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3 **MINUTES OF REGULAR MEETING**

5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 **1776 E. Washington Street**

7 **Urbana, IL 61802**

8
9 **DATE: February 26, 2015**

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

10
11 **TIME: 6:00 p.m.**

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

15
16 **MEMBERS ABSENT :** None

17
18 **STAFF PRESENT :** Connie Berry, John Hall, Susan Chavarria

19
20 **OTHERS PRESENT :** Herb Schildt, Jeff Breen, David Kieffer II, George Stanhope, Roger Morfey,
21 Ellyn Dee, Doug Dolan

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

25
26 The meeting was called to order at 6:01 p.m.

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

29
30 The roll was called and a quorum declared present with one vacant Board seat.

31
32 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
33 the witness register for that public hearing. He reminded the audience that when they sign the witness
34 register they are signing an oath.

35
36 **2. Roll Call and Declaration of Quorum**

37
38 The roll was called and a quorum declared present.

39
40 **3. Correspondence**

41
42 None

43
44 **4. Approval of Minutes**

45
46 None

47
48 Mr. Thorsland entertained a motion to rearrange the agenda and move Cases 769-AT-13 and 773-AT-14 to

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1 the end of the agenda and move all other cases forward.

2
3 **Ms. Griest moved, seconded by Ms. Lee to rearrange the agenda and hear Cases 769-AT-13 and 773-**
4 **AT-14 to the end of the agenda and move all other cases forward. The motion carried by voice vote.**

5
6 **5. Continued Public Hearing**
7

8 **Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
9 **Ordinance by amending the Champaign County Storm Water Management Policy by changing the**
10 **name to the Storm Water Management and Erosion Control Ordinance and amending the reference**
11 **in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control**
12 **Ordinance as described in the legal advertisement which can be summarized as follows: I. Revise**
13 **existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to**
14 **have authority to prevent pollution of any stream or body of water. (Part A of the legal**
15 **advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be**
16 **new Section 2 and add purpose statements related to preventing soil erosion and preventing water**
17 **pollution and fulfilling the applicable requirements of the National Pollutant Discharge System**
18 **(NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement); and III. Add new Section**
19 **3 titled Definitions to include definitions related to fulfilling the applicable requirements of the**
20 **National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of**
21 **the legal advertisement); and IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11,**
22 **12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance**
23 **activities including a requirement for a Land Disturbance Erosion Control Permit including Minor**
24 **and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional**
25 **Area; add a requirement that land disturbance of one acre or more in a common plan of development**
26 **must comply with the Illinois Environmental Protection Agency’s ILR 10 Permit requirements; add**
27 **fees and time limits for each class of Permit; add requirements for administration and enforcement**
28 **Permits; and add new Appendices with new standards and requirements for both Minor and Major**
29 **Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement); and V. Revise existing**
30 **Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent**
31 **properties and add minimum erosion and water quality requirements for all construction or land**
32 **disturbance; and VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of**
33 **Best Management Practices. (Part H of the legal advertisement); and VII. Revise and reformat**
34 **existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R,**
35 **S and W of the legal advertisement).**
36

37 **773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County Storm Water**
38 **Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding**

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1 **the following: A. Add a requirement for a Grading and Demolition Permit for any grading or**
2 **demolition that disturbs an acre or more of land or for any grading or demolition that is part of a**
3 **larger common plan of development in which one acre or more of land disturbance will occur, and**
4 **that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;**
5 **and C. Add required information to be provided in the application for a Grading and Demolition**
6 **Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or**
7 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General**
8 **Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a**
9 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations**
10 **enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.**
11 **Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other**
12 **requirements related to Grading and Demolition Permits.**

13

14 Mr. Thorsland called Cases 769-AT-13 and 773-AT-14 concurrently.

15

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

20

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

22

23 Mr. John Hall, Zoning Administrator, stated that the Board received the January 15, 2015, Supplemental
24 Memorandum in an earlier mailing. He said that the memorandum included the revised Technical
25 Appendices D, E and new F. He said that the memorandum also included minor edits from the State's
26 Attorney's Office and the revised requirements for stockpiles to provide for greater flexibility for stockpile
27 location on smaller lots.

28

29 Mr. Thorsland stated that Attachment JJJ. is in regards to the stockpiles that Mr. Hall discussed. He asked
30 the Board if there is anything in Attachment JJJ. that should be revised or discussed.

31

32 Ms. Lee asked if this is the same memorandum that was received on January 15th.

33

34 Mr. Thorsland stated yes. He said that the Board almost has the entire March 12th meeting to discuss these
35 cases therefore the Board should have any questions regarding each case ready for discussion at that meeting
36 so that they may be finalized at that meeting.

37

38 Mr. Thorsland announced that the petitioner for Case 798-V-15 has arrived. He entertained a motion to

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1 pause the discussion regarding Cases 769-AT-13 and 773-AT-14 and hear Case 798-V-15 at this time.

2
3 **Ms. Lee moved, seconded by Ms. Capel to pause the discussion regarding Cases 769-AT-13 and 773-**
4 **AT-14 and hear Case 798-V-15 at this time. The motion carried by voice vote.**

5
6 Mr. Thorsland stated that previously the Board discussed the stockpiles and the new recommendations
7 included on Attachment JJJ. He asked the Board if they were comfortable with the revisions.

8
9 Ms. Griest stated that she thought that revisions to Attachment JJJ were fine.

10
11 Ms. Lee stated that during a previous discussion the Board was discussing stockpiles over 100 cubic yards.

12
13 Mr. Hall stated that in Section 6 the relevant volume is 150 cubic yards but in Section 11, which applies in
14 the MS4 Area, is still 100 cubic yards. He noted that the MS4 Area is only 1% of the County's jurisdiction.

15
16 Ms. Lee asked if there is a reason why there is a difference in and out of the MS4 Area.

17
18 Mr. Hall stated yes. He said that 100 cubic yards is the standard and in the MS4 Area the less chance that we
19 take to raise questions from the EPA the better off we are. He said that there is no direction from the EPA to
20 do 100 cubic yards but 100 cubic yards is what is seen in every other ordinance and 100 cubic yards has been
21 the historical threshold and was the threshold used in the old model ordinance from the Northeastern Illinois
22 Planning Commission. He said that going to 150 cubic yards is atypical.

23
24 Mr. Thorsland asked Mr. Hall if there was any outside input regarding 150 cubic yards.

25
26 Mr. Hall stated no. He said that he just arbitrarily selected 150 cubic yards.

27
28 Ms. Lee stated that at a previous meeting she remembered Mr. Passalacqua asked about having a greater
29 number.

30
31 Mr. Hall asked the Board if they have found anything in the draft evidence that they have an issue with or
32 believed that it was poorly or very well done. He said that he would like to know that the Board read it and
33 had no concerns.

34
35 Ms. Lee asked Mr. Hall if he is specifically discussing the Supplemental Memorandum dated January 15,
36 2015.

37
38 Mr. Hall stated that he is specifically discussing any of the evidence that has been drafted for the Finding of

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1 Fact.

2

3 Mr. Thorsland stated the Board needs to review and read their entire binder. He said that the Board has
4 Preliminary Findings of Facts for Case 769-AT-13 and 773-AT-14 dated January 15, 2015. He said that the
5 Board needs to be ready at the next meeting to review those two findings.

6

7 Mr. Hall stated that Case 773-AT-14 is only about the grading and demolition permit. He said that there are
8 at least three decision points in Case 769-AT-13 that the Board needs to provide recommendations to the
9 County Board: 1. ILR10 Compliance outside of the MS4 Jurisdictional Area; and 2. Proposed \$50 fee for the
10 Land Disturbance and Erosion Control Permit; and 3. Optional minimum requirements for the rest of the
11 County's jurisdiction. He said that the optional minimum requirements are located in Section 6 and consist
12 of one part of Section 6.1, most of Section 6.4 and all of Section 6.5. He said that page 32 of the Finding of
13 Fact for Case 769-AT-13 item #19 reviews all of the decision points. He said that item #19.A. is regarding
14 the optional minimum requirements and it consists of Sections 6.1.3, 6.4.A, 6.4.B, 6.4.C, 6.4.D, 6.4.E, 6.4.F,
15 and 6.5.

16

17 Mr. Thorsland stated that the Board needs to decide whether they will or will not be included in what is
18 recommended to the County Board.

19

20 Mr. Hall stated that the Board could also review pages 19-21 of the December 5, 2014, *Draft Storm Water*
21 *Management and Erosion Control Ordinance*, and it is all of Section 6.4, all of 6.5, and 6.1.F.

22

23 Mr. Randol stated that he greatly appreciates all of the work that staff has done with the *Draft Storm Water*
24 *Management and Erosion Control Ordinance*. He said that he thoroughly disagrees with the EPA telling the
25 County that they have to do this. He said that the County can't oversee what it has now regarding ordinances
26 and whether someone is overstepping or not or doing what they are supposed to be doing. He said that this
27 is an unfunded mandate and he doesn't understand how the County is going to maintain it other than the fact
28 that the County is doing what the EPA is requiring in establishing the guidelines.

