarding grading currently in any of the ordinances unless you are in
28 the floodplain. He said that in the future if someone is disturbing one acre or more staff will contact them to
29 let them know that they are supposed to have an ILR10 permit and that is between the landowner and the
30 EPA. He said that if they need a permit from the County they are going to have to prove that they obtained
31 an ILR10 permit but they won't have to go through any special permitting with the County unless they are
32 within the MS4 area.

33
34 Ms. Lee stated that Ms. Capel asked a question about mines and Mr. Levy indicated that the County has no
35 control over them.

36
37 Mr. Thorsland stated that Mr. Levy indicated that mines would be under an industrial permit which would be
38 an entirely different process.

39
40 Ms. Lee asked if mines are subject to the ILR10 permitting requirement.

41
42 Mr. Hall stated that mines would be subject to a different permit but it is essentially the same thing because

1 they have to make sure that they minimize the pollution that can be carried off by storm water. He said that
2 concrete plants are also under the industrial rule and our own highway engineering building for the salt
3 storage is considered an industrial use. He said that there are a lot of different industrial uses that already
4 have standards that have to be met and this ordinance applies to those but for a mine the County does not
5 have zoning jurisdiction therefore it will not be an issue for the County.
6

7 Ms. Lee stated that the ordinance does not cover any municipalities in the County.
8

9 Mr. Hall stated that the ordinance only covers those in the MS4 area.
10

11 Mr. Passalacqua asked if the garage project that he completed in 2013 would have been an issue.
12

13 Mr. Hall stated that it would only be an issue if Mr. Passalacqua disturbed an acre or more of land for that
14 garage project.
15

16 Mr. Thorsland stated that he worked with the Champaign County Soil and Water Conservation District to do
17 waterways on his 20 acres.
18

19 Ms. Capel stated that the waterways are considered agriculture and are exempt.
20

21 Mr. Thorsland stated that CCSWD still followed those guidelines when they did all of the work and that is
22 all recorded at their office.
23

24 Ms. Lee asked Mr. Levy if he foresees agriculture not being exempt in the future.
25

26 Mr. Levy stated no.
27

28 Mr. Thorsland called Herb Schildt to testify.
29

30 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that he is the Chairman of the Newcomb
31 Township Plan Commission and the Newcomb Township Board has requested that the Newcomb Township
32 Plan Commission review Case 769-AT-13. He said that Case 769-AT-13 is on the Newcomb Township
33 Plan Commission's March agenda. He said that he has spent some time reviewing the case and he has a few
34 questions and comments but before he begins he would like to emphasize that at this time he is not speaking
35 for Newcomb Township and the questions and comments that follow are his alone and only reflect his
36 personal viewpoints at this time.
37

38 Mr. Schildt stated that the Memorandum dated October 29, 2013, to the Environment and Land Use
39 Committee states that Section 6 is going to contain optional amendments. He asked Mr. Hall if that is still
40 the case.
41

42 Mr. Hall stated yes.

1
2 Mr. Schildt asked Mr. Hall if the February 4, 2014, Draft Storm Water Management and Erosion Control
3 Ordinance, indicated on the website is still the most current version for review.
4
5 Mr. Hall stated yes.
6
7 Mr. Schildt stated that from the language in Section 4.1.D. it appears that, with the exception of agriculture,
8 the requirements of Section 6 apply to all areas of the County including individual residences. He asked Mr.
9 Hall if his understanding of Section 4.1.D. is correct.
10
11 Mr. Hall stated that Section 7 already applies and is in the County's existing policy and that is where it
12 establishes that Section 6 applies everywhere.
13
14 Mr. Schildt stated that the waivers and variances to Section 6 appear to be supported by a language in
15 Section 17. He said that Section 17 seems to state that the ZBA can grant a waiver or a variance to anything
16 in Section 6 or anything else in the ordinance. He asked Mr. Hall if his understanding of that is correct.
17
18 Mr. Hall stated that it is not a prohibited variance.
19
20 Mr. Schildt stated that the definition of land disturbance seems problematic. He said that the definition is
21 too narrow because when he read it things came to mind such as patios, driveways, above ground pools,
22 walkways and landscaping in general. He said that what is problematic is trying to enumerate the list of
23 exemptions and he would recommend exempting single-family residences. He said that Section 4.2.D. under
24 Storm Water Drainage Exemptions states: individual single family and two-family detached dwellings and
25 related accessory structures on a single lot. He said that the ordinance could affect some existing residences
26 if the letter of the law is applied strictly.
27
28 Mr. Hall stated that there is a basic 10,000 square foot exemption so even preparing your garden in the
29 spring is a land disturbance and if you are in the MS4 area as long as you do not disturb more than 10,000
30 square feet it is never an issue. He said that in the rural area it would be one acre and if someone has a
31 garden that is one acre in size then perhaps it isn't a garden but would be considered agriculture. He said
32 that even in the MS4 less than 10,000 square feet is exempt and no permit is required.
33
34 Mr. Schildt stated that Section 4.1.D. states that the requirements listed in Protect Existing Drainage and
35 Water Resource (Section 6) and Easements (Section 7) shall apply to all subdivisions and to all Zoning Use
36 Permits and to all land disturbance regardless of the amount of area involved or percent of impervious
37 surface area, but shall not apply to agriculture.
38
39 Mr. Hall stated that Section 6 regulates erosion and sedimentation on a neighboring property. He said that
40 Section 6 adds the new sump pump discharge separation from a roadside ditch or offsite swale, stream,
41 property line or in such a way that it creates a nuisance condition at any time of the year or contributes to
42 erosion. He said that Section 6.1.E. indicates that no sump pump discharge or storm water shall be directed

