

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **March 26, 2015**
Time: **7:00 P.M.**
Place: **Lyle Shields Meeting Room**
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

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

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (February 26, 2015 and March 12, 2015)
5. Continued Public Hearings

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

Case 769-AT-13 Petitioner: Zoning Administrator

- Request: **Amend the Champaign County Zoning Ordinance by amending the Champaign County Storm Water Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement which can be summarized as follows:**
- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)**
 - II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollutant Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)**
 - III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)**
 - IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of**

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Case 769-AT-13 cont:

development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)

- V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance.
- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
- VII. Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)

Case 773-AT-14 Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding the following:**

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

6. New Public Hearings

7. Staff Report

8. Other Business

A. Review of Docket

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

10. Adjournment

1 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61802

7 **DATE:** February 26, 2015

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

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

Urbana, IL 61802

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

14 **MEMBERS ABSENT :** None

16 **STAFF PRESENT :** Connie Berry, John Hall, Susan Chavarria

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

22 **1. Call to Order**

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

DRAFT

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

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

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.

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

36 The roll was called and a quorum declared present.

38 **3. Correspondence**

40 None

42 **4. Approval of Minutes**

44 None

46 Mr. Thorsland entertained a motion to rearrange the agenda and move Cases 769-AT-13 and 773-AT-14 to
47 the end of the agenda and move all other cases forward.

48

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

4 **5. Continued Public Hearing**
5

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

35 **773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County Storm Water**
36 **Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding**
37 **the following: A. Add a requirement for a Grading and Demolition Permit for any grading or**
38 **demolition that disturbs an acre or more of land or for any grading or demolition that is part of a**
39 **larger common plan of development in which one acre or more of land disturbance will occur, and**
40 **that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;**
41 **and C. Add required information to be provided in the application for a Grading and Demolition**

1 **Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or**
2 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General**
3 **Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a**
4 **Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations**
5 **enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.**
6 **Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other**
7 **requirements related to Grading and Demolition Permits.**
8

9 Mr. Thorsland called Cases 769-AT-13 and 773-AT-14 concurrently.
10

11 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
12 the witness register for that public hearing. He reminded the audience that when they sign the witness
13 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
14 time.
15

16 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
17

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

24 Mr. Thorsland stated that Attachment JJJ. is in regards to the stockpiles that Mr. Hall discussed. He asked
25 the Board if there is anything in Attachment JJJ. that should be revised or discussed.
26

27 Ms. Lee asked if this is the same memorandum that was received on January 15th.
28

29 Mr. Thorsland stated yes. He said that the Board almost has the entire March 12th meeting to discuss these
30 cases therefore the Board should have any questions regarding each case ready for discussion at that meeting
31 so that they may be finalized at that meeting.
32

33 Mr. Thorsland announced that the petitioner for Case 798-V-15 has arrived. He entertained a motion to
34 pause the discussion regarding Cases 769-AT-13 and 773-AT-14 and hear Case 798-V-15 at this time.
35

36 **Ms. Lee moved, seconded by Ms. Capel to pause the discussion regarding Cases 769-AT-13 and 773-**
37 **AT-14 and hear Case 798-V-15 at this time. The motion carried by voice vote.**
38

39 Mr. Thorsland stated that previously the Board discussed the stockpiles and the new recommendations
40 included on Attachment JJJ. He asked the Board if they were comfortable with the revisions.
41

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

2
3 Ms. Lee stated that during a previous discussion the Board was discussing stockpiles over 100 cubic yards.

4
5 Mr. Hall stated that in Section 6 the relevant volume is 150 cubic yards but in Section 11, which applies in
6 the MS4 Area, is still 100 cubic yards. He noted that the MS4 Area is only 1% of the County's jurisdiction.

7
8 Ms. Lee asked if there is a reason why there is a difference in and out of the MS4 Area.

9
10 Mr. Hall stated yes. He said that 100 cubic yards is the standard and in the MS4 Area the less chance that we
11 take to raise questions from the EPA the better off we are. He said that there is no direction from the EPA to
12 do 100 cubic yards but 100 cubic yards is what is seen in every other ordinance and 100 cubic yards has been
13 the historical threshold and was the threshold used in the old model ordinance from the Northeastern Illinois
14 Planning Commission. He said that going to 150 cubic yards is atypical.

15
16 Mr. Thorsland asked Mr. Hall if there was any outside input regarding 150 cubic yards.

17
18 Mr. Hall stated no. He said that he just arbitrarily selected 150 cubic yards.

19
20 Ms. Lee stated that at a previous meeting she remembered Mr. Passalacqua asked about having a greater
21 number.

22
23 Mr. Hall asked the Board if they have found anything in the draft evidence that they have an issue with or
24 believed that it was poorly or very well done. He said that he would like to know that the Board read it and
25 had no concerns.

26
27 Ms. Lee asked Mr. Hall if he is specifically discussing the Supplemental Memorandum dated January 15,
28 2015.

29
30 Mr. Hall stated that he is specifically discussing any of the evidence that has been drafted for the Finding of
31 Fact.

32
33 Mr. Thorsland stated the Board needs to review and read their entire binder. He said that the Board has
34 Preliminary Findings of Facts for Case 769-AT-13 and 773-AT-14 dated January 15, 2015. He said that the
35 Board needs to be ready at the next meeting to review those two findings.

36
37 Mr. Hall stated that Case 773-AT-14 is only about the grading and demolition permit. He said that there are
38 at least three decision points in Case 769-AT-13 that the Board needs to provide recommendations to the
39 County Board: 1. ILR10 Compliance outside of the MS4 Jurisdictional Area; and 2. Proposed \$50 fee for the
40 Land Disturbance and Erosion Control Permit; and 3. Optional minimum requirements for the rest of the
41 County's jurisdiction. He said that the optional minimum requirements are located in Section 6 and consist

1 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
2 Fact for Case 769-AT-13 item #19 reviews all of the decision points. He said that item #19.A. is regarding
3 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,
4 and 6.5.

5
6 Mr. Thorsland stated that the Board needs to decide whether they will or will not be included in what is
7 recommended to the County Board.

8
9 Mr. Hall stated that the Board could also review pages 19-21 of the December 5, 2014, *Draft Storm Water*
10 *Management and Erosion Control Ordinance*, and it is all of Section 6.4, all of 6.5, and 6.1.F.

11
12 Mr. Randol stated that he greatly appreciates all of the work that staff has done with the *Draft Storm Water*
13 *Management and Erosion Control Ordinance*. He said that he thoroughly disagrees with the EPA telling the
14 County that they have to do this. He said that the County can't oversee what it has now regarding ordinances
15 and whether someone is overstepping or not or doing what they are supposed to be doing. He said that this
16 is an unfunded mandate and he doesn't understand how the County is going to maintain it other than the fact
17 that the County is doing what the EPA is requiring in establishing the guidelines.

18
19 Mr. Hall stated that this is not some farfetched idea that the EPA came up with and this is from the *Clean*
20 *Water Act* that was passed by the United States Congress. He said that the EPA is only doing their job the
21 same way the he does his job every day and he can't stress enough that Champaign County is the only county
22 that he knows of that is trying to implement these rules so that we are only focusing on 1% of our
23 jurisdiction. He said that everyone else has implemented these rules countywide and he does now know how
24 they can afford to do that but they have had it place for several years. He said that Champaign County is a
25 little slower and a little more careful and he really does not think that the few permits that we have in our
26 part of the MS4 Area will be a real big problem in the future but if that area increases in size like it is
27 expected to then that will be a different thing.

28
29 Ms. Lee asked if it is the Illinois EPA that is requiring this.

30
31 Mr. Hall stated that they are only requiring it because they are being forced to do it by the USEPA and the
32 only reason they are doing it is because of the *Clean Water Act*. He said that long ago when rivers were on
33 fire is why we have the *Clean Water Act*.

34
35 Mr. Thorsland stated that the three most important things to look at, although the entire thing is important,
36 are the draft and the two preliminary findings for each case. He said that we need to make sure that we catch
37 all of the areas where we need to make a decision and decide if something should stay in the ordinance or
38 not.

39
40 Mr. Hall stated that, regarding the stockpile difference, this thing about not requiring erosion control for
41 anything less than 10,000 square feet may not be acceptable by the EPA. He said that in Champaign-Urbana

1 they allow replacement of yard up to 10,000 square feet and they do not require any controls but when you
2 are building a house the threshold is much lower, 5,000 square feet. He said that he does not understand why
3 you can go up to 10,000 square feet in one instance but not 10,000 square feet in another which is why we
4 took their 10,000 square feet and ran with it. He said that we may find that this is unacceptable but if he is
5 ever told that by the EPA he is going to ask how Champaign-Urbana can do for the replacement of grass. He
6 said that he believes that Champaign-Urbana has been inconsistent but he may find out that the County's
7 Ordinance is not restrictive enough but if the EPA approves it with 10,000 square feet then so much the
8 better.

9
10 Ms. Lee asked Mr. Hall how long it will take the EPA to review this.

11
12 Mr. Hall stated that this will be permanently under review and we could find out at any time that the EPA
13 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
14 report is sent in to the EPA every year and the plan is updated every five years but at any point they can
15 indicate that something in the ordinance is not adequate. He said the EPA has been given a copy of the Draft
16 Ordinance to review and staff has not heard anything and he is not sending in another copy for their review
17 but he will send in a copy of the final ordinance so that they have it for their files. He said that once they
18 receive the final copy may be the time when we find out they have a concern.

19
20 Mr. Randol asked Mr. Hall if he has heard of any other communities where the EPA has commented or not.

21
22 Mr. Hall stated that in general he hasn't heard of anyone getting into trouble because their ordinance is not
23 strict enough and is generally about some other aspect of the program that they are doing. He said that he
24 cannot stress enough that Champaign County's Ordinance is unlike any other ordinance that the EPA has
25 seen, but he is more interested in what they absolutely say we cannot do more than what they recommend.
26 He said that as a regulator a recommendation is largely irrelevant because he has to know what he has to do.

27
28 Mr. Thorsland stated that the only note that he had was the demolition permit fee.

29
30 Mr. Hall stated that the demolition permit fee has been set at \$50 but there have been some comments from
31 the Board indicating that \$50 was unreasonable. He said that he is hesitant to say that we should require a
32 new permit without any fee although he could imagine a fee in regards to the grading permit and it would
33 only be required if staff receives a complaint and staff has to go out and investigate.

34
35 Mr. Thorsland stated that he would like the Board to think about having a small, reasonable fee or no fee at
36 all.

37
38 Mr. Passalacqua stated that it is a lot easier to collect a fee up front than it is to tell someone that they owe
39 the County a fee later.