29

30 Mr. Hall stated that this is not some farfetched idea that the EPA came up with and this is from the *Clean*
31 *Water Act* that was passed by the United States Congress. He said that the EPA is only doing their job the
32 same way the he does his job every day and he can't stress enough that Champaign County is the only county
33 that he knows of that is trying to implement these rules so that we are only focusing on 1% of our
34 jurisdiction. He said that everyone else has implemented these rules countywide and he does now know how
35 they can afford to do that but they have had it place for several years. He said that Champaign County is a
36 little slower and a little more careful and he really does not think that the few permits that we have in our
37 part of the MS4 Area will be a real big problem in the future but if that area increases in size like it is
38 expected to then that will be a different thing.

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Ms. Lee asked if it is the Illinois EPA that is requiring this.

Mr. Hall stated that they are only requiring it because they are being forced to do it by the USEPA and the only reason they are doing it is because of the *Clean Water Act*. He said that long ago when rivers were on fire is why we have the *Clean Water Act*.

Mr. Thorsland stated that the three most important things to look at, although the entire thing is important, are the draft and the two preliminary findings for each case. He said that we need to make sure that we catch all of the areas where we need to make a decision and decide if something should stay in the ordinance or not.

Mr. Hall stated that, regarding the stockpile difference, this thing about not requiring erosion control for anything less than 10,000 square feet may not be acceptable by the EPA. He said that in Champaign-Urbana they allow replacement of yard up to 10,000 square feet and they do not require any controls but when you are building a house the threshold is much lower, 5,000 square feet. He said that he does not understand why you can go up to 10,000 square feet in one instance but not 10,000 square feet in another which is why we took their 10,000 square feet and ran with it. He said that we may find that this is unacceptable but if he is ever told that by the EPA he is going to ask how Champaign-Urbana can do for the replacement of grass. He said that he believes that Champaign-Urbana has been inconsistent but he may find out that the County's Ordinance is not restrictive enough but if the EPA approves it with 10,000 square feet then so much the better.

Ms. Lee asked Mr. Hall how long it will take the EPA to review this.

Mr. Hall stated that this will be permanently under review and we could find out at any time that the EPA has a problem with some part of this. He said that it isn't like they give the County a sign-off. He said that a report is sent in to the EPA every year and the plan is updated every five years but at any point they can indicate that something in the ordinance is not adequate. He said the EPA has been given a copy of the Draft Ordinance to review and staff has not heard anything and he is not sending in another copy for their review but he will send in a copy of the final ordinance so that they have it for their files. He said that once they receive the final copy may be the time when we find out they have a concern.

Mr. Randol asked Mr. Hall if he has heard of any other communities where the EPA has commented or not.

Mr. Hall stated that in general he hasn't heard of anyone getting into trouble because their ordinance is not strict enough and is generally about some other aspect of the program that they are doing. He said that he cannot stress enough that Champaign County's Ordinance is unlike any other ordinance that the EPA has

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1 seen, but he is more interested in what they absolutely say we cannot do more than what they recommend.
2 He said that as a regulator a recommendation is largely irrelevant because he has to know what he has to do.
3
4 Mr. Thorsland stated that the only note that he had was the demolition permit fee.
5
6 Mr. Hall stated that the demolition permit fee has been set at \$50 but there have been some comments from
7 the Board indicating that \$50 was unreasonable. He said that he is hesitant to say that we should require a
8 new permit without any fee although he could imagine a fee in regards to the grading permit and it would
9 only be required if staff receives a complaint and staff has to go out and investigate.
10
11 Mr. Thorsland stated that he would like the Board to think about having a small, reasonable fee or no fee at
12 all.
13
14 Mr. Passalacqua stated that it is a lot easier to collect a fee up front than it is to tell someone that they owe
15 the County a fee later.
16
17 Mr. Hall stated that it would be easy enough to create a fee list to indicate that there is no fee for the grading
18 permit unless staff receives a valid complaint that staff has to investigate on site. He said that this would be
19 easy enough to do but he has hesitated because once you start fiddling like that you could fiddle for a long
20 time and you inevitably have to say enough is enough.
21
22 Mr. Randol asked Mr. Hall if he does create a fee list like that how, would staff enforce collection of the fee.
23
24 Mr. Hall stated that anytime the County is due a fee and is not paid the fee the issue becomes an enforcement
25 case just like anything else. He said that the County currently has enforcement cases regarding unpaid fees.
26 He said that unless we enforce the Ordinance it doesn't mean anything.
27
28 Mr. Thorsland asked the Board if the preference is to charge the fee and hope that it balances itself out over
29 time or punish the guilty in hopes that they pay.
30
31 Mr. Hall stated that the lowest fee that the County has currently is the \$33 Zoning Compliance Inspection
32 fee. He said that the Board could recommend a fee of \$33 simply because it is the lowest fee that the County
33 has currently. He said that the intent is to have a fee but a low fee. He said that the \$50 fee for the Minor
34 Land Disturbance Permit could also be lowered to \$33 if that is what the Board would prefer because \$33 is
35 the lowest fee and could be the minimal fee charged.
36
37 Mr. Thorsland stated that the Board has a lot of homework to do.
38

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1 Mr. Passalacqua asked if it would make sense to have the fee based upon the size or amount of the project or
2 just have a minimal fee and sticking with it.

3
4 Mr. Hall stated that having a graduated fee like that is challenging because it has to make sense at both ends
5 of the fee spectrum and that is why it is much easier to arrive at a single fee if possible. He said that we are
6 not going to be doing a lot of work on the grading permits, if adopted, but we will have to make sure that
7 stockpiles are where they should be there will be some work to be done by staff. He said that the intent was
8 to have a minimal fee and the question is should it be \$50 or \$33.

9
10 Mr. Thorsland entertained a motion to continue Cases 769-AT-13 and 773-AT-14 to March 12, 2015.

11
12 **Ms. Griest moved, seconded by Ms. Capel to continue Cases 769-AT-13 and 773-AT-14 to March 12,**
13 **2015. The motion carried by voice vote.**

14
15 **Case 794-S-14 Petitioner: Premier Cooperative, Inc. with board members Greg Miller, William**
16 **Stierwalt, Kim Jolley, Kenneth Hieser, Stephen Hettinger, Pat Feeney, James Kleiss, Douglas**
17 **Hansens, John Murray, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**
18 **General Manager and James Deters, Chief Financial Officer. Request: Part A. Authorize**
19 **construction of two 24,000 gallon bulk fuel storage tanks in the B-1, Rural Trade Center Zoning**
20 **District; and Part B. Authorize the following waiver to the standard conditions of the “Gasoline and**
21 **Volatile Oils Storage in the B-1 and B-3 Districts” Special Use as per Section 6.1.3 of the Zoning**
22 **Ordinance: Gasoline and Volatile Oils Storage Facilities shall not be permitted closer than 500 feet**
23 **from the R District or any Residential, Institutional, or Public Assembly Use.”; and Part C. Authorize**
24 **the use of multiple principal structures on the same lot consisting of (1) a grain storage facility that**
25 **was originally authorized by Case 575-S-86; and (2) two 24,000 gallon bulk fuel storage tanks with**
26 **adjacent loading and storage building. Location: A 8.19 acre tract in the South Half of the Southwest**
27 **Quarter of Section 17, Township 20N, Range 9E, in Somer Township and commonly known as**
28 **Premier Cooperative at 1711 East Leverett Road, Champaign.**

29
30 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
31 the witness register for that public hearing. He reminded the audience that when they sign the witness
32 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
33 time.

34
35 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
36 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
37 of hands for those who would like to cross examine and each person will be called upon. He requested that
38 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that

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1 those who desire to cross examine are not required to sign the witness register but are requested to clearly
2 state their name before asking any questions. He noted that no new testimony is to be given during the cross
3 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
4 from cross examination.

5
6 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

7
8 Mr. David Kieffer II, Fuel Manager for Premier Cooperative Inc., who resides at 1157 CR 200N, Pesotum,
9 stated that he is present tonight on behalf of Premier Cooperative for the construction of a small bulk fuel
10 plant which will consist of two 24,000 gallon bulk fuel tanks at their Leverett location. He said that the new
11 plant will make the location more efficient and will assist in taking more trucks off of the road.

12
13 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Kieffer and there were none.

14
15 Mr. Thorsland called John Hall to testify.

16
17 Mr. John Hall, Zoning Administrator, stated that the new Supplemental Memorandum dated February 19,
18 2015, included the requested revised site plan.

19
20 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kieffer and there was no one.

21
22 Mr. Thorsland stated that the new Supplemental Memorandum dated February 19, 2015, indicates that the
23 tanks have been relocated to ensure that there is at least 500 feet of separation between the nearest residential
24 use and the bulk tanks while maintaining the required side and rear setbacks. He said that the relocation
25 eliminates the need for Part B. of the Special Use. He said that the site plan indicates the proposed
26 relocation therefore if the Board is comfortable with the new site plan the Board can move forward.

27
28 The Board indicated that they were comfortable with the new site plan submitted on February 17, 2015.