1 to any sanitary sewer. He said that Section 6.4 states that no waste or debris that results from construction
2 activities shall be carried off the site by either wind or water. He said that these rules are intended to be
3 common sense things.

4
5 Mr. Thorsland stated that the definition includes the text, "not limited to," which means that not everything
6 is called out. He said that as Mr. Hall pointed out common sense would apply. He asked Mr. Hall if Mr.
7 Schildt had a particularly large garden or was building a very large patio how would anyone know that he
8 was doing that or was violating the ordinance. He asked Mr. Hall what would trigger staff or the EPA to
9 investigate.

10
11 Mr. Hall stated that it is inconceivable that building a patio outside of the MS4 area would ever be a
12 problem.

13
14 Mr. Schildt stated that he understands the pressures for the MS4 area and the reason why he is bringing these
15 concerns before the Board tonight is because of the time pressures therefore he does not want to give the
16 wrong impression. He said that when he sees the 10,000 square foot exemption he sees it referring to
17 Section 4.3 which is the LDEC permit exemptions and did not recall it being relative to Section 6. He said
18 that he does not understand how that exemption can apply to the Section 6 requirements.

19
20 Mr. Hall stated that he wasn't certain as to how limited his comments were.

21
22 Mr. Schildt stated that it has taken a while for him to wrap his head around this because it is so big but he
23 was referring strictly to the Section 6 requirements which are optional and he does not see them being
24 exempted by the 10,000 square foot rule and if that is the intent then it should be written in there.

25
26 Mr. Hall stated that they are not exempted by the 10,000 square foot rule.

27
28 Mr. Schildt stated that Section 4.1.D. states, "all Zoning Use Permits and to all land disturbance regardless
29 of the amount of area involved," therefore since the 10,000 square foot exemption does not apply to Section
30 6 and this is referring specifically to Section 6 it doesn't exempt it. He said that there needs to be an
31 exemption there because the enumerated exemptions are too small and he would recommend exempting
32 activities around single family residences.

33
34 Ms. Lee stated that she believes that Section 6 goes along with the common law regarding drainage because
35 landowners are not supposed to create more water flow on landowners downstream from your property.

36
37 Mr. Schildt stated that he did not read Section 6 as to referring to that and he is concerned with the
38 underlined additions that are being made to the underlined portions of Section 6. He said that Section 6.1.D.
39 refers to the new sump regulation and reads as follows: No sump pump discharge or discharge from any
40 private wastewater treatment system shall discharge directly into or within 25 feet of a roadside ditch, off-
41 site drainage swale, stream, property line, or in such a way that it creates a nuisance condition at any time of
42 the year or contributes to erosion. He said that anyone with a basement that lives in the rural areas, probably

1 has a sump pump therefore Section 6 could potentially affect a lot of people. He said that if a landowner's
2 sump pump has never caused a problem in a house that has been there for 40 years and the landowner comes
3 to the Department of Planning and Zoning for a permit to build a garage the application process would
4 require the landowner to indicate where the sump pump discharges to confirm that it wasn't within 25 feet of
5 a swale. He said that an existing resident of Champaign County could actually run afoul of this after the fact.
6 He asked Mr. Hall if his interpretation of this is incorrect or is it possible.
7