40
41 Mr. Hall stated that it would be easy enough to create a fee list to indicate that there is no fee for the grading

1 permit unless staff receives a valid complaint that staff has to investigate on site. He said that this would be
2 easy enough to do but he has hesitated because once you start fiddling like that you could fiddle for a long
3 time and you inevitably have to say enough is enough.
4

5 Mr. Randol asked Mr. Hall if he does create a fee list like that how, would staff enforce collection of the fee.
6

7 Mr. Hall stated that anytime the County is due a fee and is not paid the fee the issue becomes an enforcement
8 case just like anything else. He said that the County currently has enforcement cases regarding unpaid fees.
9 He said that unless we enforce the Ordinance it doesn't mean anything.
10

11 Mr. Thorsland asked the Board if the preference is to charge the fee and hope that it balances itself out over
12 time or punish the guilty in hopes that they pay.
13

14 Mr. Hall stated that the lowest fee that the County has currently is the \$33 Zoning Compliance Inspection
15 fee. He said that the Board could recommend a fee of \$33 simply because it is the lowest fee that the County
16 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
17 Land Disturbance Permit could also be lowered to \$33 if that is what the Board would prefer because \$33 is
18 the lowest fee and could be the minimal fee charged.
19

20 Mr. Thorsland stated that the Board has a lot of homework to do.
21

22 Mr. Passalacqua asked if it would make sense to have the fee based upon the size or amount of the project or
23 just have a minimal fee and sticking with it.
24

25 Mr. Hall stated that having a graduated fee like that is challenging because it has to make sense at both ends
26 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
27 not going to be doing a lot of work on the grading permits, if adopted, but we will have to make sure that
28 stockpiles are where they should be there will be some work to be done by staff. He said that the intent was
29 to have a minimal fee and the question is should it be \$50 or \$33.
30

31 Mr. Thorsland entertained a motion to continue Cases 769-AT-13 and 773-AT-14 to March 12, 2015.
32

33 **Ms. Griest moved, seconded by Ms. Capel to continue Cases 769-AT-13 and 773-AT-14 to March 12,**
34 **2015. The motion carried by voice vote.**
35

36 **Case 794-S-14 Petitioner: Premier Cooperative, Inc. with board members Greg Miller, William**
37 **Stierwalt, Kim Jolley, Kenneth Hieser, Stephen Hettinger, Pat Feeney, James Kleiss, Douglas**
38 **Hansens, John Murray, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**
39 **General Manager and James Deters, Chief Financial Officer. Request: Part A. Authorize**
40 **construction of two 24,000 gallon bulk fuel storage tanks in the B-1, Rural Trade Center Zoning**
41 **District; and Part B. Authorize the following waiver to the standard conditions of the "Gasoline and**

1 **Volatile Oils Storage in the B-1 and B-3 Districts” Special Use as per Section 6.1.3 of the Zoning**
2 **Ordinance: Gasoline and Volatile Oils Storage Facilities shall not be permitted closer than 500 feet**
3 **from the R District or any Residential, Institutional, or Public Assembly Use.”; and Part C. Authorize**
4 **the use of multiple principal structures on the same lot consisting of (1) a grain storage facility that**
5 **was originally authorized by Case 575-S-86; and (2) two 24,000 gallon bulk fuel storage tanks with**
6 **adjacent loading and storage building. Location: A 8.19 acre tract in the South Half of the Southwest**
7 **Quarter of Section 17, Township 20N, Range 9E, in Somer Township and commonly known as**
8 **Premier Cooperative at 1711 East Leverett Road, Champaign.**
9

10 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
11 the witness register for that public hearing. He reminded the audience that when they sign the witness
12 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
13 time.
14

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

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

26 Mr. David Kieffer II, Fuel Manager for Premier Cooperative Inc., who resides at 1157 CR 200N, Pesotum,
27 stated that he is present tonight on behalf of Premier Cooperative for the construction of a small bulk fuel
28 plant which will consist of two 24,000 gallon bulk fuel tanks at their Leverett location. He said that the new
29 plant will make the location more efficient and will assist in taking more trucks off of the road.
30

31 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Kieffer and there were none.
32

33 Mr. Thorsland called John Hall to testify.
34

35 Mr. John Hall, Zoning Administrator, stated that the new Supplemental Memorandum dated February 19,
36 2015, included the requested revised site plan.
37

38 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kieffer and there was no one.
39

40 Mr. Thorsland stated that the new Supplemental Memorandum dated February 19, 2015, indicates that the
41 tanks have been relocated to ensure that there is at least 500 feet of separation between the nearest residential

1 use and the bulk tanks while maintaining the required side and rear setbacks. He said that the relocation
 2 eliminates the need for Part B. of the Special Use. He said that the site plan indicates the proposed
 3 relocation therefore if the Board is comfortable with the new site plan the Board can move forward.
 4

5 The Board indicated that they were comfortable with the new site plan submitted on February 17, 2015.
 6

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

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

15 The special condition stated above is required to ensure the following:
 16 **That off-street parking is in compliance with the Zoning Ordinance.**
 17

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

25 The special condition stated above is required to ensure the following:
 26 **New buildings shall be in conformance with Public Act 96-704.**
 27

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

32 The special conditions stated above are required to ensure the following:
 33 **That the proposed Special Use meets applicable state codes for gasoline storage.**
 34

35 Mr. Thorsland asked Mr. Kieffer if he agreed to Special Conditions A, B and C.
 36

37 Mr. Kieffer stated that he agreed to Special Conditions A, B, and C.
 38

39 Mr. Thorsland entertained a motion to approve the Special Conditions as read.
 40

41 **Ms. Griest moved, seconded by Ms. Capel to approve the Special Conditions as read. The motion**

1 **carried by voice vote.**
2

3 Mr. Hall stated that the following items should be added to the Documents of Record: #4 Supplemental
4 Memorandum dated February 12, 2015, with attachments: A. Natural Resources Report from the
5 Champaign County Soil and Water Conservation District; and B. Letter from GEOCON received February 6,
6 2015; and #5 Supplemental Memorandum dated February 19, 2015, with attachments: A. Revised site plan
7 received February 17, 2015.
8

9 **Findings of Fact for Case 794-S-14:**
10

11 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
12 794-S-14 held on February 12, 2015 and February 26, 2015, the Zoning Board of Appeals of Champaign
13 County finds that:
14

- 15 **1. The requested Special Use Permit IS necessary for the public convenience at this**
16 **location.**
17

18 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
19 location because it provides fuel for farmers in the vicinity and will reduce truck traffic volumes.
20

- 21 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**
22 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**
23 **the district in which it shall be located or otherwise detrimental to the public health,**
24 **safety, and welfare because:**
25

- 26 **a. The street has ADEQUATE traffic capacity and the entrance location has**
27 **ADEQUATE visibility.**
28

29 Mr. Passalacqua stated that the street has ADEQUATE traffic capacity and the entrance location has
30 ADEQUATE visibility.
31

- 32 **b. Emergency services availability is ADEQUATE.**
33

34 Ms. Capel stated that emergency services availability is ADEQUATE.
35

- 36 **c. The Special Use WILL be compatible with adjacent uses.**
37

38 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses because it serves
39 agriculture.
40

- 41 **d. Surface and subsurface drainage will be ADEQUATE.**

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

e. Public safety will be ADEQUATE.

Ms. Capel stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

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

Mr. Thorsland 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.

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

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

3b. 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 because:

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

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

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

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

c. Public safety will be ADEQUATE.

Mr. Thorsland stated that public safety will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,

1 DOES preserve the essential character of the DISTRICT in which it is located.
2

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

5 **a. The Special Use IS authorized in the District.**
6

7 **b. The requested Special Use Permit IS necessary for the public convenience at this**
8 **location.**
9

10
11 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
12 location.
13

14 **c. The requested Special Use Permit, subject to the special conditions imposed**
15 **herein, is so designed, located, and proposed to be operated so that it WILL**
16 **NOT be injurious to the district in which it shall be located or otherwise**
17 **detrimental to the public health, safety and welfare.**
18

19 Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed
20 herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district
21 in which it shall be located or otherwise detrimental to the public health, safety and welfare.
22

23 **d. The requested Special Use Permit, subject to the special conditions imposed**
24 **herein, DOES preserve the essential character of the DISTRICT in which it is**
25 **located.**
26

27 Mr. Randol stated that the requested Special Use Permit, subject to the special conditions imposed herein,
28 DOES preserve the essential character of the DISTRICT in which it is located.
29

30 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed
31 herein, IS in harmony with the general purpose and intent of the Ordinance.
32

33 **5. The requested Special Use IS NOT an existing nonconforming use.**
34

35 Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.
36

37 **6. The Special Conditions imposed herein are required to ensure compliance with the**
38 **criteria for Special Use Permits and for the particular purposes described below:**
39

40 **A. Paragraph 7.4.2 C.5. requires one loading berth of minimum 12' x 40'**
41 **dimensions for commercial and industrial establishments of 1 to 9,999 square**

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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.

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

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.

39
40 The roll was called as follows:

1	Capel-yes	Griest-yes	Lee-yes
2	Passalacqua-yes	Randol-yes	Thorsland-yes
3			
4			

5 Mr. Hall informed the petitioner that Case 794-S-14 has been approved. He said that the map amendment
6 request for Case 797-AM-14 will be heard at the Environment and Land Use Committee meeting on March
7 05, 2015.

8
9 **6. New Public Hearings**

10
11 **Case 796-V-14 Petitioner: Steve Vincent and George Stanhope Request to authorize the following in**
12 **the AG-1 District: A variance from Paragraph 4.2.1H of the Zoning Ordinance, which requires that**
13 **no structure shall be constructed no use established upon or moved to a lot that does not abut and**
14 **have access to the street. Location: A 6.94 acre tract in Newcomb Township in the Southwest Quarter**
15 **of the Southeast Quarter of Section 15 of Township 21N, Range 7E of the Third Principal Meridian**
16 **and commonly known as the residence located at 360 CR 2700N, Mahomet.**

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

22
23 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
24 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
25 of hands for those who would like to cross examine and each person will be called upon. He requested that
26 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
27 those who desire to cross examine are not required to sign the witness register but are requested to clearly
28 state their name before asking any questions. He noted that no new testimony is to be given during the cross
29 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
30 from cross examination.

31
32 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

33
34 Mr. George Stanhope, who resides at 360 CR 2700N, Mahomet, stated that he is present tonight as a
35 petitioner and as an agent for Steve Vincent. He said that they are requesting a variance from Paragraph
36 4.2.1H of the Zoning Ordinance for an access strip. He said that he has been trying to purchase the property
37 from Mr. Vincent for the last nine months and hopefully this is his last stop for that purchase. He said that
38 there is some confusion regarding the boundary lines of the property because there have been two different
39 survey markers used to verify the property line. He said that unfortunately the property did meet the
40 Ordinance’s requirements when the home was constructed and currently it does not.

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

2
3 Mr. Stanhope stated that other section line roads actually follow the section line and for some reason the CR
4 2700N was built south of the section line. He said that all property owners in the vicinity, until 2007,
5 assumed that the road was the boundary line for their property.

6
7 Mr. Thorsland stated that is a natural assumption for most people.

8
9 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Stanhope and there were none.

10
11 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Stanhope and there was no one.

12
13 Mr. Thorsland called John Hall to testify.

14
15 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated February 26,
16 2015, to the Board for review. He said that the memorandum has a letter attached from Attorney William R.
17 Scott, who represents petitioner Steve Vincent. Mr. Hall stated that the letter summarizes the actions taken
18 to date to resolve the problem but unfortunately they have had no luck with other alternatives. He said that
19 as Mr. Stanhope mentioned during his testimony hopefully this is the last alternative to fix the problem. Mr.
20 Hall said that this is a serious problem with this land because even after the Zoning Administrator went out
21 on a limb to write a letter trying to facilitate the mortgage company's concerns about this lot, the letter was
22 not good enough and they are not willing to issue a mortgage on the property until the situation is corrected.
23 He said that the variance is critical in restoring the value to this property.

24
25 Mr. Hall stated that attached to the new memorandum is revised evidence for item 10.C. which is the
26 standard part of the Summary of Evidence where the Board reviews the reason for that standard being in the
27 Ordinance and whereas generally we don't really know why anything in the Ordinance in particular but in
28 this case we know exactly why it is in there. He said that in the 1990's the Department spent a lot of time
29 making a series of technical amendments to the Ordinance trying to improve the Ordinance to make sure that
30 every new lot had adequate road frontage while at the same time not making all of the existing lots
31 nonconforming that didn't. He said that there were a number of cases dealing with this and after looking at
32 those cases he and Ms. Chavarria decided that Case 847-AT-93 had the best summation of all of the reasons
33 that underline the reason for minimum frontage on the street. He said that it has to do with the division of
34 large tracts that could potentially create problems with respect to drainage, emergency vehicle access and
35 extension of public streets and utilities if they did not touch the public street for some minimal dimension.
36 He said that the County has spent a lot of time documenting the need for this requirement. He said that there
37 is some more new evidence in item 10.C about how this request does not appear to impact drainage and there
38 is no extension of public streets or utilities anticipated for this property. He said that Board members will be
39 well served to review the letter from Attorney William Scott because it really documents the efforts that have
40 been made to rectify this issue.

41

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

2

3 Mr. Stanhope stated yes.

4

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

9

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

12

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

14

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

16

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

18

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

20

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

23

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

25

26 Mr. Thorsland called Roger Morfey to testify.

27

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

30

31 Mr. Thorsland asked Mr. Morfey if this is the first time that Mr. Stanhope is hearing about this offer.

32

33 Mr. Morfey stated that he did speak with Mr. Stanhope last week. He said that currently his attorney is out
34 of town.

35

36 Mr. Thorsland stated that if the Board could find out if a purchase of the piece of land in question is a
37 possibility he would prefer not to grant a variance that isn't necessary.