29
30 Mr. Thorsland stated that item 12 on pages 19 and 20 of the Draft Summary of Evidence discusses the
31 proposed special conditions of approval for Case 794-S-14. Mr. Thorsland read the proposed special
32 conditions as follows:

- 33 **A. Paragraph 7.4.2 C.5. requires one loading berth of minimum 12' x 40'**
34 **dimensions for commercial and industrial establishments of 1 to 9,999 square**
35 **feet of floor area. A loading berth meeting these requirements will be**
36 **constructed on the property prior to the Zoning Administrator authorizing a**
37 **Zoning Compliance Certificate.**

38 The special condition stated above is required to ensure the following:

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1 **That off-street parking is in compliance with the Zoning Ordinance.**

2
3 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
4 **authorizing occupancy of the proposed fuel storage tanks and office buildings**
5 **until the Zoning Administrator has received a certification of inspection from an**
6 **Illinois Licensed Architect or other qualified inspector certifying that the new**
7 **buildings comply with the following codes: (A) The 2006 or later edition of the**
8 **International Building Code; (B) The 2008 or later edition of the National**
9 **Electrical Code NFPA 70; and (C) the Illinois Plumbing Code.**

10 The special condition stated above is required to ensure the following:
11 **New buildings shall be in conformance with Public Act 96-704.**

12
13 **C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
14 **authorizing operation of the proposed Special Use Permit until the Petitioner**
15 **presents a State Permit ensuring compliance with the Illinois Gasoline Storage**
16 **Act.**

17 The special conditions stated above are required to ensure the following:
18 **That the proposed Special Use meets applicable state codes for gasoline storage.**

19
20 Mr. Thorsland asked Mr. Kieffer if he agreed to Special Conditions A, B and C.

21
22 Mr. Kieffer stated that he agreed to Special Conditions A, B, and C.

23
24 Mr. Thorsland entertained a motion to approve the Special Conditions as read.

25
26 **Ms. Griest moved, seconded by Ms. Capel to approve the Special Conditions as read. The motion**
27 **carried by voice vote.**

28
29 Mr. Hall stated that the following items should be added to the Documents of Record: #4 Supplemental
30 Memorandum dated February 12, 2015, with attachments: A. Natural Resources Report from the
31 Champaign County Soil and Water Conservation District; and B. Letter from GEOCON received February 6,
32 2015; and #5 Supplemental Memorandum dated February 19, 2015, with attachments: A. Revised site plan
33 received February 17, 2015.

34
35 **Findings of Fact for Case 794-S-14:**

36
37 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
38 794-S-14 held on February 12, 2015 and February 26, 2015, the Zoning Board of Appeals of Champaign

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1 County finds that:

2
3 **1. The requested Special Use Permit IS necessary for the public convenience at this**
4 **location.**

5
6 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
7 location because it provides fuel for farmers in the vicinity and will reduce truck traffic volumes.

8
9 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**
10 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**
11 **the district in which it shall be located or otherwise detrimental to the public health,**
12 **safety, and welfare because:**

13
14 **a. The street has ADEQUATE traffic capacity and the entrance location has**
15 **ADEQUATE visibility.**

16
17 Mr. Passalacqua stated that the street has ADEQUATE traffic capacity and the entrance location has
18 ADEQUATE visibility.

19
20 **b. Emergency services availability is ADEQUATE.**

21
22 Ms. Capel stated that emergency services availability is ADEQUATE.

23
24 **c. The Special Use WILL be compatible with adjacent uses.**

25
26 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses because it serves
27 agriculture.

28
29 **d. Surface and subsurface drainage will be ADEQUATE.**

30
31 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because it is unchanged.

32
33 **e. Public safety will be ADEQUATE.**

34
35 Ms. Capel stated that public safety will be ADEQUATE.

36
37 **f. The provisions for parking will be ADEQUATE.**
38

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1 Mr. Passalacqua stated that the provisions for parking will be ADEQUATE because there is no impact.

2
3 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
4 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
5 which it shall be located or otherwise detrimental to the public health, safety, and welfare.
6

7 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
8 **DOES conform to the applicable regulations and standards of the DISTRICT in which**
9 **it is located.**

10
11 Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed
12 herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.
13

14 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
15 **DOES preserve the essential character of the DISTRICT in which it is located because:**

16
17 **a. The Special Use will be designed to CONFORM to all relevant County**
18 **Ordinances and codes.**

19
20 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County Ordinances and
21 codes.
22

23 **b. The Special Use WILL be compatible with adjacent uses.**

24
25 Mr. Thorsland stated that the Special Use WILL be compatible with adjacent uses.
26

27
28 **c. Public safety will be ADEQUATE.**

29
30 Mr. Thorsland stated that public safety will be ADEQUATE.
31

32 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
33 DOES preserve the essential character of the DISTRICT in which it is located.
34

35 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS**
36 **in harmony with the general purpose and intent of the Ordinance because:**

37
38 **a. The Special Use IS authorized in the District.**

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b. The requested Special Use Permit IS necessary for the public convenience at this location.

Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this location.

c. The requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

d. The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Randol stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

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

Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

6. The Special Conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described below:

A. Paragraph 7.4.2 C.5. requires one loading berth of minimum 12' x 40' dimensions for commercial and industrial establishments of 1 to 9,999 square feet of floor area. A loading berth meeting these requirements will be constructed on the property prior to the Zoning Administrator authorizing a Zoning Compliance Certificate.

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The special condition stated above is required to ensure the following:
That off-street parking is in compliance with the Zoning Ordinance.

B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed fuel storage tanks and office buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing Code.

The special condition stated above is required to ensure the following:
New buildings shall be in conformance with Public Act 96-704.

C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Petitioner presents a State Permit ensuring compliance with the Illinois Gasoline Storage Act.

The special conditions stated above are required to ensure the following:
That the proposed Special Use meets applicable state codes for gasoline storage.

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

Ms. Lee moved, seconded by Ms. Capel 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 794-S-14.

Mr. Passalacqua moved, seconded by Ms. Lee to move to the Final Determination for Case 794-S-14. The motion carried by voice vote.

Final Determination for Case 794-S-14:

Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use requested in Case 794-S-14 is hereby GRANTED WITH SPECIAL CONDITIONS to the

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1 Applicant Premier Cooperative, Inc., to authorize the following as a Special Use in the B-1 District:

2
3 Part A. Authorize construction of two 24,000 gallon bulk fuel storage tanks in the
4 B-1 Rural Trade Center Zoning District.

5
6 Part B. Authorize the use of multiple principal structures on the same lot
7 consisting of (1) a grain storage facility that was originally authorized
8 by Case 575-S-86 and (2) two 24,000 gallon bulk fuel storage tanks with
9 adjacent loading and storage building.

10
11 Subject to the following special conditions:

12
13 A. Paragraph 7.4.2 C.5. requires one loading berth of minimum 12' x 40'
14 dimensions for commercial and industrial establishments of 1 to 9,999 square
15 feet of floor area. A loading berth meeting these requirements will be
16 constructed on the property prior to the Zoning Administrator authorizing a
17 Zoning Compliance Certificate.

18 The special condition stated above is required to ensure the following:
19 That off-street parking is in compliance with the Zoning Ordinance.

20
21 B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
22 authorizing occupancy of the proposed fuel storage tanks and office buildings
23 until the Zoning Administrator has received a certification of inspection from an
24 Illinois Licensed Architect or other qualified inspector certifying that the new
25 buildings comply with the following codes: (A) The 2006 or later edition of the
26 International Building Code; (B) The 2008 or later edition of the National
27 Electrical Code NFPA 70; and (C) the Illinois Plumbing Code.

28 The special condition stated above is required to ensure the following:
29 New buildings shall be in conformance with Public Act 96-704.

30
31 C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
32 authorizing operation of the proposed Special Use Permit until the Petitioner
33 presents a State Permit ensuring compliance with the Illinois Gasoline Storage
34 Act.

35 The special conditions stated above are required to ensure the following:
36 That the proposed Special Use meets applicable state codes for gasoline storage.

37
38 Mr. Thorsland requested a roll call vote.

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The roll was called as follows:

Capel-yes	Griest-yes	Lee-yes
Passalacqua-yes	Randol-yes	Thorsland-yes

Mr. Hall informed the petitioner that Case 794-S-14 has been approved. He said that the map amendment request for Case 797-AM-14 will be heard at the Environment and Land Use Committee meeting on March 05, 2015.

6. New Public Hearings

Case 796-V-14 Petitioner: Steve Vincent and George Stanhope Request to authorize the following in the AG-1 District: A variance from Paragraph 4.2.1H of the Zoning Ordinance, which requires that no structure shall be constructed no use established upon or moved to a lot that does not abut and have access to the street. Location: A 6.94 acre tract in Newcomb Township in the Southwest Quarter of the Southeast Quarter of Section 15 of Township 21N, Range 7E of the Third Principal Meridian and commonly known as the residence located at 360 CR 2700N, Mahomet.

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. He asked the audience if anyone desired to sign the witness register at this time.