8 Mr. Hall stated that as we discussed previously the 25 feet is a new rule that just went into place in February
9 and he is not aware that it grandfathers existing discharges. He said that he wants to show the ZBA the rule
10 that is in place right now throughout the State of Illinois for sump pump discharges and if we can grandfather
11 them then he will recommend doing so but if we can't then he will not recommend it. He said that Section 6
12 discusses sump pump discharges and stockpiles of 100 cubic yards or more and whether or not you should
13 be concerned about how close it is to stream or a ditch. He said that Section 6 also discusses waste and
14 debris that leaves a construction site and construction or land disturbance within 30 feet of the top of the
15 bank of a ditch, stream or drainage ditch. He said that this Board needs to determine if these are reasonable
16 rules that make sense or not.
17

18 Mr. Schildt stated that he was going to recommend that the grandfather clause is fundamental otherwise the
19 consequences could be dire for some people. He said that if someone wanted to build onto their house and
20 they find out that their sump pump discharge is discharging 24 feet away from a drainage swale they would
21 have to pay to reroute it even though it has never caused a problem. He said that grandfathering is the fair
22 and right thing to do and Champaign County has always acted correctly in these regards.
23

24 Mr. Thorsland asked Mr. Schildt if he would like to see potential violations in Section 6 or all of this as it
25 applies grandfathered if possible by the law for single family homes.
26

27 Mr. Schildt stated that he is concerned about Section 6.4.E. He said that Section 6.4.E. indicates that No
28 construction or land disturbance pursuant to construction shall occur within 30 feet of the top of the bank of
29 a drainage ditch or stream or within 30 feet of the centerline of a drainage swale. He said that he cannot
30 understand why Section 6.4.E. is included.
31

32 Mr. Hall stated that there are certain things that you can do within 30 feet of a stream and those are outlined
33 in 6.4.E. but other than that, since we are trying to prevent water pollution from land disturbance, why would
34 you have to disturb the land that is within 30 feet of a stream.
35

36 Mr. Schildt stated that he errs on the side of private property rights. He said that this came up back in the
37 Comprehensive Zoning Review days and a comment was made about Frank Lloyd Wright's house, "Falling
38 Water," which is probably one of the most famous houses in America and it could not be built with this
39 regulation. He said that the architect and engineers should be able to determine whether a house is too close
40 to an embankment and should not be written into the zoning code in 2014.
41

42 Mr. Hall stated that in the instance of Frank Lloyd Wright's home, "Falling Water," he could apply for a

1 variance.

2

3 Mr. Schildt asked how someone could spend the money involved in designing a home with that concept in
4 mind knowing that they might be turned down.

5

6 Mr. Thorsland stated that rather than discussing the proposed ordinance's effects to Frank Lloyd Wright we
7 should move on to Mr. Schildt's next concern.

8

9 Mr. Schildt stated that his recommendation would be to strike Section 6.4.E.

10

11 Mr. Hall stated that staff can provide the Board with all the things that could be built pursuant to a statewide
12 or regional permit.

13

14 Mr. Schildt stated that Section 6.4.D. refers to stockpiles of materials. He asked if stockpiles of materials
15 and sump pumps in the rural area, outside of the MS4, have been a problem.

16

17 Mr. Hall stated that staff has received complaints regarding sump pumps but staff has not received
18 complaints about stockpiles.

19

20 Mr. Schildt asked Mr. Hall to elaborate on what types of complaints staff has received regarding sump
21 pumps.

22

23 Mr. Hall stated that staff has received complaints regarding nuisance wet spots, etc.

24

25 Mr. Schildt stated that one of the things that occurred to him regarding the sump pump regulation was a
26 possible conflict because if you can't direct the water towards some sort of normal natural drainage, basically
27 rain water, then you are left with it pooling up in your backyard which creates a mosquito breeding ground
28 which is a nuisance. He said that if the sump pump regulation is not taken out perhaps it can be looked at
29 again or made so that conflicts don't exist.

30

31 Mr. Thorsland stated that it doesn't state that you have to make it pool but does tell you that you have to be
32 25 feet away from the waterway therefore it doesn't mean that you could not direct the discharge towards the
33 waterway to give it a buffer zone. He said that the regulation just states that the discharge cannot be 24 feet
34 from the waterway.

35

36 Mr. Schildt stated that new construction is not the issue but existing cases where you might tell someone that
37 they have to fix something that is not broken.