38

39 Mr. Morfey stated that he believes that it is definitely a possibility.

40

41 Mr. Thorsland asked Mr. Morfey if he has any further information to add.

1

2 Mr. Morfey stated that he does not negotiate such matters over the phone and Mr. Vincent is located in
3 Indiana. He said that he has asked Mr. Stanhope to get in touch with Mr. Vincent.

4

5 Mr. Thorsland asked Mr. Morfey if his attorney has discussed a negotiated purchase price with Mr.
6 Vincent's attorney.

7

8 Mr. Morfey stated that he does not believe that the two attorneys have discussed any negotiated purchase
9 price since last year.

10

11 Mr. Thorsland stated that this is a new revelation for this case and it would be in everyone's best interest if
12 this purchase could occur. He encouraged Mr. Morfey to have his attorney contact Mr. Vincent's attorney as
13 soon as possible. He said that the Board will continue this case to a later date to give the petitioners an
14 opportunity to rectify the situation and if the issue is rectified the case will no longer be necessary.

15

16 Mr. Thorsland asked the Board if there were any questions for Mr. Morfey.

17

18 Ms. Griest asked Mr. Morfey how quickly he anticipates this issue will be resolved.

19

20 Mr. Morfey stated that it depends on what Mr. Vincent decides.

21

22 Ms. Griest asked Mr. Morfey if he was ready to move forward at this time.

23

24 Mr. Morfey stated yes, and it could be as soon as next week.

25

26 Ms. Lee asked Mr. Thorsland if the Board could ask Mr. Morfey what he considers a reasonable price would
27 be for this piece of land.

28

29 Mr. Thorsland stated that he would prefer to keep the negotiated price private. He said that they can discuss
30 if a negotiated price is possible and if it is not then the Board can continue with the variance request.

31

32 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Morfey and there
33 were none.

34

35 Mr. Thorsland called Mr. Stanhope back to the witness microphone.

36

37 Mr. Thorsland asked Mr. Stanhope if Mr. Morfey's testimony is new information.

38

39 Mr. Stanhope stated that Mr. Morfey contacted him on Tuesday by leaving him a card in his garage door
40 indicating that he was interested in speaking with Mr. Vincent. Mr. Stanhope stated that he contacted Mr.
41 Vincent and no firm price has been negotiated therefore he would ask that the case not be delayed because he

1 is not sure how this will end up.

2
3 Mr. Thorsland stated that he would like to put a firm timeline on the continuance. He said that the next
4 meeting in March is reserved for a very big case but perhaps this case could be heard first if possible.

5
6 Mr. Hall indicated that a continuance to the first meeting in March is not possible.

7
8 Mr. Thorsland stated that perhaps the March 26, 2015, meeting could be the continuance date. He said that
9 the petitioner can continue to use the lot access as he is currently.

10
11 Mr. Stanhope stated that he would like to get this completed as soon as possible so that the mortgage rates do
12 not increase.

13
14 Ms. Griest asked if the Board had a date as to when Mr. Stanhope's mortgage commitment would expire.

15
16 Mr. Stanhope stated that he has discussed the purchase with the bank but he does have a mortgage
17 commitment yet due to the access issue.

18
19 Ms. Griest asked Mr. Stanhope if he has a specific date when his mortgage rate lock expires.

20
21 Mr. Stanhope stated that the bank will not lock in a rate until this issue is resolved.

22
23 Mr. Thorsland asked Mr. Stanhope if, a reasonable price could be negotiated, would he opposed to his case
24 being continued to the March 12th meeting with his case being the first case heard. He said that either the
25 petitioner will indicate that no negotiated priced could be reached therefore the need for the variance
26 continues or indicate that the variance is no longer required because a negotiated price has been agreed upon.
27 Mr. Thorsland stated that a continuance to March 12th would not put a great delay on Mr. Stanhope's
28 negation with his bank and would put a nice timeline as to whether any negotiated price is possible therefore
29 eliminating the need for the variance.

30
31 Mr. Stanhope stated that it would be wonderful if this was all done in a two week time period.

32
33 Mr. Thorsland stated that as one Board member he would like to continue this case to the March 12th
34 meeting to see if this issue can be resolved.

35
36 Mr. Hall asked the Board if, the petitioner accepts the continuance and he is back within two weeks, are
37 there any questions about the amount that was offered or turned down or will the Board's question be
38 whether there is or is not an agreement.

39
40 Mr. Passalacqua stated that the answer is either yes or no. He said that the property is going to be so much
41 more functional with the owner being all of the way out to the street otherwise there will be a maintenance

1 issue, mowing issue and a property line scuffle. He said that if the Board can keep the issue off of its table
2 and the property owners can agree to a negotiated price then so much the better. He said that the property is
3 not going to work the way it is currently and it would be better if the petitioner owned the access regardless
4 of the amount.

5
6 Ms. Lee asked if it would be possible for the Board to work through the variance tonight and if the two
7 parties are able to resolve the access issue the variance would be revoked.

8
9 Mr. Hall stated that such a condition could be placed on the variance but it would require staff to know when
10 and if there was an actual conveyance and it would be a lot of trouble. He said that it would be much cleaner
11 to decide if the variance is needed and then make the determination.

12
13 Mr. Thorsland stated that he is inclined to give the parties a two week timeline to get things done.

14
15 Mr. Stanhope stated that the agreed upon or not agreed upon price is of no interest to the Board and only
16 whether an agreement has been reached or not.

17
18 Mr. Thorsland stated that Mr. Stanhope was correct.

19
20 Mr. Passalacqua stated that if an agreement is reached they do not need to appear before the Board again.

21
22 Mr. Hall stated that he cannot stress enough the difference between agreeing to something and actually
23 consummating the agreement. He said that given how long this has gone on he cannot believe that
24 consummation is going to happen in two weeks and he would hate to see the petitioner withdraw the case
25 and then discover there is a problem on the way to the Recorder's office.

26
27 Ms. Griest stated that she was hoping that the Board could see a legally binding agreement before any type of
28 withdrawal of the case would occur.

29
30 Ms. Lee stated that even an executed contract to purchase would suffice.

31
32 Ms. Griest stated that the case should be continued until the purchase is fully executed.

33
34 Ms. Lee agreed with Ms. Griest.

35
36 Mr. Thorsland stated that if the Board continues the case to March 12th and the petitioners contact staff
37 indicating that they are moving towards an agreement, the Board could continue the case to a later date.

38
39 Mr. Passalacqua stated that a contract could be agreed upon within two-week's time if Mr. Morfey presents a
40 reasonable offer that Mr. Vincent agrees to.

41

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

2
3 Mr. Randol asked how long it has been assumed that the property line went all the way to the road.

4
5 Mr. Thorsland stated that he does not know.

6
7 Mr. Stanhope stated forever.

8
9 Mr. Randol stated that if there has been a fence line there forever dividing the two farms is there nothing that
10 indicates that the fence line ends up being the actual line.

11
12 Mr. Thorsland stated that his property has three feet of his neighbor's building on his property and it has
13 been there since the two owners, long ago, agreed to constructing the building at that location. He said that
14 whether he can store things in the part of the building that is on his property is questionable and is probably a
15 legal question.

16
17 Mr. Passalacqua stated that it is irrelevant because the bank has already indicated that they will not grant a
18 mortgage on the property until the access issue is resolved.

19
20 Ms. Lee stated that in the past these things were agreed upon by the owners, which is why there are jogs in
21 the road.

22
23 Mr. Passalacqua stated that the bank does not care about what happened in the past.

24
25 Mr. Thorsland stated that there are only two options, either the land is purchased from Mr. Morfey or the
26 variance is granted.

27
28 Mr. Thorsland entertained a motion to continue Case 796-V-14 to the March 12th meeting.

29
30 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 796-V-14 to the March 12, 2015,**
31 **meeting and to be heard as the first case on the agenda. The motion carried by voice vote.**

32
33 Mr. Thorsland stated that the Board will take a ten minute recess to allow time for the petitioner for Case
34 798-V-15 to arrive.

35
36 **The Board recessed at 6:50 p.m.**

37 **The Board resumed at 7:00 p.m.**

38
39 Mr. Thorsland stated that the petitioner for Case 798-V-15 has not arrived to the meeting yet therefore the
40 Board will hear Cases 769-AT-13 and 773-AT-14 at this time.

41

1 **Case 798-V-15 Petitioner: SBA Network Services LLC, with agent Dolan Realty Advisors, LLC**
2 **Request to authorize the construction and use of a telecommunications tower in the R-4 Multiple**
3 **Family Residence Zoning District with a height of 100 feet in lieu of the maximum 75 feet, Location:**
4 **A 3.18 acre tract in Urbana Township in the South Half of the Northwest Quarter of the Northwest**
5 **Quarter of Section 8 of Township 19N, Range 9E of the Third Principal Meridian commonly known**
6 **as part of the Vineyard Christian Church property, 1500 North Lincoln Avenue, Urbana.**
7

8 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
9 the witness register for that public hearing. He reminded the audience that when they sign the witness
10 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
11 time.
12

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

22 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
23

24 Mr. Doug Dolan, Agent representing SBA Network Services, LLC, stated that they intend to construct a 100
25 foot tower for Verizon Wireless to provide better coverage for their clients. He said that the additional 25
26 feet will assist Verizon to provide better coverage capacity. He said that more and more people are cutting
27 the cord to their residential land line and all companies are striving to provide more and better coverage for
28 their customers.
29

30 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Dolan.
31

32 Ms. Lee asked Mr. Dolan how close the proposed tower will be to the nearest residence.
33

34 Mr. Dolan stated that the second page of the submitted survey indicates that the tower will be at least 100
35 feet to the rear property line and 150 feet to the nearest residence. He said that the dense trees and woods
36 will act as a buffer between the tower and the nearest residences.
37

38 Mr. Hall stated that the Zoning Ordinance provides for towers with a height of 100 feet or less but there is
39 this provision that towers must conform to applicable regulations of other government agencies and I would
40 argue that the County has the right to require a variance in this instance since the proposed tower exceeds the
41 maximum height authorized by the statutes. He said that it would be nice to amend the Ordinance to include

1 these provisions in the statutes regarding telecommunication towers but there is reason to argue that we have
2 the right to require the variance if the height of the proposed tower is higher than what the State Statute
3 provides for. He said that he is reviewing the State Statute to see what separation to the property line is
4 required but given that the separation to the property line is equal to the height we know that the separation
5 to the nearest dwelling will be at least 25 or 30 feet greater than that which far exceeds any statutory
6 requirement.

7
8 Mr. Hall stated that subparagraph (g) on page 5 of Attachment C, included with the Supplemental
9 Memorandum dated February 26, 2015, discusses the requirements for any county with a population of less
10 than 180,000. He said that paragraph (1)(B) discusses the horizontal separation distance to the nearest
11 principal residential building shall not be less than the height of the supporting structure. He said
12 unfortunately there is not one single paragraph in the section that talks about a county with a population of
13 180,000 or more which is almost as if there is a minimum separation for counties with less than 180,000 but
14 none for a county with more than 180,000. He said that when the petitioner originally called the office he
15 encouraged him to provide a separation to the lot line even though the County cannot require any separation.

16
17 Mr. Thorsland stated that subparagraph (h)(2) on page 6 of Attachment C, indicates that any county with a
18 population of 180,000 or more unless a height variation is granted by the county board, the height of a
19 facility shall not exceed 75 feet if the facility will be located in a residential zoning district or 200 feet if the
20 facility will be located in a non-residential zoning district. He said that subparagraph (h)(3)(i) indicates that
21 if the facility will be located in a residential zoning district the lot line set back distance to the nearest
22 residentially zoned lot shall be at least 50% of the height of the facility's supporting structure or (ii) if the
23 facility will be located in a non-residential zoning district the horizontal separation distance to the nearest
24 principal residential building shall be a least equal to the height of the facility's supporting structure.

25
26 Mr. Hall stated that the statute would only require 50% of the height for separation.

27
28 Ms. Griest stated that her oldest son works for Verizon Wireless in Springfield and his position is to manage
29 these towers. She said that she did not know if this information would require her to abstain from the case
30 due to any conflicts of interest or not.

31
32 Mr. Hall asked Ms. Griest if her oldest son has a residence of his own.