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

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

Mr. George Stanhope, who resides at 360 CR 2700N, Mahomet, stated that he is present tonight as a petitioner and as an agent for Steve Vincent. He said that they are requesting a variance from Paragraph

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1 4.2.1H of the Zoning Ordinance for an access strip. He said that he has been trying to purchase the property
2 from Mr. Vincent for the last nine months and hopefully this is his last stop for that purchase. He said that
3 there is some confusion regarding the boundary lines of the property because there have been two different
4 survey markers used to verify the property line. He said that unfortunately the property did meet the
5 Ordinance's requirements when the home was constructed and currently it does not.

6
7 Mr. Thorsland stated that the nature of the problem is that the property line does not follow the road.

8
9 Mr. Stanhope stated that other section line roads actually follow the section line and for some reason the CR
10 2700N was built south of the section line. He said that all property owners in the vicinity, until 2007,
11 assumed that the road was the boundary line for their property.

12
13 Mr. Thorsland stated that is a natural assumption for most people.

14
15 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Stanhope and there were none.

16
17 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Stanhope and there was no one.

18
19 Mr. Thorsland called John Hall to testify.

20
21 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated February 26,
22 2015, to the Board for review. He said that the memorandum has a letter attached from Attorney William R.
23 Scott, who represents petitioner Steve Vincent. Mr. Hall stated that the letter summarizes the actions taken
24 to date to resolve the problem but unfortunately they have had no luck with other alternatives. He said that
25 as Mr. Stanhope mentioned during his testimony hopefully this is the last alternative to fix the problem. Mr.
26 Hall said that this is a serious problem with this land because even after the Zoning Administrator went out
27 on a limb to write a letter trying to facilitate the mortgage company's concerns about this lot, the letter was
28 not good enough and they are not willing to issue a mortgage on the property until the situation is corrected.
29 He said that the variance is critical in restoring the value to this property.

30
31 Mr. Hall stated that attached to the new memorandum is revised evidence for item 10.C. which is the
32 standard part of the Summary of Evidence where the Board reviews the reason for that standard being in the
33 Ordinance and whereas generally we don't really know why anything in the Ordinance in particular but in
34 this case we know exactly why it is in there. He said that in the 1990's the Department spent a lot of time
35 making a series of technical amendments to the Ordinance trying to improve the Ordinance to make sure that
36 every new lot had adequate road frontage while at the same time not making all of the existing lots
37 nonconforming that didn't. He said that there were a number of cases dealing with this and after looking at
38 those cases he and Ms. Chavarria decided that Case 847-AT-93 had the best summation of all of the reasons

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1 that underline the reason for minimum frontage on the street. He said that it has to do with the division of
2 large tracts that could potentially create problems with respect to drainage, emergency vehicle access and
3 extension of public streets and utilities if they did not touch the public street for some minimal dimension.
4 He said that the County has spent a lot of time documenting the need for this requirement. He said that there
5 is some more new evidence in item 10.C about how this request does not appear to impact drainage and there
6 is no extension of public streets or utilities anticipated for this property. He said that Board members will be
7 well served to review the letter from Attorney William Scott because it really documents the efforts that have
8 been made to rectify this issue.

9

10 Ms. Capel asked if there is an easement recorded that allows access through the strip.

11

12 Mr. Stanhope stated yes.

13

14 Mr. Thorsland stated that the letter from Attorney William Scott does point out that the property was
15 transferred and then a much higher asking price to repurchase it back was demanded. He said that the letter
16 mentions that Mr. Stanhope or Mr. Vincent went to the Newcomb Township and the property to the east to
17 gain access.

18

19 Mr. Stanhope stated that Attorney William Scott contacted the adjacent landowners and neither agreed to
20 negotiate a purchase.

21

22 Mr. Thorsland asked Mr. Stanhope where the drive is located that goes into the property currently.

23

24 Mr. Stanhope stated that it crosses the piece that is being contested.

25

26 Mr. Thorsland asked Mr. Stanhope if an effort attempting to purchase that small piece was made.

27

28 Mr. Stanhope stated yes, but with no success.

29

30 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Stanhope and there
31 were none.

32

33 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Stanhope and there was no one.

34

35 Mr. Thorsland called Roger Morfey to testify.

36

37 Mr. Roger Morfey, whose address is POB 142, Mahomet, stated that after he spoke to Mr. Stanhope last
38 week he has decided that he will sell the property to Mr. Stanhope at a reasonable price.

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- 1
2 Mr. Thorsland asked Mr. Morfey if this is the first time that Mr. Stanhope is hearing about this offer.
3
4 Mr. Morfey stated that he did speak with Mr. Stanhope last week. He said that currently his attorney is out
5 of town.
6
7 Mr. Thorsland stated that if the Board could find out if a purchase of the piece of land in question is a
8 possibility he would prefer not to grant a variance that isn't necessary.
9
10 Mr. Morfey stated that he believes that it is definitely a possibility.
11
12 Mr. Thorsland asked Mr. Morfey if he has any further information to add.
13
14 Mr. Morfey stated that he does not negotiate such matters over the phone and Mr. Vincent is located in
15 Indiana. He said that he has asked Mr. Stanhope to get in touch with Mr. Vincent.
16
17 Mr. Thorsland asked Mr. Morfey if his attorney has discussed a negotiated purchase price with Mr.
18 Vincent's attorney.
19
20 Mr. Morfey stated that he does not believe that the two attorneys have discussed any negotiated purchase
21 price since last year.
22
23 Mr. Thorsland stated that this is a new revelation for this case and it would be in everyone's best interest if
24 this purchase could occur. He encouraged Mr. Morfey to have his attorney contact Mr. Vincent's attorney as
25 soon as possible. He said that the Board will continue this case to a later date to give the petitioners an
26 opportunity to rectify the situation and if the issue is rectified the case will no longer be necessary.
27
28 Mr. Thorsland asked the Board if there were any questions for Mr. Morfey.
29
30 Ms. Griest asked Mr. Morfey how quickly he anticipates this issue will be resolved.
31
32 Mr. Morfey stated that it depends on what Mr. Vincent decides.
33
34 Ms. Griest asked Mr. Morfey if he was ready to move forward at this time.
35
36 Mr. Morfey stated yes, and it could be as soon as next week.
37
38 Ms. Lee asked Mr. Thorsland if the Board could ask Mr. Morfey what he considers a reasonable price would

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- 1 be for this piece of land.
2
3 Mr. Thorsland stated that he would prefer to keep the negotiated price private. He said that they can discuss
4 if a negotiated price is possible and if it is not then the Board can continue with the variance request.
5
6 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Morfey and there
7 were none.
8
9 Mr. Thorsland called Mr. Stanhope back to the witness microphone.
10
11 Mr. Thorsland asked Mr. Stanhope if Mr. Morfey's testimony is new information.
12
13 Mr. Stanhope stated that Mr. Morfey contacted him on Tuesday by leaving him a card in his garage door
14 indicating that he was interested in speaking with Mr. Vincent. Mr. Stanhope stated that he contacted Mr.
15 Vincent and no firm price has been negotiated therefore he would ask that the case not be delayed because he
16 is not sure how this will end up.
17
18 Mr. Thorsland stated that he would like to put a firm timeline on the continuance. He said that the next
19 meeting in March is reserved for a very big case but perhaps this case could be heard first if possible.
20
21 Mr. Hall indicated that a continuance to the first meeting in March is not possible.
22
23 Mr. Thorsland stated that perhaps the March 26, 2015, meeting could be the continuance date. He said that
24 the petitioner can continue to use the lot access as he is currently.
25
26 Mr. Stanhope stated that he would like to get this completed as soon as possible so that the mortgage rates do
27 not increase.
28
29 Ms. Griest asked if the Board had a date as to when Mr. Stanhope's mortgage commitment would expire.
30
31 Mr. Stanhope stated that he has discussed the purchase with the bank but he does have a mortgage
32 commitment yet due to the access issue.
33
34 Ms. Griest asked Mr. Stanhope if he has a specific date when his mortgage rate lock expires.
35
36 Mr. Stanhope stated that the bank will not lock in a rate until this issue is resolved.
37
38 Mr. Thorsland asked Mr. Stanhope if, a reasonable price could be negotiated, would he opposed to his case

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1 being continued to the March 12th meeting with his case being the first case heard. He said that either the
2 petitioner will indicate that no negotiated priced could be reached therefore the need for the variance
3 continues or indicate that the variance is no longer required because a negotiated price has been agreed upon.
4 Mr. Thorsland stated that a continuance to March 12th would not put a great delay on Mr. Stanhope's
5 negation with his bank and would put a nice timeline as to whether any negotiated price is possible therefore
6 eliminating the need for the variance.

7
8 Mr. Stanhope stated that it would be wonderful if this was all done in a two week time period.

9
10 Mr. Thorsland stated that as one Board member he would like to continue this case to the March 12th
11 meeting to see if this issue can be resolved.

12
13 Mr. Hall asked the Board if, the petitioner accepts the continuance and he is back within two weeks, are
14 there any questions about the amount that was offered or turned down or will the Board's question be
15 whether there is or is not an agreement.