38

39 Mr. Schildt stated that Sections 2.D and 2.E are under the purpose of the ordinance. He said that Section 2
40 begins as follows: The purpose of this ordinance is to accomplish the following: He said that 2.D. and 2.E.
41 reads as follows: 2.D: Conserve, preserve and enhance the natural resources of the County, including its
42 soils, waters, vegetation, fish and wildlife; and 2.E: Promote public welfare and protect waters under the

1 *Clean Water Act* by guiding, regulating and controlling the design, construction, use and maintenance of any
2 development or other activity that disturbs soil on land situated within the County. He said that while he
3 does not have a problem per say with those statements he would ask why they have been added to something
4 that is called the Storm Water and Management Control Ordinance.

5
6 Mr. Hall stated that those are the kinds of things that the *Clean Water Act* is requiring the County to do to
7 meet the NPDES requirement.

8
9 Mr. Schildt asked Mr. Hall if they have to be included in the ordinance.

10
11 Mr. Hall stated that the purpose there is to be honest and that is what this ordinance is intended to do. He
12 said that we could leave them out of the purpose but we may get questions from the EPA as to why we are
13 not trying to do this or that.

14
15 Mr. Schildt stated that the only reason why he brought this up is because he believes that the best law is
16 focused, narrow and specific and it did not seem that these things are related to this ordinance.

17
18 Mr. Schildt stated that a practical thing that is important is that Section 4.3 has a possible typo. He said that
19 the first sentence in Section 4.3, Permit Exemptions reads as follows: All land disturbance activities meeting
20 the following conditions are exempt from the Land Disturbance Erosion Control Permit requirements. Mr.
21 Schildt asked Mr. Hall if the sentence should be revised to read the following: All land disturbance activities
22 meeting any of the following conditions are exempt from the Land Disturbance Erosion Control Permit
23 requirements.

24
25 Mr. Hall stated that Mr. Schildt was correct with his recommended revision to the first sentence in Section
26 4.3.

27
28 Mr. Schildt stated that it is his recommendation that review this be split into two cases. He said that one
29 case would be related to the MS4 portion and the second case would be related to the optional amendments
30 which are mostly added to Section 6. He said that by splitting this into two cases would streamline the
31 adoption of the MS4 amendments and make it a cleaner process.

32
33 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt.

34
35 Ms. Lee stated that during discussion of Section 6.4 Mr. Schildt made a comment about being 30 feet from
36 the drainage ditch and that he saw no purpose in having Section 6.4.E. She said that drainage ditches do
37 maintenance work therefore they need the 30 feet so that no construction can occur there and that is true for
38 all drainage ditches in the County. She said that doing away with Section 6.4.E. would be very detrimental
39 to the agricultural community.

40
41 Mr. Schildt stated that he farms therefore Ms. Lee is preaching to the choir.

42

1 Ms. Lee stated that she and her husband farm as well and her husband is a drainage district commissioner.
2
3 Mr. Schildt stated that his point is that perhaps we could look at this a different way in that perhaps there is a
4 way that we can protect the drainage ditches which are a part of drainage districts. He said that his house is
5 above the Sangamon River and it is wooded underneath therefore he tends to think in terms of someone
6 building in that situation more than along an agricultural drainage ditch. He said that perhaps this could be
7 mitigated in some sense to accommodate the concerns that were expressed for drainage districts.
8
9 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt and there were none.
10
11 Mr. Thorsland asked if staff had any questions for Mr. Schildt and there were none.
12
13 Mr. Thorsland called Don Wauthier to testify.
14
15 Mr. Don Wauthier, who resides at 1831 Tahoe Court, Champaign, stated that he is employed by Berns,
16 Clancy and Associates Engineers and he has provided written comments on behalf of BCA. He said that it is
17 his opinion that the ordinance is pretty well written, other than a few typos or glitches, and it is something
18 that the County has to do because it is mandated by the Federal EPA. He said that the ordinance provides
19 the regulations that the County needs to provide to meet the Federal EPA requirements and minimizing the
20 additional efforts and expenses that will be incurred by the local citizens and staff. He said that he has
21 written four or five of these ordinances for other government agencies and this ordinance is a pretty clean
22 and straight forward adoption of the requirements.
23
24 Mr. Wauthier suggested that the MS4 map be made easier to read for the average citizen to determine
25 whether they are included in the MS4 area or not. He said that nice lines down specific streets creating nice
26 squares would be easier and if you include a few people who are in that could have been out, well ultimately
27 the municipality will expand over time and MS4 area will expand over time as well. He said that the issue
28 of stockpiling dirt adjacent to the ditch is actually a problem during residential development because what
29 tends to happen is that the stockpile of dirt from the basement for the house is in placed in the backyard next
30 to the channel. He said that there was a house built last summer where the stockpile dirt was placed five feet
31 from the water of a drainage district ditch and the drainage district and the County complained and it took
32 weeks to get that homebuilder to deal with that issue. He said that fortunately it was dry and we didn't have
33 any rain but if we would have had a big flood all of that dirt would have washed away in to that creek. He
34 said that it does happen more than you think because people put the dirt in the back yard.
35
36 Mr. Hall stated that he is glad that Mr. Wauthier mentioned this situation and he plans to go back and review
37 that permit. He said that the property was located within the MS4 area but he does not know if they
38 disturbed more than 10,000 square feet and this is a good example where it pays to have a stockpile standard
39 that applies across the board.
40
41 Mr. Wauthier stated that the lot was probably right at that 10,000 square foot lot size and when you are doing
42 a pre-existing lot that has been out there and hasn't been built upon for a long time the entire property is