33
34 Ms. Griest stated yes. She said that she just wanted to disclose the information.

35
36 Mr. Hall stated that he sees no conflict.

37
38 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Dolan and there were
39 none.

40
41 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Dolan and there was no one.

1

2 Mr. Thorsland called Elynn Dee to testify.

3

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

7

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

9

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

13

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

16

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

19

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

21

22 Ms. Dee stated that they appear to be closer.

23

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

25

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

27

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

32

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

36

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

38

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

40

41 Mr. Joellenbeck stated that he does not know the exact height but they are the standard height of full grown

1 trees which he would guess is 40 or 50 feet.
2
3 Mr. Thorsland stated that it is reasonable that the extra height is to extend beyond the tree height.
4
5 Mr. Joellenbeck stated yes.
6
7 Mr. Passalacqua stated that the tower the Ms. Dee mentioned is located on the cemetery property.
8
9 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Joellenbeck and there were
10 none.
11
12 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Joellenbeck and there was no one.
13
14 Mr. Thorsland asked the Board and staff if they had any additional questions for Mr. Dolan and there were
15 none.
16
17 Ms. Chavarria, Senior Planner, stated that Mr. William Morfey, who resides at 1307 North Coler, Urbana,
18 called on February 18, 2015, providing comments to be voiced at tonight's meeting. She noted that she is
19 paraphrasing his comments. She said that Mr. Morfey indicated that he believes short notice was given for
20 providing public comments considering the type of permanent project that is being discussed. Mr. Morfey
21 questioned why this location was chosen when there is higher ground to the north of Bradley and south of
22 Interstate 74 that has industrial and business uses rather than residential uses. Mr. Morfey stated that he is
23 against the proposed project because he believes that the tower will negatively impact property values and is
24 concerned that flashing lights that might be on the tower may be a nuisance. Mr. Morfey asked if Carle
25 Hospital is aware of the proposed project because the helicopters circle over his house and the property
26 where the tower is proposed to be constructed.
27
28 Mr. Passalacqua stated that Carle has blinking lights and the existing tower has blinking lights and the
29 proposed tower is directly across the street from the commercial area. He said that he is not making light of
30 Mr. Morfey's comments but it seems that it is just more of the same. Mr. Passalacqua stated that the Board
31 has received testimony that the proposed tower is a necessary evil because of the coverage and demands. He
32 said that the proposed tower will be relatively screened from the residences.
33
34 Mr. Thorsland requested that Mr. Dolan return to the witness microphone.
35
36 Mr. Thorsland stated that it appears that many towers are made to look like trees, water fountains, etc. He
37 asked Mr. Dolan if there was a thought of constructing a tower that is somewhat camouflaged since it is
38 surrounded by trees.
39
40 Mr. Dolan stated that a lot of those stealth type structures have a lot of design limitations and do not always
41 provide for the new data antennas that are required by Verizon Wireless. He said that the stealth structures

1 are not designed to handle the technology that is required and are only used where there is no other option
2 available. He said that the stealth towers are very expensive. He noted that there are no blinking lights on
3 the proposed tower because it is less than 200 feet in height.
4

5 Mr. Thorsland asked if the construction impact is very lengthy.
6

7 Mr. Dolan stated that the tower itself will take approximately two days. He said that the concrete foundation
8 takes some curing time, so the whole process takes about 30 days.
9

10 Mr. Randol asked Mr. Dolan to indicate the life cycle of the tower. He asked if Verizon Wireless no longer
11 requires the tower could it be utilized by a different company.
12

13 Mr. Dolan stated that the changes in the industry are the antennas placed on the tower and the
14 communication equipment in the shelter but the height requirement of the tower itself has not been changed.
15 He said that the only way radio waves will work properly is to gain height above the clutter of tree tops and
16 other obstructing structures.
17

18 Mr. Randol asked Mr. Dolan if in ten years the equipment that is placed on the tower becomes obsolete what
19 happens to the tower itself.
20

21 Mr. Dolan stated that it is hard to predict but the older antennas would be replaced.
22

23 Mr. Randol asked Mr. Dolan if he is responsible for removing the tower when it is no longer required.
24

25 Mr. Dolan stated yes.
26

27 Mr. Passalacqua asked if the Board should require a reclamation agreement for removal of the tower.
28

29 Mr. Thorsland stated that removal of the tower is between SBA Network Services, LLC and the Vineyard
30 Church.
31

32 Mr. Passalacqua stated that the Board required a reclamation agreement for the wind farm towers.
33

34 Mr. Thorsland stated that the wind farm towers were very different than this type of tower. He said that
35 removal of the tower is in the private contract between SBA Network Services, LLC and the Vineyard
36 Church. He said that he does not believe that they would just leave it there when it is no longer needed
37 because just the steel for the tower is worth money.
38

39 Ms. Griest stated that previous testimony indicated that the area is already saturated with towers and nearby
40 residents had Verizon Wireless and it appeared that it works very well. She said that the purpose of the
41 tower is to add band width so that Verizon Wireless can get more calls through the pipeline and serve more

1 customers at the same time.

2
3 Mr. Dolan stated that Ms. Griest is correct. He said that the term they use is “capacity” and not “band
4 width”.

5
6 Ms. Capel asked Mr. Dolan if the equipment shelter will have exterior lighting.

7
8 Mr. Dolan stated that at the entrance of the shelter there will be a small security light that is approximately
9 five or six feet above ground level. He said that the light is designed to only illuminate the step and the door.

10
11 Ms. Capel asked Mr. Dolan if the light is a full cutoff light.

12
13 Mr. Dolan stated that the shelter is pre-fabricated and it comes with a standard light. He said that it is
14 designed to only illuminate that particular area.

15
16 Mr. Thorsland stated that since the area is fairly illuminated therefore a light five to six feet off of the ground
17 level within a group of trees would not be considered light pollution.

18
19 Ms. Griest asked Mr. Dolan if the shelter will have a fence around it to prevent unwanted visitors.

20
21 Mr. Dolan stated that the area will be surrounded by a security fence.

22
23 Mr. Hall stated that some of the trees that are providing screening for the tower site are not on the church’s
24 property and trees are sometimes destroyed or they die in time. He asked Mr. Dolan if he would be opposed
25 to a condition that would require SBA Network Services, LLC to plant replacement trees to maintain the
26 same level of screening. He said that the statutes discuss replacement of trees that are removed during
27 construction but they do not go beyond that therefore he does not want to tread into conditions that the Board
28 cannot require.

29
30 Mr. Dolan stated that the design does not include removal of any trees because the tower is located in a
31 clearing area of the existing trees. He said that he does not know what the regulations are for replacing a tree
32 on someone else’s property.

33
34 Mr. Hall stated that it would just require planting a tree on the church property to maintain the same level of
35 screening. He said that the screening is the whole reason why this seems so reasonable and he does not
36 believe that all of the trees are located on the church property.

37
38 Mr. Dolan stated that some of the trees are located in the rear yard so some of the property owner’s trees are
39 on the church property. He said that certainly trees will grow and the older trees will die over time but if that
40 is a real concern then he can consider it.

41

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

3
4 Mr. Hall stated that there is another part of the statutes that establishes the minimum landscaping
5 requirement when you are next to a residential lot and it could well be that it is already a requirement of the
6 statutes. He said that he finds these statutory requirements really difficult to navigate.

7
8 Mr. Dolan stated that Mr. Hall is correct. He said that (e)(6) on page 3 of the State Statutes reads as follows:
9 If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district,
10 low maintenance landscaping should be provided on or near the facility lot to provide at least partial
11 screening of the facility. The quantity and type of that landscaping should be in accordance with any county
12 landscaping regulations of general applicability.

13
14 Mr. Thorsland asked Mr. Hall how the Board would know if a tree on a neighboring lot no longer exists
15 therefore triggering the planting of the tree by the petitioner.

16
17 Mr. Hall stated that the only way that we would know is if staff received a complaint and at that point a
18 competent Zoning Administrator could turn to the statutes and argue that they require the continual
19 screening. He said that it could be that the condition is not warranted.

20
21 Mr. Passalacqua asked Mr. Hall how the Board could consider it being screened if the trees are not located
22 on the property that the tower is located upon. He said that if the trees are not on the church property then
23 the petitioner has not provided adequate landscaping to screen the project.

24
25 Mr. Thorsland stated that he is not convinced that the trees are not on the church property. He said that the
26 Board does not know where the trees are precisely located because our only evidence currently is a big black
27 line on an aerial photograph with shadows.

28
29 Mr. Passalacqua asked if the Ordinance requires landscape screening for such a project.

30
31 Mr. Hall stated that the Ordinance does not but what requires it is the State Statute.

32
33 Mr. Passalacqua stated that whether or not there are trees on the neighboring properties is not important
34 because if the State Statute indicates that they have to provide screening, then the screening should be on the
35 property in question.

36
37 Mr. Thorsland stated that a condition could be proposed that if the existing screening trees do not reside on
38 the property then screening shall be established.

39
40 Ms. Griest asked Mr. Hall which homes are being discussed because from the aerial there is no doubt that
41 the trees to the south are on the Vineyard Church property.

1

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

5

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

9

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

11

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

15

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

19

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

21

22 The Board indicated yes.

23

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

26

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

27

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

29

That the proposed telecommunications facility meets applicable height

30

ordinances.

31

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

33

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

35

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

37

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

39

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

41

1 Mr. Thorsland entertained a motion to approve Special Condition A.

2
3 **Mr. Randol moved, seconded by Ms. Capel to approve Special Condition A. The motion carried by**
4 **voice vote.**

5
6 **Finding of Fact for Case 798-V-15:**
7

8 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
9 798-V-15 held on February 26, 2015, the Zoning Board of Appeals of Champaign County finds that:

- 10
11 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
12 **structure involved, which are not applicable to other similarly situated land and**
13 **structures elsewhere in the same district.**
14

15 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
16 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
17 same district because the tower site is surrounded by mature trees and there is a public demand for greater
18 capacity that can be solved by placing the tower at this location.
19

- 20 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
21 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
22 **the land or structure or construction.**
23

24 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
25 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
26 or construction because the height of the existing mature trees would interfere with the function of the tower
27 unless the variance is granted.
28

- 29 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
30 **result from actions of the applicant.**
31

32 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
33 result from actions of the applicant.
34

- 35 **4. The requested variance, subject to the proposed condition, IS in harmony with the**
36 **general purpose and intent of the Ordinance.**
37

38 Mr. Randol stated that the requested variance, subject to the proposed condition, IS in harmony with the
39 general purpose and intent of the Ordinance because the natural terrain dictates the need for additional
40 height.
41

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

2
3 Mr. Hall stated the purpose and intent of the Zoning Ordinance.

- 4
5 **5. The requested variance, subject to the proposed condition, WILL NOT be injurious to**
6 **the neighborhood or otherwise detrimental to the public health, safety or welfare.**
7

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

11
12 Mr. Dolan stated that a large component of the cell towers is to enhance 911 and e911.

13
14 Mr. Thorsland stated that the Board can include that it improves public safety by enhancing e911
15 capabilities.

- 16
17 **6. The requested variance, subject to the proposed condition, IS the minimum variation**
18 **that will make possible the reasonable use of the land/structure.**
19

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

- 22
23 **7. As per 55 ILCS 5-12001.1(h)(4), but for the granting of a variation, the service that the**
24 **telecommunications carrier seeks to enhance or provide with the proposed facility**
25 **WILL be less available, impaired, or diminished in quality, quantity, or scope coverage.**
26

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

- 30
31 **8. As per 55 ILCS 5-12001.1(h)(4), the conditions upon which the application for**
32 **variations is based ARE unique in some respect or, if not, whether the strict application**
33 **of the regulations WOULD result in a hardship on the telecommunications carrier.**
34

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

- 38
39 **9. As per 55 ILCS 5-12001.1(h)(4), a substantial adverse effect on public safety WILL**
40 **NOT result from some aspect of the facility's design or proposed construction, but only**
41 **if that aspect of design or construction is modifiable by the applicant.**

1

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

5

6 Mr. Thorsland asked Mr. Dolan if he is familiar with finding.

7

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

10

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

14

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

18

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

21

22 Ms. Griest stated that as per 55 ILCS 5-12001.1(h)(4), the extent to which the design of the proposed
23 facility DOES reflect compliance with design guidelines from 55 ILCS 5-12001.1(e).