16
17 Mr. Passalacqua stated that the answer is either yes or no. He said that the property is going to be so much
18 more functional with the owner being all of the way out to the street otherwise there will be a maintenance
19 issue, mowing issue and a property line scuffle. He said that if the Board can keep the issue off of its table
20 and the property owners can agree to a negotiated price then so much the better. He said that the property is
21 not going to work the way it is currently and it would be better if the petitioner owned the access regardless
22 of the amount.

23
24 Ms. Lee asked if it would be possible for the Board to work through the variance tonight and if the two
25 parties are able to resolve the access issue the variance would be revoked.

26
27 Mr. Hall stated that such a condition could be placed on the variance but it would require staff to know when
28 and if there was an actual conveyance and it would be a lot of trouble. He said that it would be much cleaner
29 to decide if the variance is needed and then make the determination.

30
31 Mr. Thorsland stated that he is inclined to give the parties a two week timeline to get things done.

32
33 Mr. Stanhope stated that the agreed upon or not agreed upon price is of no interest to the Board and only
34 whether an agreement has been reached or not.

35
36 Mr. Thorsland stated that Mr. Stanhope was correct.

37
38 Mr. Passalacqua stated that if an agreement is reached they do not need to appear before the Board again.

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Mr. Hall stated that he cannot stress enough the difference between agreeing to something and actually consummating the agreement. He said that given how long this has gone on he cannot believe that consummation is going to happen in two weeks and he would hate to see the petitioner withdraw the case and then discover there is a problem on the way to the Recorder's office.

Ms. Griest stated that she was hoping that the Board could see a legally binding agreement before any type of withdrawal of the case would occur.

Ms. Lee stated that even an executed contract to purchase would suffice.

Ms. Griest stated that the case should be continued until the purchase is fully executed.

Ms. Lee agreed with Ms. Griest.

Mr. Thorsland stated that if the Board continues the case to March 12th and the petitioners contact staff indicating that they are moving towards an agreement, the Board could continue the case to a later date.

Mr. Passalacqua stated that a contract could be agreed upon within two-week's time if Mr. Morfey presents a reasonable offer that Mr. Vincent agrees to.

Mr. Thorsland stated that the timeline is up to the attorneys and Mr. Morfey and Mr. Vincent.

Mr. Randol asked how long it has been assumed that the property line went all the way to the road.

Mr. Thorsland stated that he does not know.

Mr. Stanhope stated forever.

Mr. Randol stated that if there has been a fence line there forever dividing the two farms is there nothing that indicates that the fence line ends up being the actual line.

Mr. Thorsland stated that his property has three feet of his neighbor's building on his property and it has been there since the two owners, long ago, agreed to constructing the building at that location. He said that whether he can store things in the part of the building that is on his property is questionable and is probably a legal question.

Mr. Passalacqua stated that it is irrelevant because the bank has already indicated that they will not grant a

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1 mortgage on the property until the access issue is resolved.

2
3 Ms. Lee stated that in the past these things were agreed upon by the owners, which is why there are jogs in
4 the road.

5
6 Mr. Passalacqua stated that the bank does not care about what happened in the past.

7
8 Mr. Thorsland stated that there are only two options, either the land is purchased from Mr. Morfey or the
9 variance is granted.

10
11 Mr. Thorsland entertained a motion to continue Case 796-V-14 to the March 12th meeting.

12
13 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 796-V-14 to the March 12, 2015,**
14 **meeting and to be heard as the first case on the agenda. The motion carried by voice vote.**

15
16 Mr. Thorsland stated that the Board will take a ten minute recess to allow time for the petitioner for Case
17 798-V-15 to arrive.

18
19 **The Board recessed at 6:50 p.m.**
20 **The Board resumed at 7:00 p.m.**

21
22 Mr. Thorsland stated that the petitioner for Case 798-V-15 has not arrived to the meeting yet therefore the
23 Board will hear Cases 769-AT-13 and 773-AT-14 at this time.

24
25 **Case 798-V-15 Petitioner: SBA Network Services LLC, with agent Dolan Realty Advisors, LLC**
26 **Request to authorize the construction and use of a telecommunications tower in the R-4 Multiple**
27 **Family Residence Zoning District with a height of 100 feet in lieu of the maximum 75 feet, Location:**
28 **A 3.18 acre tract in Urbana Township in the South Half of the Northwest Quarter of the Northwest**
29 **Quarter of Section 8 of Township 19N, Range 9E of the Third Principal Meridian commonly known**
30 **as part of the Vineyard Christian Church property, 1500 North Lincoln Avenue, Urbana.**

31
32 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
33 the witness register for that public hearing. He reminded the audience that when they sign the witness
34 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
35 time.

36
37 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
38 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show

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1 of hands for those who would like to cross examine and each person will be called upon. He requested that
2 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
3 those who desire to cross examine are not required to sign the witness register but are requested to clearly
4 state their name before asking any questions. He noted that no new testimony is to be given during the cross
5 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
6 from cross examination.

7
8 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

9
10 Mr. Doug Dolan, Agent representing SBA Network Services, LLC, stated that they intend to construct a 100
11 foot tower for Verizon Wireless to provide better coverage for their clients. He said that the additional 25
12 feet will assist Verizon to provide better coverage capacity. He said that more and more people are cutting
13 the cord to their residential land line and all companies are striving to provide more and better coverage for
14 their customers.

15
16 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Dolan.

17
18 Ms. Lee asked Mr. Dolan how close the proposed tower will be to the nearest residence.

19
20 Mr. Dolan stated that the second page of the submitted survey indicates that the tower will be at least 100
21 feet to the rear property line and 150 feet to the nearest residence. He said that the dense trees and woods
22 will act as a buffer between the tower and the nearest residences.

23
24 Mr. Hall stated that the Zoning Ordinance provides for towers with a height of 100 feet or less but there is
25 this provision that towers must conform to applicable regulations of other government agencies and I would
26 argue that the County has the right to require a variance in this instance since the proposed tower exceeds the
27 maximum height authorized by the statutes. He said that it would be nice to amend the Ordinance to include
28 these provisions in the statutes regarding telecommunication towers but there is reason to argue that we have
29 the right to require the variance if the height of the proposed tower is higher than what the State Statute
30 provides for. He said that he is reviewing the State Statute to see what separation to the property line is
31 required but given that the separation to the property line is equal to the height we know that the separation
32 to the nearest dwelling will be at least 25 or 30 feet greater than that which far exceeds any statutory
33 requirement.

34
35 Mr. Hall stated that subparagraph (g) on page 5 of Attachment C, included with the Supplemental
36 Memorandum dated February 26, 2015, discusses the requirements for any county with a population of less
37 than 180,000. He said that paragraph (1)(B) discusses the horizontal separation distance to the nearest
38 principal residential building shall not be less than the height of the supporting structure. He said

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1 unfortunately there is not one single paragraph in the section that talks about a county with a population of
2 180,000 or more which is almost as if there is a minimum separation for counties with less than 180,000 but
3 none for a county with more than 180,000. He said that when the petitioner originally called the office he
4 encouraged him to provide a separation to the lot line even though the County cannot require any separation.

5
6 Mr. Thorsland stated that subparagraph (h)(2) on page 6 of Attachment C, indicates that any county with a
7 population of 180,000 or more unless a height variation is granted by the county board, the height of a
8 facility shall not exceed 75 feet if the facility will be located in a residential zoning district or 200 feet if the
9 facility will be located in a non-residential zoning district. He said that subparagraph (h)(3)(i) indicates that
10 if the facility will be located in a residential zoning district the lot line set back distance to the nearest
11 residentially zoned lot shall be at least 50% of the height of the facility's supporting structure or (ii) if the
12 facility will be located in a non-residential zoning district the horizontal separation distance to the nearest
13 principal residential building shall be a least equal to the height of the facility's supporting structure.

14
15 Mr. Hall stated that the statute would only require 50% of the height for separation.

16
17 Ms. Griest stated that her oldest son works for Verizon Wireless in Springfield and his position is to manage
18 these towers. She said that she did not know if this information would require her to abstain from the case
19 due to any conflicts of interest or not.

20
21 Mr. Hall asked Ms. Griest if her oldest son has a residence of his own.

22
23 Ms. Griest stated yes. She said that she just wanted to disclose the information.

24
25 Mr. Hall stated that he sees no conflict.

26
27 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Dolan and there were
28 none.

29
30 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Dolan and there was no one.

31
32 Mr. Thorsland called Ellyn Dee to testify.

33
34 Ms. Ellyn Dee, who resides at 810 Sunset Drive #2, Urbana, stated that she lives very close to the Vineyard
35 Church property. She said that she misunderstood the request situation and is now wondering if we are
36 discussing a new tower or an extension of the existing tower with the blinking light behind the church.

37
38 Mr. Thorsland stated that this is a new tower on the Vineyard Church property.

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Ms. Dee stated that there is a lot of helicopter traffic in the area and she does not know if another 25 feet will interrupt that flight pattern. She said that she wonders if the extra 25 feet is important because she has Verizon Wireless coverage and it works fine.