1 disturbed. He said that a lot of the time in residential development the drainage plan that was actually
2 created for the subdivision gets screwed up by the landscaper after the house is built because they don't care
3 about the drainage but only making the landscaping look good. He said that many times there is a swale on
4 the property but the landscaper installs a berm for a flower bed or something therefore it is a never ending
5 fight with residential development when the landscaper come into the picture.
6

7 Mr. Thorsland stated that typically in his area when someone want a basement on soil that has poor drainage
8 the contractor builds a hill and the first thing that happens is that the hill ends up in the road the entire time
9 that the home is being built because it runs into the road and every truck that goes in there brings it out and
10 eventually they finally end up with this mountain with channels.
11

12 Mr. Wauthier stated that whether the house lot is 10,000 square feet or 9,000 square feet having minimum
13 basic soil erosion control features around that lot is a good thing and it doesn't cost much and it will help
14 keep that soil on the site all of the time.
15

16 Mr. Thorsland asked the Board if there were any questions for Mr. Wauthier and there were none.
17

18 Mr. Passalacqua stated that as he drives around Champaign he sees violations all of the time. He asked if the
19 EPA is the governing body for Champaign. He said that it is not unusual for him to see trucks leaving job
20 sites which leave dirt trails or incomplete silt fences.
21

22 Mr. Hall stated that a truck can leave a dirt trail but it has to be cleaned up by the end of the day.
23

24 Mr. Passalacqua stated that many times that does not happen therefore who enforces these violations.
25

26 Mr. Hall stated that MS4 group meets quarterly and an EPA person attends those meetings and at almost
27 every meeting violations are discussed. He said that violations happen almost every day and not all of them
28 are caught but when they are caught they are followed up on. He said that engineering staffs are nothing
29 more than human organizations and they will try to do better next time but keeping some of these contractors
30 in check is difficult. He said that these erosion and sedimentation violations are difficult to control because
31 they are managed daily and that is why he hopes that staff does not have to do this outside of the MS4 area.
32

33 Mr. Passalacqua stated that not to belittle the ordinance agriculture is exempted even though dirt is being
34 moved around all of the time yet we are placing our efforts on the this small area.
35

36 Mr. Thorsland stated that Mr. Levy presented a slide that indicated the difference between an acre of
37 construction and one acre of row crop.
38

39 Mr. Passalacqua stated that he agrees with the intent but there is a discrepancy between row crops with tons
40 of erosion per acre versus a construction site.
41