24

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

26

27 **A. No other towers in the leased are of the property shall exceed a**
28 **height of 100 feet.**

29

The special condition stated above is to ensure the following:

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

32

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

35

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

38

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

40

41 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 798-V-15. The**

1 motion carried by voice vote.

2

3 **Final Determination for Case 798-V-15:**

4

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

12

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

16

17 **A 3.18 acre tract in Urbana Township in the South Half of the Northwest**
18 **Quarter of the Northwest Quarter of Section 8 of Township 19N, Range 9**
19 **East of the Third Principal Meridian commonly known as part of the**
20 **Vineyard Christian Church property, 1500 North Lincoln Avenue, Champaign**
21 **County, Illinois.**

22

23 Mr. Thorsland requested a roll call vote.

24

25 The roll was called as follows:

26

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

29

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

32

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

34

35 **7. Staff Report**

36

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

41

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

2
3 Mr. Hall stated that staff still needs to complete that inspection.

4
5 **8. Other Business**

6 A. Review of Docket

7
8 Ms. Capel stated that she will be absent from the April 30, 2015, meeting.

9
10 Mr. Thorsland stated that it is possible that he will be absent from the April 16, 2015, meeting. He said that
11 he will know for sure by March 12, 2015, and he will notify staff as soon as possible.

12
13 Ms. Lee asked if just because staff indicates it is busy and someone does not obtain a permit for construction
14 they are still responsible for obtaining a permit and the indication that staff was busy does not excuse them.

15
16 Mr. Hall stated yes the responsibility to file for a permit is on the owner and staff's workload is not an
17 excuse not to file and pay the appropriate fees. He said that someone has submitted a permit application and
18 staff has not processed it then that may be a different story because it depends why staff has not moved
19 forward.

20
21 Ms. Lee asked if during a case there were three things that someone constructed without a permit they are
22 still responsible for obtaining permits for those structures.

23
24 Mr. Hall stated yes.

25
26 Ms. Lee asked Mr. Hall in a situation where someone does not obtain a permit or permits and a zoning case
27 is before the Board for that use, would the Zoning Administrator make a recommendation as to what he
28 would prefer the Board's action to be.

29
30 Mr. Hall stated that the only recommendation that he makes is if something needs to be done in order for the
31 Board to approve a request then he needs to make the Board aware of that as a special condition. He said
32 that historically the Department has never made approve or not approve recommendations and it has always
33 been up to the Board. He said that he is actually more comfortable leaving it up to the Board because if the
34 Board needs to approve ten pages of conditions to approve something then maybe that is a good sign that
35 maybe it shouldn't be approved. He said that he cannot stress enough that this Board is not here to penalize
36 people when they think that the petitioner has not done a good job but is here to make sure that everything is
37 in compliance. He said that if a situation can finally be made into compliance then that is all staff and the
38 Board is here to do.

39
40 Mr. Thorsland stated that Ms. Lee's questions are probably more appropriate for Mr. Hall over the phone or
41 during a face to face meeting.

1

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

4

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

8

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

11

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

14

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

24

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

28

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

33

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

38

39 Mr. Hall stated yes.

40

41 Ms. Lee stated that the Board has taken action previously when a structure was out of compliance therefore

1 they had to remove a portion of the structure.

2
3 Mr. Hall stated that the Board did have a case that was decided and the petitioner did remove a portion of the
4 structure rather than arguing with the Board. He said that the point is, the Ordinance does not say that the
5 structure has to come down so the petitioner could have indicated that he was not removing a portion of the
6 structure and the County will have to take him to court and that is what would have happened.

7
8 Ms. Lee stated that sometimes it seems that the Board could lessen all of the discussion and spending all of
9 this time on a case when it is a violation issue. She asked if the Board still has to spend all of this time
10 discussing the case even though it may not be okay when the case is finalized.

11
12 Mr. Hall stated that he is a little bit confused by what Ms. Lee's question actually is but trying to get an
13 approval from the Zoning Board is exhausting your remedies and every person is entitled to a decision by the
14 Zoning Board of Appeals, even if that decision is a denial. He said that he is not sure if he answered Ms.
15 Lee's question because he isn't really sure what her question is.

16
17 Mr. Thorsland asked Ms. Lee if she believes that it would be expeditious if staff indicated that the violation
18 would not be before the ZBA but would be thrown in the enforcement file.

19
20 Ms. Lee stated that sometimes it seems that the Board has the petitioner do all kinds of things and then they
21 come back to another meeting when the issue will not be remedied because the staff, the Board and the
22 petitioners spend a lot of time and it doesn't succeed.

23
24 Mr. Hall stated that this Board has not denied many requests that have been brought before them.

25
26 Mr. Passalacqua stated that the ZBA is not in the business to say no, you cannot do this in Champaign
27 County but the ZBA is in the business to say you have to comply with the Ordinance as much as possible.

28
29 Mr. Thorsland stated that there are habitual people and the Board is not supposed to base their decision on
30 their body of work but sometimes their body of work comes in with them. He said that he means that it may
31 be a familiar face which may have not been pleasant to deal with for other issues but the Board still has to
32 remember that they are just present for their current request. He said that the Board cannot punish a worthy
33 person because of something that is not on the table before the Board now.

34
35 Mr. Passalacqua stated that another thing that he has trouble with that might help the Board a little bit is that
36 the Board ended up awarding a petitioner status as a contractor, not so much to make the problems go away
37 but so that the Board had more enforcement capabilities so there was a new set of rules that the person had to
38 follow. He said that by granting someone a permit with conditions, in terms of the permit, staff has the
39 capability of enforcing something as opposed to denying the permit and the person does it anyway.

40
41 Mr. Thorsland stated that Mr. Hall made a point which is very valid. He said that the Board may have 18

1 pages of conditions which prove that the Board is truly attempting to fit a square peg in a round hole and
 2 sometimes there is no success but the Board still has to do the work because the Board is where the
 3 petitioner has to come to make that attempt. He said that the Board has other cases where the Board places
 4 conditions of approval and the petitioner withdraws the request.

5
 6 Ms. Lee asked Mr. Hall what he considers to be the most important function for the Zoning Administrator
 7 and the Zoning Officer.

8
 9 Mr. Hall stated that if someone is paying for a ZBA hearing they deserve the best product that can be
 10 provided. He said that there is such a good staff in the Department of Planning and Zoning that daily
 11 permitting takes care of itself but when someone needs something special and they step up and pay for it
 12 then they deserve the best product that can be provided.

13
 14 Mr. Thorsland stated that currently the Board has a vacant seat and after reviewing the docket it is very
 15 possible that the Board may not have a quorum without that extra person. He said that if the Board members
 16 know of a person in an adjacent township who enjoys reading volumes of volumes of paper late into the
 17 night and then come to a meeting to discuss those pages then they should be directed to the appropriate
 18 person for an application. He said that he would really like to have a full Board.

19
 20 Ms. Lee stated that the Board does not have anyone from the northeastern portion of the County.

21
 22 Mr. Thorsland stated that the only person that he knows that would like to be on the Board resides in his
 23 township.

24
 25 **9. Audience Participation with respect to matters other than cases pending before the Board**

26
 27 None

28
 29 **10. Adjournment**

30
 31 Mr. Thorsland entertained a motion to adjourn the meeting.

32
 33 **Ms. Capel moved, seconded by Ms. Griest to adjourn the meeting. The motion carried by voice vote.**

34
 35 The meeting adjourned at 8:47 p.m.

36
 37 Respectfully submitted

38
 39
 40
 41 Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 **1776 E. Washington Street**
5 **Urbana, IL 61802**
6

7 **DATE: March 12, 2015** **PLACE: Lyle Shield's Meeting Room**
8 **1776 East Washington Street**
9 **TIME: 7:00 p.m.** **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Debra Griest, Marilyn Lee, Brad Passalacqua, Eric Thorsland
11

12 **MEMBERS ABSENT :** Catherine Capel, Jim Randol
13

14 **STAFF PRESENT :** Connie Berry, John Hall, Susan Chavarria
15

16 **OTHERS PRESENT :** Herb Schildt, Steve Burdin, Don Wauthier
17

18
19
20 **1. Call to Order**

21
22 The meeting was called to order at 7:02 p.m.
23

DRAFT

24 **2. Roll Call and Declaration of Quorum**
25

26 The roll was called and a quorum declared present with two members absent and one vacant seat.
27

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

32 **3. Correspondence**
33

34 None
35

36 **4. Approval of Minutes (February 12, 2015)**
37

38 Mr. Thorsland entertained a motion to approve the February 12, 2015, minutes.
39

40 **Mr. Passalacqua moved, seconded by Ms. Lee to approve the February 12, 2015, minutes.**
41

42 Mr. Thorsland asked the Board if there were any corrections or additions to the minutes.
43

44 Ms. Lee stated that lines 17 and 18 on page 69 should be merged with her statement on lines 10 and 11 on
45 page 69. She said that her statement should read as follows: Ms. Lee stated that the residences are less than
46 500 feet from the location of the proposed fuel tanks. She said that recently the County has had tornadoes
47 and the tanks are located southwest of the residence. She asked Mr. Kieffer if they could relocate the fuel
48 tanks to maintain the required 500 foot distance.

1
2 **The motion carries.**

3
4 **5. Continued Public Hearing**

5
6 **Case 796-V-14 Petitioner: Steve Vincent and George Stanhope Request to authorize the following in**
7 **the AG-1 District: A variance from Paragraph 4.2.1H of the Zoning Ordinance, which requires that**
8 **no structure shall be constructed nor use established upon or moved to a lot that does not abut and**
9 **have access to a public street of no less than 20 feet at a point at which the lot has the right of access to**
10 **the street. Location: A 6.94 acre tract in Newcomb Township in the Southwest Quarter of the**
11 **Southeast Quarter of Section 15 of Township 21N, Range 7E of the Third Principal Meridian and**
12 **commonly known as the residence located at 360 CR 2700N, Mahomet.**

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

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

27
28 Mr. Hall, Zoning Administrator, distributed a Supplemental Memorandum dated March 12, 2015, to the
29 Board for review. He informed the Board that staff was informed by Mr. Stanhope that he and Mr. Vincent
30 were withdrawing their request for a variance. Mr. Hall said that Mr. Vincent was able to purchase the .196
31 acres of frontage from Mr. Morfey. He said that the transaction is complete and the deed has been recorded
32 therefore Mr. Vincent's property is now a conforming lot that meets the public street access requirements of
33 the Zoning Ordinance. He said that Mr. Vincent can now proceed with the sale of his property to Mr.
34 Stanhope without pursuing a variance.

35
36 **Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
37 **Ordinance by amending the Champaign County Storm Water Management Policy by changing the**
38 **name to the Storm Water Management and Erosion Control Ordinance and amending the reference**
39 **in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control**
40 **Ordinance as described in the legal advertisement which can be summarized as follows: I. Revise**
41 **existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to**

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

23
 24 **773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County Storm Water**
 25 **Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding**
 26 **the following:** A. Add a requirement for a Grading and Demolition Permit for any grading or
 27 demolition that disturbs an acre or more of land or for any grading or demolition that is part of a
 28 larger common plan of development in which one acre or more of land disturbance will occur, and
 29 that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;
 30 and C. Add required information to be provided in the application for a Grading and Demolition
 31 Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or
 32 Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General
 33 Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a
 34 Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations
 35 enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.
 36 Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other
 37 requirements related to Grading and Demolition Permits.

38
 39 Mr. Thorsland called Cases 769-AT-13 and 773-AT-14 concurrently.