Mr. Passalacqua stated that the 100 foot height should not be a concern to the helicopter traffic because if they are that low they are in trouble anyway.

Mr. Thorsland stated that he believes that the helicopters are at least 500 feet in the air until they arrive at Carle.

Ms. Griest stated that the helicopters fly at 1,000 feet unless they are on approach.

Ms. Dee stated that they appear to be closer.

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

Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Dee and there was no one.

Mr. Thorsland called Scott Joellenbeck, who resides at 1405 W. Charles Street, Champaign, stated that he is the Director of Finance for the Vineyard Church. He said that there are no towers with blinking lights on the Vineyard Church property. He said that they do have light poles on the property. He said that there is a cell tower across Bradley Avenue and it can be seen from Sunset Drive.

Mr. Thorsland stated that the Statute indicates that trees bigger than 3 inches in diameter should be preserved if possible. He asked Mr. Joellenbeck if the trees in the proximity of the tower are larger than 3 inches in diameter.

Mr. Joellenbeck stated yes. He said that the trees are full grown.

Mr. Thorsland asked Mr. Joellenbeck if he knew the height of the trees.

Mr. Joellenbeck stated that he does not know the exact height but they are the standard height of full grown trees which he would guess is 40 or 50 feet.

Mr. Thorsland stated that it is reasonable that the extra height is to extend beyond the tree height.

Mr. Joellenbeck stated yes.

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1
2 Mr. Passalacqua stated that the tower the Ms. Dee mentioned is located on the cemetery property.

3
4 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Joellenbeck and there were
5 none.

6
7 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Joellenbeck and there was no one.

8
9 Mr. Thorsland asked the Board and staff if they had any additional questions for Mr. Dolan and there were
10 none.

11
12 Ms. Chavarria, Senior Planner, stated that Mr. William Morfey, who resides at 1307 North Coler, Urbana,
13 called on February 18, 2015, providing comments to be voiced at tonight's meeting. She noted that she is
14 paraphrasing his comments. She said that Mr. Morfey indicated that he believes short notice was given for
15 providing public comments considering the type of permanent project that is being discussed. Mr. Morfey
16 questioned why this location was chosen when there is higher ground to the north of Bradley and south of
17 Interstate 74 that has industrial and business uses rather than residential uses. Mr. Morfey stated that he is
18 against the proposed project because he believes that the tower will negatively impact property values and is
19 concerned that flashing lights that might be on the tower may be a nuisance. Mr. Morfey asked if Carle
20 Hospital is aware of the proposed project because the helicopters circle over his house and the property
21 where the tower is proposed to be constructed.

22
23 Mr. Passalacqua stated that Carle has blinking lights and the existing tower has blinking lights and the
24 proposed tower is directly across the street from the commercial area. He said that he is not making light of
25 Mr. Morfey's comments but it seems that it is just more of the same. Mr. Passalacqua stated that the Board
26 has received testimony that the proposed tower is a necessary evil because of the coverage and demands. He
27 said that the proposed tower will be relatively screened from the residences.

28
29 Mr. Thorsland requested that Mr. Dolan return to the witness microphone.

30
31 Mr. Thorsland stated that it appears that many towers are made to look like trees, water fountains, etc. He
32 asked Mr. Dolan if there was a thought of constructing a tower that is somewhat camouflaged since it is
33 surrounded by trees.

34
35 Mr. Dolan stated that a lot of those stealth type structures have a lot of design limitations and do not always
36 provide for the new data antennas that are required by Verizon Wireless. He said that the stealth structures
37 are not designed to handle the technology that is required and are only used where there is no other option
38 available. He said that the stealth towers are very expensive. He noted that there are no blinking lights on

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1 the proposed tower because it is less than 200 feet in height.
2
3 Mr. Thorsland asked if the construction impact is very lengthy.
4
5 Mr. Dolan stated that the tower itself will take approximately two days. He said that the concrete foundation
6 takes some curing time, so the whole process takes about 30 days.
7
8 Mr. Randol asked Mr. Dolan to indicate the life cycle of the tower. He asked if Verizon Wireless no longer
9 requires the tower could it be utilized by a different company.
10
11 Mr. Dolan stated that the changes in the industry are the antennas placed on the tower and the
12 communication equipment in the shelter but the height requirement of the tower itself has not been changed.
13 He said that the only way radio waves will work properly is to gain height above the clutter of tree tops and
14 other obstructing structures.
15
16 Mr. Randol asked Mr. Dolan if in ten years the equipment that is placed on the tower becomes obsolete what
17 happens to the tower itself.
18
19 Mr. Dolan stated that it is hard to predict but the older antennas would be replaced.
20
21 Mr. Randol asked Mr. Dolan if he is responsible for removing the tower when it is no longer required.
22
23 Mr. Dolan stated yes.
24
25 Mr. Passalacqua asked if the Board should require a reclamation agreement for removal of the tower.
26
27 Mr. Thorsland stated that removal of the tower is between SBA Network Services, LLC and the Vineyard
28 Church.
29
30 Mr. Passalacqua stated that the Board required a reclamation agreement for the wind farm towers.
31
32 Mr. Thorsland stated that the wind farm towers were very different than this type of tower. He said that
33 removal of the tower is in the private contract between SBA Network Services, LLC and the Vineyard
34 Church. He said that he does not believe that they would just leave it there when it is no longer needed
35 because just the steel for the tower is worth money.
36
37 Ms. Griest stated that previous testimony indicated that the area is already saturated with towers and nearby
38 residents had Verizon Wireless and it appeared that it works very well. She said that the purpose of the

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1 tower is to add band width so that Verizon Wireless can get more calls through the pipeline and serve more
2 customers at the same time.

3
4 Mr. Dolan stated that Ms. Griest is correct. He said that the term they use is “capacity” and not “band
5 width”.

6
7 Ms. Capel asked Mr. Dolan if the equipment shelter will have exterior lighting.

8
9 Mr. Dolan stated that at the entrance of the shelter there will be a small security light that is approximately
10 five or six feet above ground level. He said that the light is designed to only illuminate the step and the door.

11
12 Ms. Capel asked Mr. Dolan if the light is a full cutoff light.

13
14 Mr. Dolan stated that the shelter is pre-fabricated and it comes with a standard light. He said that it is
15 designed to only illuminate that particular area.

16
17 Mr. Thorsland stated that since the area is fairly illuminated therefore a light five to six feet off of the ground
18 level within a group of trees would not be considered light pollution.

19
20 Ms. Griest asked Mr. Dolan if the shelter will have a fence around it to prevent unwanted visitors.

21
22 Mr. Dolan stated that the area will be surrounded by a security fence.

23
24 Mr. Hall stated that some of the trees that are providing screening for the tower site are not on the church’s
25 property and trees are sometimes destroyed or they die in time. He asked Mr. Dolan if he would be opposed
26 to a condition that would require SBA Network Services, LLC to plant replacement trees to maintain the
27 same level of screening. He said that the statutes discuss replacement of trees that are removed during
28 construction but they do not go beyond that therefore he does not want to tread into conditions that the Board
29 cannot require.

30
31 Mr. Dolan stated that the design does not include removal of any trees because the tower is located in a
32 clearing area of the existing trees. He said that he does not know what the regulations are for replacing a tree
33 on someone else’s property.

34
35 Mr. Hall stated that it would just require planting a tree on the church property to maintain the same level of
36 screening. He said that the screening is the whole reason why this seems so reasonable and he does not
37 believe that all of the trees are located on the church property.

38

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1 Mr. Dolan stated that some of the trees are located in the rear yard so some of the property owner's trees are
2 on the church property. He said that certainly trees will grow and the older trees will die over time but if that
3 is a real concern then he can consider it.

4
5 Mr. Passalacqua stated that it is a concern because the tower site is being screened by trees that are not the
6 adjacent landowners.

7
8 Mr. Hall stated that there is another part of the statutes that establishes the minimum landscaping
9 requirement when you are next to a residential lot and it could well be that it is already a requirement of the
10 statutes. He said that he finds these statutory requirements really difficult to navigate.

11
12 Mr. Dolan stated that Mr. Hall is correct. He said that (e)(6) on page 3 of the State Statutes reads as follows:
13 If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district,
14 low maintenance landscaping should be provided on or near the facility lot to provide at least partial
15 screening of the facility. The quantity and type of that landscaping should be in accordance with any county
16 landscaping regulations of general applicability.

17
18 Mr. Thorsland asked Mr. Hall how the Board would know if a tree on a neighboring lot no longer exists
19 therefore triggering the planting of the tree by the petitioner.

20
21 Mr. Hall stated that the only way that we would know is if staff received a complaint and at that point a
22 competent Zoning Administrator could turn to the statutes and argue that they require the continual
23 screening. He said that it could be that the condition is not warranted.

24
25 Mr. Passalacqua asked Mr. Hall how the Board could consider it being screened if the trees are not located
26 on the property that the tower is located upon. He said that if the trees are not on the church property then
27 the petitioner has not provided adequate landscaping to screen the project.