42 Ms. Lee stated that there are practices being conducted in agriculture which assists with erosion such as "no

1 till” and strip farming because it is in the best interest of the farmers to not lose the top soil.
2
3 Mr. Thorsland stated that one of our biggest issues in Champaign County is that a lot of the farmers who
4 farm the large acreage plots are not the owners of the acreage itself therefore their goal is to maximize the
5 acreage, pay the rent, and move forward to the next field.
6
7 Mr. Hall stated that when ELUC voted on sending this to a public hearing they did approve the discretionary
8 portion for the public hearing but there is a lot of reservation whether or not Section 6 will be in the final
9 version. He said that there are some County Board members that he knows will never support it and the
10 question is whether the County Board wants it or not. He said that this has been divided into parts that can
11 be taken out but right now we need to focus on what the ZBA wants to recommend.
12
13 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
14 regarding Case 769-AT-13 and there was no one.
15
16 Mr. Thorsland closed the witness register for tonight’s hearing.
17
18 Mr. Thorsland asked Mr. Hall if there is anything else that the Board needs to focus upon other than the
19 information provided in the blue binder. He asked Mr. Hall if he had a continuance date in mind.
20
21 Mr. Hall stated that we do not have anything on the agenda for February 27th therefore the Board could
22 continue this case to that date so that there could be another question and answer session. He said that he
23 cannot promise the Board that he will have any additional information available for this case by that date but
24 perhaps Mr. Levy will have materials for the Board.
25
26 Mr. Thorsland stated that since the notebook is full of materials for review he would like the opportunity to
27 read through the materials. He said that if the Board continues Case 769-AT-13 to the February 27th meeting
28 the Board could present any questions or concerns at that meeting.
29
30 Ms. Lee stated that it would be helpful if staff could indicate what portions of the ordinance came from the
31 *Clean Water Act* and what portions are from the EPA so that the Board knows what portions are set in
32 concrete and what portions can be amended.
33
34 Mr. Hall stated that he cannot stress enough how looking at the *Clean Water Act* is of little help. He said
35 that the *Clean Water Act* and the NPDES regulations are easy to read but again they are not a lot of help. He
36 said that the very last attachment included in the notebook is a table that Mr. Levy prepared and it compares
37 the County’s draft to Urbana’s draft and it indicates what directly comes from Urbana’s draft. He noted that
38 Urbana’s draft was prepared for the same purpose and has been in place since 2007. He said that most of
39 what the draft from Urbana didn’t have is the information in Section 6 and some other minor things but a lot
40 of this did come from Urbana even though it has been reworded.
41
42 Ms. Lee stated that she did read the basic information that was provided by staff for tonight’s meeting and

1 she does believe that the ordinance is well drafted for the intent of controlling soil erosion.
2
3 Mr. Thorsland stated that there are two or three other ordinances included in the notebook for review. He
4 said that it is very important for the Board to read all of the information provided by staff in the notebook so
5 that at the next meeting the Board can pose any questions or concerns that the Board may have.
6
7 Mr. Hall stated that Section O in the notebook includes a model ordinance from 1991 and the organization
8 no longer has the same name. He said that the ordinance was a really good ordinance when it was written
9 and unlike any other ordinance it has commentary that is very helpful and is interesting to read. He said that
10 reviewing the ordinances is probably one of the most useful things that the Board can do at this point and
11 that review may help the Board come up with questions as to why they are seeing either a constant standard
12 or not seeing a standard that someone else has. He said that we need to meet the NPDES requirements and
13 we want to do it in a reasonable way that makes sense therefore reviewing what other people have done is
14 one way of doing that. He said that he would like to have a checklist of everything that we have to do to
15 meet the MS4 requirement and the closest thing that comes to that is included in Section L of the notebooks
16 which is the ILR10 permit.
17
18 Ms. Lee asked Mr. Hall if he will have a better checklist when the audit is conducted.
19
20 Mr. Hall stated that he is sure that he will have a good checklist after the audit is completed.
21
22 Mr. Passalacqua stated that he agrees with Mr. Wauthier regarding the erratic borders on the MS4 map
23 because there could be people who are not included or who are included. He said that he believes that all
24 government lacks simplicity and some straight lines would simplify things.
25
26 Mr. Hall stated that staff will work on making a map of the MS4 area larger and with better resolution. He
27 said that the boundary was drawn by the census and was based upon population density and some other
28 things therefore the lines are what they are. He said that if the Board believes that other areas should be
29 included to reduce confusion then staff can consider it but every acre that is added to the MS4 area that does
30 not have to be added adds more regulations.
31
32 Mr. Thorsland stated that it appears that there are parts on the current map that are just vacant ground and
33 there are other parts that appear that they should be included but were not.
34
35 Mr. Randol stated that these reasons are why we are the Zoning Board of Appeals and if someone has a
36 conflict they can come to Board.
37
38 Ms. Lee asked if Case 769-AT-13 will be the only case for the next meeting.
39
40 Mr. Hall stated yes. He said that it is too late to advertise any new cases. He said that there would have been
41 cases on the February 27th meeting date but staff did not receive the materials that were required for
42 advertisement.