40
 41 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign

1 the witness register for that public hearing. He reminded the audience that when they sign the witness
2 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
3 time.
4

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

7 Mr. John Hall, Zoning Administrator, distributed a Guide to Case 769-AT-13 and a Supplemental
8 Memorandum and Guide for Case 773-AT-14 dated March 12, 2015, to the Board for review. He said that
9 the distributed guides outline the state of the Draft Ordinance, Finding of Fact and highlights some handouts
10 that might be helpful. He said that he wanted to make sure that everyone was comfortable that they knew
11 what the Finding of Fact consisted of but there has been one change in Case 773-AT-14 and the Finding of
12 Fact for Case 769-AT-13 is still just the preliminary. He said that there have been minor changes to the
13 Draft Ordinance in Case 769-AT-13 and those minor changes are listed.
14

15 Mr. Hall stated that the Supplemental Memorandum dated March 12, 2015, for Case 773-AT-14, indicates
16 changes for the proposed Demolition Permit. He said that it occurred to him that we were talking about a
17 demolition permit and nothing has been discussed about sealing of any water well. He said that the
18 presumption is that if it is a rural property and they are demolishing the house and it is not related to any
19 other construction then it may be that the well needs to be sealed. He said that it could also be that they will
20 continue to use the well therefore he is not 100% comfortable with the text that is before the Board tonight
21 but he is much more comfortable since it at least mentions that there are requirements for sealing of water
22 wells. He said that there is also a chance that a demolition could include an underground storage tank.
23

24 Mr. Passalacqua asked Mr. Hall if the ILR10 address water well issues.
25

26 Mr. Hall stated no. He noted that the Department of Planning and Zoning has nothing to do with sealing a
27 water well but if we are discussing demolition then we need to raise the issue of what will happen to the
28 water well.
29

30 Mr. Passalacqua stated that there may be some instances where there will be a live well left on the property
31 but if it is an abandoned rural property that is being demolished the well has probably dried up or the pumps
32 removed.
33

34 Mr. Thorsland stated that even if the well has been dried up or the pumps removed the hole or casing still
35 remains which is an opening to the aquifer below. He said that it is probably a common practice to make
36 sure that the wells are sealed.
37

38 Mr. Hall stated that the sealing of wells is done with the Health Department even though the records are
39 actually transferred to the State Water Survey.
40

41 Mr. Passalacqua asked Mr. Hall if the Health Department requires the sealing of the wells.

1

Mr. Hall stated that state law requires it.

3

Mr. Passalacqua stated that once again we are restating something that already exists just to guarantee its compliance.

6

Mr. Hall stated yes. He said that these are not new requirements that are being proposed in the Draft Ordinance.

9

Mr. Thorsland asked if sealing of the well will be an item on a checklist.

11

Mr. Hall stated yes. He said that demolition debris is also regulated by IEPA and is only included in the Draft Ordinance so that our citizens are aware of the rules. He said that clean concrete debris can be buried but that is the only debris that can be buried and anything else must be hauled away and nothing can be burned unless the necessary permits are obtained from the IEPA. He said that in all cases fugitive dust must be minimized. He said that the fugitive dust issue is actually relevant to this ordinance because that is part of what we are supposed to be doing. He said that it occurred to him that these demolition requirements, since they are not repeated in the Land Disturbance Erosion Control Permits, need to be applicable to both. He said that if this Demolition Permit is not approved by the County Board we will still be re-enforcing the thing about dust, burning and clearing debris and it will not be in our Ordinance. He said that this is not an ideal situation and could lead to a future amendment but particularly within the MS4 Jurisdictional Area we absolutely have to enforce every relevant IEPA requirement.

23

Mr. Passalacqua asked if there is an IEPA demolition permit process.

25

Mr. Hall stated that he is not aware of an overall IEPA permit. He said that IEPA is big on having individual things permitted and leaving it up to the citizen to know that they have to get all of these things done and it is a little infuriating and it is not very helpful.

29

Ms. Lee stated that she has a question regarding burial of clean concrete debris. She asked if we are discussing any disturbance that is over one acre and not disturbance less than one acre.

32

Mr. Hall stated that a Demolition Permit is required if there is one acre or more of land disturbance and it could be argued that these things do not apply when it is less than one acre. He said that if he is asked he would indicate that it still applies because it is the state law. He said that when the disturbance is less than one acre there is no permit for him to deny therefore it is a gray area.

37

Ms. Lee asked Mr. Hall if the state law does not indicate whether it is more or less than one acre and is applicable regardless.

39

Mr. Hall stated yes.

41

1

2 Ms. Lee stated that there are people doing this on less than one acre.

3

4 Mr. Hall stated that he is aware of that and there are people doing this on more than one acre.

5

6 Ms. Griest requested an explanation of the term "Clean Concrete."

7

8 Mr. Hall stated that "Clean Concrete" has no steel sticking out of the concrete and he would presume no tar
9 either.

10

11 Mr. Passalacqua stated that new concrete normally has steel in it for reinforcement and old concrete is
12 probably from old farm houses and buildings.

13

14 Ms. Griest stated that she thought that the *Clean Water Act* prohibited the burying of any concrete.

15

16 Mr. Hall stated that this is not his understanding and this topic comes up very often in our office.

17

18 Ms. Lee asked Mr. Hall when the IEPA requires a permit for burning demolition debris. She asked if it is
19 required when it is on more than one acre.

20

21 Mr. Hall stated that they require that demolition debris cannot be burned unless a permit is received from the
22 IEPA regardless of the area.

23

24 Ms. Griest asked if a fire department has to obtain a permit when they have a controlled burn for a home or
25 is it automatically granted to them by statute.

26

27 Mr. Hall stated that the fire department has to apply for a permit and meet all of the requirements. He said
28 that staff hopes that the Jones' building located south of Rantoul gets taken care of by a controlled burn and
29 we know that all of the permits have been approved including the permits related to the asbestos in the
30 building. He said that all of the permits for this controlled burn have been approved and now they are
31 waiting for good weather.

32

33 Mr. Hall stated that the additions to the amendment are a burden and are not the focus of the amendment but
34 if we are going to take in a permit for demolition we had better be doing it properly.

35

36 Mr. Hall stated that the second page of the new Supplemental Memorandum for Case 773-AT-14 includes
37 new evidence for Finding of Fact 16.E which is the purpose statement related to Public Health, Safety and
38 Welfare. He said that the new evidence states the following: 16.E(3): Regulation of erosion control for
39 grading and/or demolition for one acre or more of land disturbance is already regulated by the IEPA under
40 the ILR10 Permit and neighbors with complaints about erosion or sedimentation from adjacent grading or
41 demolition can seek help from the IEPA; and 16.E(4): Adding a requirement for Grading and/or Demolition

1 Permits as proposed in this Case 773-AT-14 provides the following: a. Recourse for neighbors with
2 complaints about erosion or sedimentation activities when there is less than one acre of land disturbance and
3 no IEPA requirements apply; and b. The County Board will have the option of a comprehensive approach to
4 erosion and sedimentation regulations that was not explicitly detailed in the legal advertisement for related
5 Case 769-AT-13. He said that he proposed this amendment so that they have the option of a comprehensive
6 amendment.

7
8 Mr. Hall stated that he does believe that the ZBA should make a recommendation that they are comfortable
9 with and whenever the Board has enough members he would encourage the Board to make a
10 recommendation for this case that the Board really wants to stand by and if it is a recommendation of denial
11 then so be it and the case will move to ELUC with that recommendation.

12
13 Ms. Lee asked Mr. Hall if he is only discussing Case 773-AT-14 or both cases.

14
15 Mr. Hall stated that he is discussing both cases. He said that he hopes that the Board does not recommend a
16 denial for Case 769-AT-13 because we will be going straight to court with the IEPA if the Board does and
17 that is only about the basic amendment in Case 769-AT-13. He said that he is prepared to make any
18 recommendation that the Board desires on the three optional things but Champaign County needs the basic
19 amendment to meet our requirements with the IEPA.

20
21 Mr. Passalacqua stated that he believes that the \$50 fee is completely fair. He asked Mr. Hall to provide a
22 scenario when the Notice of Intent requirement would be waived or not required.

23
24 Mr. Hall stated that outside of the MS4 is where it's an option for the County to require ILR10.

25
26 Mr. Passalacqua stated that he is not in favor of the optional because he believes that this is going to be more
27 labor intensive and burden on the Department of Planning and Zoning than Mr. Hall believes. He said that
28 he believes that the applicant is going to see these numbers indicating thousands of dollars and will be irate
29 with the County when in truth it is an Illinois requirement that is making the cost go up.

30
31 Mr. Hall stated that it is a federal requirement.

32
33 Mr. Passalacqua asked if during the permit process the information or application will indicate, "per federal
34 requirements," so that it is not the County who is the bad guy on this.

35
36 Mr. Hall stated that most people will find that out if they don't know it already. He said that the applicant is
37 going to ask why they have to do this or that because they are in a certain area and not in another and staff
38 will indicate that the federal government is requiring it and the County Board has not expanded it beyond
39 that area.

40
41 Ms. Lee stated that Mr. Hall mentioned three options. She asked Mr. Hall to indicate the three options.

1

2 Mr. Hall stated the suite of minimum erosion control requirements and ILR10 compliance outside the MS4
3 Jurisdictional Area and the \$50 fee for the Minor LDEC Permit.

4

5 Ms. Lee asked if the erosion control requirements are only in the MS4 area.

6

7 Mr. Hall stated no. He said that those things are not even minimums in the MS4 area and are requirements
8 but outside of the MS4 area we have proposed those as options. He said that he did this because he is tired
9 of answering why the County doesn't have regulations for this and regulations for that and this way he can
10 tell neighbors that there are requirements and staff can make them apply. He said that since it wasn't fully
11 explained at ELUC we would maintain that we do not have to require ILR10 compliance outside of the MS4
12 area but some County Board members might believe that we should do that and he wanted to give them the
13 option for that. He said that he does not expect that the County Board will go along with that option but that
14 is all part of giving them a comprehensive approach that they can pick and choose. He said that the \$50 fee
15 for the Minor Land Disturbance and Erosion Control Permit is not meant to offset all of the County's costs
16 related to it but is meant to be a minimal fee. He said that helping people do those erosion control plans for
17 new homes is going to be another level of difficulty beyond what staff already does. He said that so many
18 people come to the office wanting staff to complete their site plan for them and staff has to courteously avoid
19 doing that but help them complete the site plan themselves and now this erosion control requirement is going
20 to kick that up to another level. He said that staff will probably be preparing erosion control plans for
21 individuals who are building a new home in the unincorporated area because it is really asking a lot of them
22 to expect them to do that. He said that staff will help people in whatever regards they need and the \$50 fee is
23 to offset a little bit of the cost.

24

25 Ms. Lee asked Mr. Hall if he is only speaking about Case 773-AT-14.

26

27 Mr. Hall stated no, those are the options for Case 769-AT-13. He said that Case 773-AT-14 relates to the
28 first option, which are the optional minimum requirements, and if the Board does not recommend the
29 optional minimum requirements in Case 769-AT-13 then the Board should also not recommend Case 773-
30 AT-14 because they rely on those. He said that Case 773-AT-14 adds the grading and demolition permits so
31 that the optional minimum requirements would apply when there is grading or demolition not related to
32 construction.

33

34 Ms. Lee stated that Case 773-AT-14 is applicable everywhere. She said that at one point Mr. Hall stated that
35 Case 773-AT-14 gives the Department of Planning and Zoning the power to enforce some of the things that
36 are already required in ILR10.