28
29 Mr. Thorsland stated that he is not convinced that the trees are not on the church property. He said that the
30 Board does not know where the trees are precisely located because our only evidence currently is a big black
31 line on an aerial photograph with shadows.

32
33 Mr. Passalacqua asked if the Ordinance requires landscape screening for such a project.

34
35 Mr. Hall stated that the Ordinance does not but what requires it is the State Statute.

36
37 Mr. Passalacqua stated that whether or not there are trees on the neighboring properties is not important
38 because if the State Statute indicates that they have to provide screening, then the screening should be on the

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1 property in question.

2

3 Mr. Thorsland stated that a condition could be proposed that if the existing screening trees do not reside on
4 the property then screening shall be established.

5

6 Ms. Griest asked Mr. Hall which homes are being discussed because from the aerial there is no doubt that
7 the trees to the south are on the Vineyard Church property.

8

9 Mr. Hall stated the Board cannot make assumptions like this by reviewing the aerial photograph. He said
10 that he would much rather review the engineering site plan drawn by competent engineers which seems to
11 indicate that it is hard to tell which property most of the trees on the south are located on.

12

13 Mr. Dolan stated that page of the engineer's survey indicates a tree line along the edge of the survey area.
14 He said that he would guess that 80 feet between the edge of the tree line and the residential properties are
15 screened.

16

17 Mr. Hall stated that it is easy to misconstrue the dashed line.

18

19 Mr. Dolan stated that the Illinois Code calls for some low maintenance screening which are typically shrubs
20 or bushes. He said that this is one of the more intensive screening sites that they have come across. He said
21 that screening is a valid concern for everyone and this would rank on the high side of screening.

22

23 Mr. Thorsland stated that just looking at the aerial he has no discomfort of the orientation of the trees and
24 whether they are well within the boundaries of the church property. He said that the State Statute is clear
25 therefore if there is a complaint the petitioner will have to plant a tree for screening.

26

27 Mr. Thorsland asked the Board if they are comfortable with the screening.

28

29 The Board indicated yes.

30

31 Mr. Thorsland stated that there is one proposed special condition for approval. He read the special condition
32 as follows:

33

- A. **No other towers in the leased area of the property shall exceed a
height of 100 feet.**

34

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

36

**That the proposed telecommunications facility meets applicable height
ordinances.**

37

38

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1 Mr. Thorsland asked Mr. Dolan if he agreed to Special Condition A.

2
3 Mr. Dolan stated that if he understands the special condition correctly it limits the height to 100 feet.

4
5 Mr. Thorsland stated that it limits the height and no other tower can be placed next to it that is 100 feet.

6
7 Mr. Hall stated that it would allow other towers as long as they did not exceed 100 feet.

8
9 Mr. Dolan stated that he agreed to Special Condition A. He said that only one tower is required.

10
11 Mr. Thorsland entertained a motion to approve Special Condition A.

12
13 **Mr. Randol moved, seconded by Ms. Capel to approve Special Condition A. The motion carried by**
14 **voice vote.**

15
16 **Finding of Fact for Case 798-V-15:**

17
18 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
19 798-V-15 held on February 26, 2015, the Zoning Board of Appeals of Champaign County finds that:

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

24
25 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
26 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
27 same district because the tower site is surrounded by mature trees and there is a public demand for greater
28 capacity that can be solved by placing the tower at this location.

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

33
34 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
35 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
36 or construction because the height of the existing mature trees would interfere with the function of the tower
37 unless the variance is granted.

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

3
4 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
5 result from actions of the applicant.
6

7 **4. The requested variance, subject to the proposed condition, IS in harmony with the**
8 **general purpose and intent of the Ordinance.**

9
10 Mr. Randol stated that the requested variance, subject to the proposed condition, IS in harmony with the
11 general purpose and intent of the Ordinance because the natural terrain dictates the need for additional
12 height.
13

14 Ms. Lee asked if we are talking about the purpose and intent of the Zoning Ordinance or the State Statutes.
15

16 Mr. Hall stated the purpose and intent of the Zoning Ordinance.
17

18 **5. The requested variance, subject to the proposed condition, WILL NOT be injurious to**
19 **the neighborhood or otherwise detrimental to the public health, safety or welfare.**

20
21 Ms. Capel stated that the requested variance, subject to the proposed condition, WILL NOT be injurious to
22 the neighborhood or otherwise detrimental to the public health, safety or welfare because standard security
23 procedures will be in place it is nicely screened.
24

25 Mr. Dolan stated that a large component of the cell towers is to enhance 911 and e911.
26

27 Mr. Thorsland stated that the Board can include that it improves public safety by enhancing e911
28 capabilities.
29

30 **6. The requested variance, subject to the proposed condition, IS the minimum variation**
31 **that will make possible the reasonable use of the land/structure.**

32
33 Mr. Thorsland stated that the requested variance, subject to the proposed condition, IS the minimum
34 variation that will make possible the reasonable use of the land/structure.
35

36 **7. As per 55 ILCS 5-12001.1(h)(4), but for the granting of a variation, the service that the**
37 **telecommunications carrier seeks to enhance or provide with the proposed facility**
38 **WILL be less available, impaired, or diminished in quality, quantity, or scope coverage.**

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1
2 Ms. Capel stated that as per 55 ILCS 5-12001.1(h)(4), but for the granting of a variation, the service
3 that the telecommunications carrier seeks to enhance or provide with the proposed facility WILL be
4 less available, impaired, or diminished in quality, quantity, or scope coverage.

5
6 **8. As per 55 ILCS 5-12001.1(h)(4), the conditions upon which the application for**
7 **variations is based ARE unique in some respect or, if not, whether the strict application**
8 **of the regulations WOULD result in a hardship on the telecommunications carrier.**
9

10 Mr. Thorsland stated that as per 55 ILCS 5-12001.1(h)(4), the conditions upon which the application for
11 variations is based ARE unique in some respect or, if not, whether the strict application of the
12 regulations WOULD result in a hardship on the telecommunications carrier.

13
14 **9. As per 55 ILCS 5-12001.1(h)(4), a substantial adverse effect on public safety WILL**
15 **NOT result from some aspect of the facility's design or proposed construction, but only**
16 **if that aspect of design or construction is modifiable by the applicant.**
17

18 Mr. Thorsland stated that as per 55 ILCS 5-12001.1(h)(4), a substantial adverse effect on public safety
19 WILL NOT result from some aspect of the facility's design or proposed construction, but only if that
20 aspect of design or construction is modifiable by the applicant.

21
22 Mr. Thorsland asked Mr. Dolan if he is familiar with finding.

23
24 Mr. Dolan stated that he does not believe that the tower would have a substantial adverse effect on public
25 safety.

26
27 **10. As per 55 ILCS 5-12001.1(h)(4), there ARE benefits to be derived by the users of the**
28 **services to be provided or enhanced by the facility and whether public safety and**
29 **emergency response capabilities WOULD benefit by the establishment of the facility.**
30

31 Ms. Griest stated that as per 55 ILCS 5-12001.1(h)(4), there ARE benefits to be derived by the users of
32 the services to be provided or enhanced by the facility and whether public safety and emergency
33 response capabilities WOULD benefit by the establishment of the facility.

34
35 **11. As per 55 ILCS 5-12001.1(h)(4), the extent to which the design of the proposed facility**
36 **DOES reflect compliance with design guidelines from 55 ILCS 5-12001.1(e).**
37

38 Ms. Griest stated that as per 55 ILCS 5-12001.1(h)(4), the extent to which the design of the proposed

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1 facility DOES reflect compliance with design guidelines from 55 ILCS 5-12001.1(e).

2
3 **12. The Special Condition imposed herein is required for the particular purpose below:**

4
5 **A. No other towers in the leased area of the property shall exceed a**
6 **height of 100 feet.**

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

8 **That the proposed telecommunications facility meets applicable height**
9 **ordinances.**

10
11 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
12 of Fact as amended.

13
14 **Mr. Passalacqua moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**
15 **Record and Findings of Fact as amended. The motion carried by voice vote.**

16
17 Mr. Thorsland entertained a motion to move to the Final Determination for Case 798-V-15.

18
19 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 798-V-15. The**
20 **motion carried by voice vote.**

21
22 **Final Determination for Case 798-V-15:**

23
24 **Ms. Capel moved, seconded by Ms. Griest that the Champaign County Zoning Board of Appeals**
25 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
26 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
27 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
28 **Champaign County determines that the Variance requested in Case 798-V-15 is hereby GRANTED**
29 **WITH CONDITIONS to the petitioners SBA Network Services LLC to authorize the following the**
30 **the R-4 Multi-Family Residence Zoning District:**

31
32 **Authorize the construction and use of a telecommunications tower in the R-4 Multiple**
33 **Family Residence Zoning District with a height of 100 feet in lieu of the maximum 75**
34 **feet on the following property:**

35
36 **A 3.18 acre tract in Urbana Township in the South Half of the Northwest**
37 **Quarter of the Northwest Quarter of Section 8 of Township 19N, Range 9**
38 **East of the Third Principal Meridian commonly known as part of the**

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1 **Vineyard Christian Church property, 1500 North Lincoln Avenue, Champaign**
2 **County, Illinois.**

3
4 Mr. Thorsland requested a roll call vote.