1
2 Mr. Thorsland entertained a motion to continue Case 769-AT-13 to the February 27, 2014, meeting.
3

4 **Ms. Lee moved, seconded by Mr. Randol to continue Case 769-AT-13 to the February 27, 2014,**
5 **meeting. The motion carried by voice vote.**
6

7 **7. Staff Report**
8

9 Mr. Hall stated that staff advertised for interns and the advertising period ceased on February 12th. He said
10 that he has made calls to applicants but no decision has been made but he will keep the Board updated.
11

12 Ms. Lee requested a status regarding the violation involved in Case 764-V-13, Harshbarger, Copple and
13 Schum.
14

15 Mr. Hall stated that Mr. Harshbarger called after receiving the notice and long before the deadline and
16 indicated that he is planning on moving the building which is in violation. He said that Mr. Harshbarger
17 indicated that it will cost approximately \$5,000 to move the entire building by the 7-1/2 feet that is needed.
18 Mr. Hall stated that anyone that calls our office about the property indicates that they would like the garage
19 to remain at it is currently. He said that it is going to take until April or early May to get the project
20 completed.
21

22 Mr. Passalacqua asked Mr. Hall if the property is still on the market.
23

24 Mr. Hall stated that the previous sales contract expired but other people have called regarding their interest
25 in the property and they are informed of the problems. He said that he expects the property to be sold before
26 the building is moved.
27

28 Mr. Passalacqua asked Mr. Hall if the statement from Mr. Harshbarger indicating that he is going to move
29 the building is enough for the Board to move forward.
30

31 Mr. Hall stated that we have to give Mr. Harshbarger a chance to move the building.
32

33 Mr. Passalacqua stated that we did that before.
34

35 Mr. Hall stated that Mr. Harshbarger did not receive a final notice before and it is too bad that he didn't go
36 ahead but people are people and we were not there to make him do it. He said that we are there now and we
37 have gotten a reply, which is all that we can ask for, and now we have to wait to make sure that it gets done.
38

39 **8. Other Business**

40 **A. Review of Docket**
41

42 Mr. Thorsland stated that Ms. Capel has indicated that she will be absent from the February 27th meeting.

1 He said that he will absent from the March 13th meeting. He asked the Board if anyone else will be absent
2 from any meetings and there was no one at this time.
3

4 **B. Cancellation of March 27, 2014, meeting**
5

6 Mr. Thorsland stated that Mr. Hall will be absent from the March 27th meeting and no cases have been
7 scheduled on the docket for this meeting date.
8

9 Mr. Thorsland entertained a motion to cancel the March 27th meeting.
10

11 **Ms. Capel moved to cancel the March 27th meeting.**
12

13 Mr. Hall stated that the only possible reason the Board may want to not cancel the meeting is to have the
14 opportunity to discuss Case 769-AT-13.
15

16 Mr. Thorsland stated that perhaps the Board should consider this cancellation again at the February 27th
17 meeting.
18

19 **Ms. Capel withdrew her motion.**
20

21 **9. Audience Participation with respect to matters other than cases pending before the Board**
22

23 None
24

25 **10. Adjournment**
26

27 Mr. Thorsland entertained a motion to adjourn the meeting.
28

29 **Mr. Passalacqua moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice**
30 **vote.**
31

32 The meeting adjourned at 8:21 p.m.
33
34

35 Respectfully submitted
36
37
38
39

40 Secretary of Zoning Board of Appeals
41
42

CASE NO.S 766-AM-13 and 767-S-13

SUPPLEMENTAL MEMORANDUM

March 7, 2014

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

Petitioner: Eric L. Sebens d.b.a.
Prairieview Landscaping

Case 766-AM-13

Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13.

Case 767-S-13

Request: Authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

Location: A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR900E, Champaign.

Site Area: 5 acres

Time Schedule for Development: Existing and As Soon As Approval Is Given

Prepared by: John Hall
Zoning Administrator

STATUS

These cases are continued from the 1/30/14 meeting and Draft minutes of that meeting are included separately.

A Revised Site Plan was received on 3/4/14. See attached. Review comments were provided to the Petitioner on 3/5/14 and are reviewed below.

The Petitioner also sent the attached letter to the neighboring farmer.