37

38 Mr. Hall stated no. He said that what Case 773-AT-14 is intended to do is when we have grading or
39 demolition that is not related to other construction, so no other permit is required, the grading and demolition
40 permit requirement would make the optional minimum requirements apply. He said that it would be a
41 violation if someone is grading and is tracking mud on to the road in the unincorporated area. He said that

1 this is already a violation in the MS4 Area so what would be grading and demolition permits in 99% of our
2 jurisdiction will simply be Land Disturbance and Erosion Control Permits in the MS4 area. The Land
3 Disturbance and Erosion Control Permit is for any possible land disturbance but outside of that area where
4 we do not have Land Disturbance permits is where we need to add a grading and demolition permit to give
5 protection to neighbors when there is grading or demolition going on.
6

7 Mr. Thorsland stated that Case 773-AT-14 is taking some of the parts that apply in the MS4 Area and
8 bringing them out into the unincorporated area should the Board decide to add that as it relates to Case 769-
9 AT-13.
10

11 Ms. Lee stated that she asked the question during another meeting regarding Ameren and how they track
12 mud onto the road and it was indicated that they were exempt.
13

14 Mr. Passalacqua stated that if they track mud the ILR10 will kick in.
15

16 Ms. Lee stated that the County can't enforce it.
17

18 Mr. Hall stated that Ameren is a utility and is exempt from our regulations although they are not exempt
19 from ILR10. He said that if Ameren disturbs an acre of land they have to have erosion controls just like
20 everyone else. He said that the way that the Draft Ordinance is written he does not believe that Ameren
21 would obtain a permit from the County but they would be required to comply with ILR10 requirements.
22

23 Ms. Lee said that the fact that they put mud on the road would still be under IEPA and not the County
24 because they are a utility.
25

26 Mr. Hall stated yes.
27

28 Ms. Lee asked what else is exempt other than utilities.
29

30 Mr. Hall stated that drainage districts, agriculture and anything within the right of way.
31

32 Ms. Griest stated that it is not uncommon that many contractors who make road improvements and might be
33 exempt still use the practices.
34

35 Mr. Hall stated that to the extent that they can minimize erosion and sedimentation they will have do that but
36 it will not be anything with our office.
37

38 Ms. Lee stated that she can see this taking a lot of staff time with adding these things to the workload.
39

40 Mr. Hall asked how.
41

1 Ms. Lee stated that they will have to get a permit with the office.

2

3 Mr. Hall asked Ms. Lee which permit she is talking about.

4

5 Ms. Lee stated the one for Case 773-AT-14.

6

7 Mr. Hall stated that anything that we do in our office, at any point, takes time. He said that a grading permit
8 does not have a lot of standards that apply but they will have to submit a site plan and staff will make sure
9 that they meet the separations to the property lines, the top of the ditch and the top of the stream bank, etc.
10 He said that those things go back to the LRMP and they support the LRMP but Ms. Lee is correct that those
11 reviews will take time. He said that his expectation is that once this is up and running, perhaps six months
12 after this is adopted, this review should be automatic. He said that he cannot stress enough how much time
13 staff spends answering questions of any scale or scope, things that have nothing to do with what staff is there
14 for, so helping someone complete a grading permit site plan will be pretty easy. He said that this will take
15 time and he may be naïve in thinking that we can meet the requirements in the MS4 Area of doing five new
16 inspections every week but he is willing to try it and if we don't do it we will be in court with the IEPA. He
17 said that this is not related to Case 773-AT-14 or any of the optional minimums but is what we have to do to
18 stay out of court. He said that he appreciates that Ms. Lee is concerned about this growing thing and how
19 much time it will take but our staff is excellent in getting these things done quickly once they learn what they
20 have to do and so the first few months will be rough but they are fast learners and we are not asking for a lot.
21 He said that a site plan showing where the grading is, showing any nearby streams or ditches and the
22 separation that must be maintained. He said that if staff receives a complaint then staff will follow up and
23 that is where some time may be spent but that is what our citizens want us to do. He said that staff does not
24 receive complaints like this very often and since he has been the Zoning Administrator there have only been
25 three or four instances where people were doing grading and staff received complaints but staff could not do
26 anything for them. He said that in one instance the complaint was referred to the IEPA and they did follow
27 up.

28

29 Mr. Thorsland stated that the Board has a dilemma in that there is a quorum present but there are three
30 decision points that must be made as a Board to recommend or not recommend to the County Board and then
31 make a recommendation for Case 773-AT-14. He said that the By-laws indicate that if there is a quorum the
32 Board can proceed with a recommendation, at the discretion of the petitioner, but before the
33 recommendation the Board needs to review the Findings of Fact. He said that there have been concerns
34 heard from the Board and the public and he would imagine that there will be a lot of input at the County
35 Board level. He said that often times the Board has to vote with four members and the By-laws indicate that
36 if there is a tie vote the request is denied. He said that he is concerned that one of the members that is absent
37 tonight due to illness does have a lot of input from the standpoint that he has a lot of experience and
38 knowledge with the other end of the clean water spectrum and its affects upon municipal government. He
39 said that the Board is also missing another important Board member tonight. He said that given the amazing
40 amount of information provided by staff he would like to know if the Board is comfortable going through the
41 decision points or would it be preferred that a full Board is present. He said that the only person's

1 anticipated absence at the March 26th meeting is Susan Chavarria and her input is absolutely vital in making
2 the office run smoothly but the Board may be able to get through the meeting without her presence. He said
3 that because of all of the work that has gone into this case and that the petitioner is the person who has
4 completed all of this work Mr. Thorsland would like to go through the decision points with as many Board
5 members as possible. He said that these are significant cases and Mr. Hall has pointed out that the majority
6 of Case 769-AT-13 has to be recommended or the County will have to obtain very good attorneys. He said
7 that he does not know if he is comfortable making recommendations on all of the decision points with only
8 four members of the Board.

9
10 Mr. Passalacqua stated that Mr. Randol's input is important although it is unknown whether he would be
11 disappointed if the Board moved forward without him. He said that Mr. Randol brings a lot to the table. He
12 asked if there were any witnesses for Case 769-AT-14.

13
14 Ms. Griest stated that she agrees with Mr. Passalacqua because these are such important cases. She said that
15 she would like to see all six members present during review of the Findings of Fact and if the Board did have
16 a new seventh member it would be hard for that member to get up to speed at an adequate level to be of
17 value to these cases. She said that the current six members do have an investment in these cases and Mr.
18 Randol adds a very valuable perspective therefore the Board would be shortchanging itself if he is not
19 present during the final discussions and votes.

20
21 Mr. Thorsland stated that Ms. Capel is one of our longest standing members and she is also absent from
22 tonight's meeting and her input is very important. He said that he would be comfortable in continuing these
23 cases to the March 26, 2015, meeting. He said that the Board should have all of its questions ready for staff
24 and should know how they feel about the cases therefore it should not take a long time. He said that he is
25 scheduled to leave the country on March 27th but he will be at the meeting on the 26th. He said that he will
26 not be present at the meeting on April 16th.

27
28 Ms. Griest asked Mr. Hall if the Board continued these cases to March 26th, what will happen to the
29 petitioners that were previously scheduled for that meeting.

30
31 Mr. Hall stated that he had previously docketed cases on March 26th but moved those cases back to a later
32 date when he realized that Ms. Chavarria was going to be absent. He said that much to the genuine dismay
33 of the applicant for Cases 799-AM-15, 800-S-15 and 801-V-15 they were moved to the April 16, 2015,
34 meeting.

35
36 Mr. Passalacqua stated that copies of tonight's memorandum and guides should be sent to Ms. Capel and
37 Mr. Randol for review. He asked Mr. Hall if there is anything else that will be changed before the next
38 meeting.

39
40 Mr. Hall stated no, unless something else occurs to him. He said that he does not want to send a
41 recommendation for denial on a demolition permit that did not address sealing the well and basic things to

1 do with demolition.

2

3 Mr. Passalacqua stated that he agrees but we are getting closer.

4

5 Ms. Griest stated that she would like to discuss sealing the well a little bit more. She asked Mr. Hall if he
6 means permanent sealing or securing it because there could be a farmhouse with a barn and the two
7 buildings shared the well. She said that the property owners may tear down the house but desire to leave the
8 well active with the pump in place. She said that her definition of permanent sealing the well means that a
9 plug is put in the well and it is capped and that is not what she thinks Mr. Hall is talking about. She said that
10 a sealed well may be a well driller's specific term.

11

12 Mr. Hall stated that he is discussing Public Act 85-0863 and it is a state law issue. He said that he believes
13 that they are talking about plugging a well with concrete.

14

15 Ms. Griest stated that there may be a lot of cases when they wouldn't do that but would still have to properly
16 enclose it so that it cannot be contaminated.

17

18 Mr. Thorsland stated that he might be able to find out what happens in this instance because someone in the
19 audience had their home removed from their property and they had an active well on the property.

20

21 Mr. Hall stated that demolition on farmland with farm buildings is exempt.

22

23 Ms. Griest asked if the farm residence is exempt as well.

24

25 Mr. Hall stated yes. He said that we do need to know when to properly raise the issue of sealing the well and
26 when we do not.

27

28 Mr. Thorsland asked Mr. Hall if the state statute provides a definition between a temporary situation and a
29 permanent situation.

30

31 Mr. Passalacqua stated that the water needs to be onsite to keep the fugitive dust controlled.

32

33 Ms. Griest stated that she has been dealing with a farm well and there is a period of inactivity and if you
34 exceed that period then you must plug it and seal it but it still has to be enclosed to prevent contamination.
35 She said that she would be more concerned with ensuring closure to prevent contamination than using the
36 term sealing because there are a lot of instances when sealing may be more than what we want to do.

37

38 Mr. Thorsland stated that perhaps staff can obtain information for the Board between now and the March
39 26th meeting.

40

41 Mr. Thorsland called Herb Schildt to testify.

1
2 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that as the Board knows from earlier
3 testimony he is not a fan of Case 773-AT-14. He said that in regards to the well issue, agriculture is exempt
4 but he knows that there are cases when someone buys a house and a barn and they only intend the property
5 for a residence and not agricultural use. He said that the example that Ms. Griest cited is not unlikely and
6 Mr. Hall is only suggesting two possibilities, either it doesn't exist or, in essence, is destroyed. Mr. Schildt
7 stated that there is a third possibility in that the well simply remains in use and is not part of the demolition.
8 He said that wells do not go inside houses and are located somewhere else on the property. He said that it is
9 very easy to tear down a house and leave the well in place because if it is not being destroyed how can the
10 well be part of the demolition.
11
12 Mr. Hall stated that he understands Mr. Schildt's point and we need a system that works in all three
13 instances.
14
15 Mr. Schildt noted that as written this would cause a lot of problems.
16
17 Mr. Passalacqua stated that, in his mind, the only problem that he would see is if we build a big funnel
18 around the well head and it rains allowing mud to wash into the well itself. He said that in most instances it
19 should be pretty easy to protect that area.
20
21 Mr. Thorsland stated that he agrees with Mr. Schildt and it won't take long for staff to find out if the IEPA
22 considers these three different scenarios. He said that it may be very common for the existing well to
23 remain.
24
25 Mr. Passalacqua asked if his house burns down and he has to demolish it so that he can build a new house he
26 would prefer not to cap the existing well.
27
28 Mr. Thorsland stated that he does not believe that anyone would ask Mr. Passalacqua to cap his well. He
29 said that he is sure that the answer is out there and we just need to ask the question.
30
31 Mr. Schildt stated that the other scenario is a shared well.
32
33 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schildt.
34
35 Ms. Lee asked Mr. Schildt why he is not a fan of Case 773-AT-14.
36
37 Mr. Schildt stated that approximately one year ago he indicated that he does not believe that Case 773-AT-
38 14 is necessary and he recommended that the case be withdrawn.
39
40 Ms. Lee asked Mr. Schildt if he still feels that way today.
41

1 Mr. Schildt stated yes.

2

3 Mr. Thorsland requested that Mr. Steve Burdin sign the witness register to present testimony regarding his
4 own experience regarding removal of his home and the existing well.

5

6 Mr. Thorsland called Steve Burdin to testify.

7

8 Mr. Steve Burdin, who resides at 2527N CR 450E, Mahomet, stated that in 2010 he basically demolished the
9 old house that was on his property and rebuilt. He said that to preface his comments he wanted to say that he
10 does not know the legal requirements for this therefore he does not know the law. He said that what he did
11 to prepare for the construction was to mainly protect himself and his property. He said that when you go into
12 a project like this you don't really know the builder that well even though they give you promises and a
13 contract but it really doesn't tell you what will happen all the way to the last detail. He said that luckily in
14 his case most of his concerns were largely unwarranted but what he did to protect himself was that he created
15 a document of what he expected in terms of activities on his property. He said that this included protecting
16 his well, trees, septic system, avian colony, etc. and required that they erect a fence around the well and he
17 corded off the area of the yard that he did not want heavy equipment driven upon which was the leach field
18 for the septic system. He said that any fill that was taken out when they dug the basement was piled up away
19 from the well head therefore it was pretty easy to protect it. He said that he is using the same well and the
20 closest thing to the well was one of the crane feet when they lifted the foundation into place.

21

22 Mr. Passalacqua asked Mr. Burdin to indicate the acreage of his property.

23

24 Mr. Burdin stated that his property is .94 acres.

25

26 Mr. Thorsland stated that Mr. Burdin's property was the subject of a variance case that was approved by this
27 Board.