5
6 The roll was called as follows:

7			
8	Griest-yes	Lee-yes	Passalacqua-yes
9	Randol-yes	Capel-yes	Thorsland-yes

10
11 Mr. Hall informed the petitioner that he has received an approval. He said that staff will process the Zoning
12 Use Permit Application as soon as possible.

13
14 Mr. Thorsland stated that the Board will now return to Cases 769-AT-13 and 773-AT-14.

15
16 **7. Staff Report**

17
18 Mr. Hall stated that for the past month staff has been wrapping up their inspections at Cherry Orchard
19 Apartments. He said that these have been much needed inspections and they are now completed and all
20 information has been submitted to the State’s Attorney’s Office. He said that he will doubt that this issue
21 will lead to any new zoning cases but it could lead to a future zoning case.

22
23 Mr. Passalacqua asked if an inspection has been completed for the Change of Use on Market Street.

24
25 Mr. Hall stated that staff still needs to complete that inspection.

26
27 **8. Other Business**

28 **A. Review of Docket**

29
30 Ms. Capel stated that she will be absent from the April 30, 2015, meeting.

31
32 Mr. Thorsland stated that it is possible that he will be absent from the April 16, 2015, meeting. He said that
33 he will know for sure by March 12, 2015, and he will notify staff as soon as possible.

34
35 Ms. Lee asked if just because staff indicates it is busy and someone does not obtain a permit for construction
36 they are still responsible for obtaining a permit and the indication that staff was busy does not excuse them.

37
38 Mr. Hall stated yes the responsibility to file for a permit is on the owner and staff’s workload is not an

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1 excuse not to file and pay the appropriate fees. He said that someone has submitted a permit application and
2 staff has not processed it then that may be a different story because it depends why staff has not moved
3 forward.

4
5 Ms. Lee asked if during a case there were three things that someone constructed without a permit they are
6 still responsible for obtaining permits for those structures.

7
8 Mr. Hall stated yes.

9
10 Ms. Lee asked Mr. Hall in a situation where someone does not obtain a permit or permits and a zoning case
11 is before the Board for that use, would the Zoning Administrator make a recommendation as to what he
12 would prefer the Board's action to be.

13
14 Mr. Hall stated that the only recommendation that he makes is if something needs to be done in order for the
15 Board to approve a request then he needs to make the Board aware of that as a special condition. He said
16 that historically the Department has never made approve or not approve recommendations and it has always
17 been up to the Board. He said that he is actually more comfortable leaving it up to the Board because if the
18 Board needs to approve ten pages of conditions to approve something then maybe that is a good sign that
19 maybe it shouldn't be approved. He said that he cannot stress enough that this Board is not here to penalize
20 people when they think that the petitioner has not done a good job but is here to make sure that everything is
21 in compliance. He said that if a situation can finally be made into compliance then that is all staff and the
22 Board is here to do.

23
24 Mr. Thorsland stated that Ms. Lee's questions are probably more appropriate for Mr. Hall over the phone or
25 during a face to face meeting.

26
27 Mr. Hall stated that if the Board has generic questions it is good for the Board to voice them at a meeting so
28 that the entire Board receives benefit by the answer.

29
30 Mr. Randol asked Mr. Hall if someone has a history of not obtaining permits for multiple instances of
31 construction can the Board indicate that they are not dealing with them nor does the Board have to allow
32 them to do their next project if they are within the requirements for that specific project.

33
34 Mr. Thorsland stated that if they apply for a variance, even though it is ridiculous, the Board has to go
35 through the appropriate steps to approve or deny the request.

36
37 Mr. Randol asked how the Board can agree to allowing someone to do something additional new on a
38 property that meets the requirements when the property already has past multiple violations.

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1
2 Mr. Hall stated that if we are discussing the same property in each instance that they have come and asked
3 for some discretionary approval, anything to do with that property that does not comply with the Ordinances
4 has to be rectified. He said that the Board cannot approve a variance if there are known violations of the
5 Ordinance in other respects on that property. He said that presumably, if the petitioner takes care of all of
6 the other violations then the Board could approve the discretionary request. He said that if the petitioner is
7 willing to correct any violations on the property during their discretionary request the Board cannot indicate
8 that they will not approve the discretionary request as a penalty for the petitioner being so lax. He said that
9 the Board cannot include other properties with violations owned by the petitioner in their decision for a
10 discretionary approval because the approval is only for the property in question.

11
12 Mr. Passalacqua stated that if the Board has a petitioner that is unable or refuses to bring things into
13 compliance or does not receive approval of their request the Board could determine that the structure has to
14 be removed from the subject property.

15
16 Mr. Hall stated that the Ordinance does indicate that if someone does not bring something into compliance it
17 has to come down because that decision is left up to the court system. He said that it is not within the ZBA's
18 powers to indicate that a building must be removed and it would remain an enforcement case and would be
19 decided through the legal system.

20
21 Mr. Passalacqua stated that some of the cases that the Board has heard in the past and decided that a
22 structure was out of compliance and needed to be brought back into compliance. He asked if after a
23 reasonable amount of time the violations, even with the special conditions, are not corrected staff will
24 attempt enforcement and if the issue is still not corrected the violation will be sent to the State's Attorney.

25
26 Mr. Hall stated yes.

27
28 Ms. Lee stated that the Board has taken action previously when a structure was out of compliance therefore
29 they had to remove a portion of the structure.

30
31 Mr. Hall stated that the Board did have a case that was decided and the petitioner did remove a portion of the
32 structure rather than arguing with the Board. He said that the point is, the Ordinance does not say that the
33 structure has to come down so the petitioner could have indicated that he was not removing a portion of the
34 structure and the County will have to take him to court and that is what would have happened.

35
36 Ms. Lee stated that sometimes it seems that the Board could lessen all of the discussion and spending all of
37 this time on a case when it is a violation issue. She asked if the Board still has to spend all of this time
38 discussing the case even though it may not be okay when the case is finalized.

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Mr. Hall stated that he is a little bit confused by what Ms. Lee's question actually is but trying to get an approval from the Zoning Board is exhausting your remedies and every person is entitled to a decision by the Zoning Board of Appeals, even if that decision is a denial. He said that he is not sure if he answered Ms. Lee's question because he isn't really sure what her question is.

Mr. Thorsland asked Ms. Lee if she believes that it would be expeditious if staff indicated that the violation would not be before the ZBA but would be thrown in the enforcement file.

Ms. Lee stated that sometimes it seems that the Board has the petitioner do all kinds of things and then they come back to another meeting when the issue will not be remedied because the staff, the Board and the petitioners spend a lot of time and it doesn't succeed.

Mr. Hall stated that this Board has not denied many requests that have been brought before them.

Mr. Passalacqua stated that the ZBA is not in the business to say no, you cannot do this in Champaign County but the ZBA is in the business to say you have to comply with the Ordinance as much as possible.

Mr. Thorsland stated that there are habitual people and the Board is not supposed to base their decision on their body of work but sometimes their body of work comes in with them. He said that he means that it may be a familiar face which may have not been pleasant to deal with for other issues but the Board still has to remember that they are just present for their current request. He said that the Board cannot punish a worthy person because of something that is not on the table before the Board now.

Mr. Passalacqua stated that another thing that he has trouble with that might help the Board a little bit is that the Board ended up awarding a petitioner status as a contractor, not so much to make the problems go away but so that the Board had more enforcement capabilities so there was a new set of rules that the person had to follow. He said that by granting someone a permit with conditions, in terms of the permit, staff has the capability of enforcing something as opposed to denying the permit and the person does it anyway.

Mr. Thorsland stated that Mr. Hall made a point which is very valid. He said that the Board may have 18 pages of conditions which prove that the Board is truly attempting to fit a square peg in a round hole and sometimes there is no success but the Board still has to do the work because the Board is where the petitioner has to come to make that attempt. He said that the Board has other cases where the Board places conditions of approval and the petitioner withdraws the request.

Ms. Lee asked Mr. Hall what he considers to be the most important function for the Zoning Administrator and the Zoning Officer.

ZBA

AS APPROVED MARCH 26, 2015

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Mr. Hall stated that if someone is paying for a ZBA hearing they deserve the best product that can be provided. He said that there is such a good staff in the Department of Planning and Zoning that daily permitting takes care of itself but when someone needs something special and they step up and pay for it then they deserve the best product that can be provided.

Mr. Thorsland stated that currently the Board has a vacant seat and after reviewing the docket it is very possible that the Board may not have a quorum without that extra person. He said that if the Board members know of a person in an adjacent township who enjoys reading volumes of volumes of paper late into the night and then come to a meeting to discuss those pages then they should be directed to the appropriate person for an application. He said that he would really like to have a full Board.

Ms. Lee stated that the Board does not have anyone from the northeastern portion of the County.

Mr. Thorsland stated that the only person that he knows that would like to be on the Board resides in his township.

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

The meeting adjourned at 8:47 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

ZBA

AS APPROVED MARCH 26, 2015

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