REVISED SITE PLAN RECEIVED 3/4/14

Draft review comments were provided to the Petitioner on 3/5/14. The review comments were generally as follows:

1. There is no indication of the total number of individual self-storage units and it is essential to know the number of units because that will indicate the maximum number of customers and vehicle traffic. Please indicate the maximum number of self-storage units.
2. Regarding the proposed storm water drainage plan:
 - A. Because this is a preliminary site plan there is no indication of the proposed topography for the self-storage warehouse area but it is assumed that runoff from all of the buildings and pavement will be directed toward the proposed detention basin.
 - B. The detention basin is proposed to be “on stream” which is to say, constructed such that it intercepts the water that flows in the existing drainage swale. The Stormwater Management Policy does not prohibit “on stream” detention but there appears to be ample area to locate the basin outside of the swale. The County’s consulting engineer has been asked to take a look at the proposed basin and provide any comments that are feasible at this time.
3. Regarding site security, the following security measures were provided for the most recent rural self-storage warehouse and are compared to the Revised Site Plan:
 - A. Fencing was installed around the perimeter of the property.

The Revised Site Plan indicates a fence around the proposed self-storage warehouses.
 - B. Customers were proposed to have 24 hour access to the storage units by means of a gate that customers would enter through that will be locked and a code will be required to unlock the gate. Note that the Fire Protection District must also be provided the code to unlock the gate.

The Revised Site Plan indicates a gate but there is no mention of how access will be limited.
 - C. Security cameras were to be installed in sufficient numbers to provide views of all units and all cameras shall be monitored from the office.

Will security cameras be utilized and if so please add a statement of explanation to the Revised Site Plan?
4. The proposed driveway entrance to the self-storage warehouse is at a low point between two crests in Duncan Road but there appears to be adequate stopping sight distance. Has there been any problem with visibility at the existing driveway entrance for the contractor facility?
5. The self storage warehouse access gate is proposed at the edge of the right of way and there is no information explaining how the gate will operate. Will customer vehicles to the self storage warehouse queue on Duncan Road while the gate is being opened?

A better location for the gate (from a public perspective) would be on the north side of the self storage area at least 35 to 40 feet from the street pavement or a sufficient distance such that a fire truck can pull off the pavement. A gate at that location would allow self storage traffic to pull completely off the street at the same location as the driveway to the contractor facility.

6. Has a copy of the Revised Site Plan been provided to the relevant Fire Protection District? Are vehicle traffic aisles wide enough to allow adequate maneuvering of emergency vehicles around the corners of the self-storage area?
7. Any exterior night lighting at the self-storage warehouse must be "full cut off" as required by paragraph 6.1.2 A. of the Zoning Ordinance. Please add a note to the site plan stating that any night lighting would conform to that requirement.
8. Please add to the site plan a line demarking the minimum required 5 feet of separation between the North, West, and South property lines and all parking and outside storage areas. Will this strip of land be landscaped or maintained in anyway?
9. Statements should be added to the site plan affirming compliance with the Illinois Accessibility Code (71 Ill. Admin. Code 400) and Public Act 96-704 regarding building codes.
10. How to you plan to physically access the new hoop shed in the southwest corner?
11. Please add a statement explaining your plans for maintenance of the lot area between the West property line and the fence of the proposed self-storage area.
12. Please indicate the existing septic field and well(s) on the site plan.

ATTACHMENTS

- A Draft Minutes of January 30, 2014, ZBA Meeting (included separately)
- B Revised Site Plan received 3/4/14
- C Letter to Scott Riefsteck dated 3/4/14



*E*XPERIENCE the *D*IFFERENCE

1069 County Road 900 East (S. Duncan Rd.)
Champaign, IL 61822-9657

Phone: (217) 355-9422
Fax: (217) 378-8410

www.prairieviewlandscaping.com

Established 1993

March 4, 2014

Scott Reifsteck
1341 County Rd. 600 N
Tolono, IL 61880

Dear Scott,

I am writing to you to make contact prior to workable weather arriving. Below are the items that I believe we both feel need to be addressed regarding the relationship between our two properties. Some of these items are based on concerns you stated in the ZBA meeting last month.

- * Develop clean property lines on the North side where our properties meet.
- * Develop clean property lines on the Southwest corner where our properties meet.
- * Finish the detention wall where the 8" field tile was installed along the West property line towards the Northwest corner to improve drainage.
- * Continue to police for any debris that might blow from my property onto yours.
- * Develop a site engineered drainage plan to address any change in additional water flow as a result of any storage buildings being built.

If you feel there are any other items that require attention please let me know. Of course you can always stop by the office to talk or give me a call at 217-355-9422.

Sincerely,

Eric L. Sebens
President & GM
Prairieview Landscaping Company

RECEIVED

MAR 05 2014

CHAMPAIGN CO. P & Z DEPARTMENT

CC: John Hall ✓



Experience the Difference!