28

29 Mr. Burdin stated that his builder did a good job in being the project manager.

30

31 Mr. Thorsland stated that there was nothing from the builder which indicated that they need any permit to
32 work around the well and any documentation was generated by Mr. Burdin as the homeowner.

33

34 Mr. Burdin stated that he was not aware of anything that came from them and whether it was following the
35 law or not and maybe that was a good thing in that the restrictions that he placed upon them were just extra
36 that maybe they would have abided by anyway because of the law.

37

38 Mr. Thorsland thanked Mr. Burdin for his testimony. He said that the Board has requested that staff look
39 into the well issue to make sure that the language is adequate or needs tweaked. He said that should the
40 Board adopt Case 773-AT-14 the language should be clear.

41

- 1 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Burdin and there were none.
2
- 3 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
4 regarding these cases and there was no one.
5
- 6 Mr. Thorsland asked the Board if there is anything else that the Board needs for the March 26th meeting.
7
- 8 Ms. Griest suggested that the language could be addressed by submitting the documentation that certifies
9 that the applicant is in compliance with the public act that covers the protection of those wells rather than the
10 County being specific on what they must do.
11
- 12 Mr. Thorsland stated that given the Board's concerns he is sure that staff will make this work.
13
- 14 Mr. Thorsland entertained a motion to continue Cases 769-AT-13 and 773-AT-14 to the March 26, 2015,
15 meeting.
16
- 17 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Cases 769-AT-13 and 773-AT-14 to the**
18 **March 26, 2015, meeting. The motion carried by voice vote.**
19
- 20 **6. New Public Hearings**
21
- 22 None
23
- 24 **7. Staff Report**
25
- 26 None
27
- 28 **8. Other Business**
29 A. Review of Docket
30
- 31 Mr. Thorsland asked the Board if they had any questions or comments regarding the distributed docket and
32 there were none.
33
- 34 **9. Audience Participation with respect to matters other than cases pending before the Board**
35
- 36 None
37
- 38 **10. Adjournment**
39
- 40 Mr. Thorsland entertained a motion to adjourn the meeting.
41

1 **Ms. Griest moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried.**

2

3 The meeting adjourned at 7:55 p.m.

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6

7 Respectfully submitted

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12 Secretary of Zoning Board of Appeals

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CASE NO. 773-AT-14

SUPPLEMENTAL MEMORANDUM

March 20, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject of a separate Zoning Case 769-AT-13, by adding the following:

- A. Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related to any proposed construction.
- B. Add fees for Grading and Demolition Permits.
- C. Add required information to be provided in the application for a Grading and Demolition Permit.
- D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR10 General Storm Water Permit for Construction.
- E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. Add prohibitions against changing the flow of water and blocking the flow of water.
- G. Add other requirements related to Grading and Demolition Permits.

STATUS

A Revised Amendment is included as Attachment A.

Several attachments are included that are relevant to the proposed amendment.

REVISED AMENDMENT

The Revised Amendment has many changes that cannot be summarized here due to time constraints.

CONCERNS REGARDING WORK LOAD AND BURDEN

Some ZBA members have expressed concerns about the work load that Case 773-AT-14 will add for the Department staff. Testimony has also been received in the public hearing to the effect that the proposed amendment will add an unnecessary burden for the public.

Regarding Department workload, it is doubtful that many demolition or grading permits will actually be required because there is not much grading or demolition that is not related to other construction, at least to the knowledge of staff. The most common type of demolition seems to be demolition related to construction of a new home and in those instances no demolition permit will be required because all permitting will be pursuant to the permit for the new home.

Regarding the burden on the public, the only new requirements added in this amendment are the requirement for a permit when an acre or more of land is disturbed due to grading or demolition not related to other construction and the need for erosion and sedimentation controls if grading or demolition causes erosion or sedimentation on neighboring property.

However, demolition is an activity that may or may not include subsidiary activities that are already regulated under existing laws (such as well abandonment or abatement of asbestos containing materials) and which should probably be documented if a new permit is required by Champaign County.

The revised amendment has been improved to differentiate between demolition of accessory structures (ie, garages and sheds) and demolition of principal structures (dwellings, commercial buildings, etc.) so as to help minimize burden to the public. Demolishing an outbuilding (even if an acre is disturbed) should not cause the same concerns as demolition of a principal building.

The revised amendment also differentiates between establishing relevant standards even if no permit is required (such as the existing IEPA standard for “clean construction and demolition debris” that applies to all construction or the existing requirements regarding water well abandonment) and establishing requirements for applications when a permit is required (such as the statements pertaining to an abandoned well or septic tank when a principal structure requires a demolition permit or the certifications already required under state law for a demolition permit for a factory building).

Adding these existing requirements to the proposed amendment is not adding a new requirement and actually provides a service to the public.

Board members who continue to have reservations about extra work load for the Department or undue burden on the public are encouraged to propose evidence for the Finding of Fact to document those concerns. As with any text amendment, a recommendation for denial should state the reasons for denial as clearly as possible.

ATTACHMENTS

- A Revised Amendment**
- B Excerpt of 77 IAC 920.10 (definition of “abandoned well”)**
- C 77 IAC 920.120 Abandoned Wells**
- D IEPA Handout “Abandoned Wells”**
- E IEPA Handout “Asbestos in My Building”**
- F IEPA Handout “Asbestos in House or Apartment”**
- G 77 IAC 905.40 (septic tanks)**
- H Excerpt regarding “Clean Construction and Demolition Debris” from the Environmental Protection Act (415 ILCS 5)**

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 20, 2015

Revised Proposed Amendment (new text is underlined)

1. Add the following to Sec. 3 Definitions of the Champaign County Storm Water Management and Erosion Control Ordinance:

DEMOLITION PERMIT: A permit for DEMOLITION activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

GRADING PERMIT: A permit for GRADING activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

2. Add the following to Sec. 4. of the Champaign County Storm Water Management and Erosion Control Ordinance:

4.5 GRADING and DEMOLITION PERMIT Exemptions

All GRADING and DEMOLITION meeting the following conditions are exempt from the requirement for a GRADING PERMIT and/or a DEMOLITION PERMIT:

- A. Any GRADING or DEMOLITION pursuant to any of the exempted activities listed in Section 4.2.
- B. GRADING and/or DEMOLITION that is not part of or related to other CONSTRUCTION and that will result in less than one acre of LAND DISTURBANCE and that is not part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD.
- C. GRADING and/or DEMOLITION that is related to and authorized in a ZONING USE PERMIT or a Floodplain Development Permit or a LDEC PERMIT.

3. Add the following to 5.2 of the Champaign County Storm Water Management and Erosion Control Ordinance:

5G. Approval of any required GRADING PERMIT or DEMOLITION PERMIT outside of the MS4 JURISDICTIONAL AREA.

4. Add the following to Sec. 6 of the Champaign County Storm Water Management and Erosion Control Ordinance:

6.6 DEMOLITION PERMIT and GRADING PERMIT

A. DEMOLITION or GRADING that will result in one acre or more of LAND DISTURBANCE or that is part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD which will disturb one acre or more of land, and that is not part of or related to other CONSTRUCTION and that is not located in the Champaign County MS4 JURISDICTIONAL AREA shall be subject to the requirement for either a DEMOLITION PERMIT or a GRADING PERMIT, whichever is applicable.

B. Paragraph 6.6A. notwithstanding, the requirements of paragraph 6.1F., Section 6.4, and Section 6.5, and paragraph 6.6 J. shall apply to any GRADING or DEMOLITION even though no DEMOLITION PERMIT or GRADING PERMIT may be required based on the amount of LAND DISTURBANCE.

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 20, 2015

- C. GRADING that is related to DEMOLITION shall be authorized as part of a DEMOLITION PERMIT.
- D. Application for a DEMOLITION PERMIT or a GRADING PERMIT shall be filed in written form with the ZONING ADMINISTRATOR on such forms as the ZONING ADMINISTRATOR prescribes and shall include the following information:
1. Name and address of the OWNER, the APPLICANT, contractor, engineer and architect when applicable;
 2. Location, including township and section, street number, lot block and or tract comprising the legal description of the site;
 3. Permanent Index Number (PIN);
 4. LOT Area;
 5. ZONING DISTRICT;
 6. Special Flood Hazard Area, if applicable;
 7. USE of existing property and structures;
 8. Proposed USE and any proposed structures;
 9. Estimated cost of proposed construction, GRADING, and/or DEMOLITION;
 10. SITE PLAN indicating all existing and proposed USES and structures, water well, septic tank, septic tank leach field;
 11. Extent and nature of proposed LAND DISTURBANCE including a description of any proposed FILL and indication of the general location of any proposed FILL on the SITE PLAN.
- E. Any abandonment of a water well and/or septic tank (or anything similar to a septic tank) shall be in compliance with the Champaign County Health Ordinance and the Illinois Water Well Construction Code (415 ILCS 30) and/or the Illinois Private Sewage Disposal Code (77 ILCS 905.40).
- F. Any abandonment of an underground storage tank shall be in accordance with all applicable laws. This requirement shall not apply to any septic tank.
- G. Any permit for DEMOLITION of a PRINCIPAL BUILDING (as defined in the Champaign County Zoning Ordinance) not related to other CONSTRUCTION shall document the following:
1. Whichever of the following is applicable regarding the presence of a water well on the LOT:
 - a. a written statement that no water well exists on the LOT; or
 - b. a written statement that no water well on the LOT will be abandoned as defined in the Illinois Water Well Construction Code (415 ILCS 30) and the Champaign County Health Ordinance ~~Public Act 85-0863~~; or
 - c. in the event that a water well on the LOT will be abandoned, a copy of the Water Well Sealing Form pursuant to Public Act 85-0863.

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 20, 2015

2. Whichever of the following is applicable regarding the presence of a septic tank or other similar thing on the LOT:
- a. a written statement that no septic tank, cesspool, pit privy, aerobic treatment unit, or seepage pit exists on the LOT; or
 - b. a written statement certifying that a septic tank or aerobic treatment unit (or both) or a cesspool or pit privy or seepage pit exists on the LOT and will remain in use; or
 - c. a written statement certifying that a septic tank or aerobic treatment unit (or both), or a cesspool or pit privy or seepage pit exists on the LOT and will no longer be in use and shall be made to comply with the Illinois Private Sewage Disposal Code (77 ILCS 905.40) and the Champaign County Health Ordinance.
- H. Any permit for DEMOLITION of anything other than a privately owned home or ACCESSORY BUILDING or related STRUCTURE or a multi-family DWELLING with four or less dwelling units and/or any ACCESSORY BUILDING shall provide the following to document compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAP):
- 1. a written statement by a qualified inspector that regulated removal of asbestos containing material is not necessary; or
 - 2. if a qualified inspector has determined that regulated removal of asbestos containing material is necessary, a copy of the completed State of Illinois Demolition/Renovation/Asbestos Project Notification Form. All DEMOLITION authorized under a DEMOLITION PERMIT or pursuant to a LDEC PERMIT shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- I. The Applicant for any DEMOLITION is responsible for ending and turning off any relevant utility service prior to DEMOLITION.
- FJ. Any Zoning Use Permit or Floodplain Development Permit or LDEC PERMIT and all GRADING or DEMOLITION shall comply with the following:
- 1. All DEMOLITION debris shall be disposed of lawfully and no CONSTRUCTION or DEMOLITION debris may be buried on the LOT other than as follows: ~~clean concrete debris with no exposed rebar~~
 - a. Clean CONSTRUCTION or DEMOLITION debris consisting of uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other asphalt pavement, or soil generated from construction or DEMOLITION activities may be used as a FILL material provided as follows:
 - (a) FILL that includes clean CONSTRUCTION or DEMOLITION debris shall not be placed within any well setback zone established under the Illinois Groundwater Protection Act (415 ILCS 55/1).

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 20, 2015

- (b) FILL that includes clean CONSTRUCTION or DEMOLITION debris shall be placed no higher than the adjacent ground elevation that existed prior to the DEMOLITION.
 - (c) The Zoning Administrator may inspect any FILL prior to final grading and must inspect all FILL that is placed inside the MS4 JURISDICTIONAL AREA pursuant to a LDEC PERMIT.
 - (d) FILL that includes clean CONSTRUCTION or DEMOLITION debris shall be covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of placing the FILL.
 - (e) FILL that includes clean CONSTRUCTION or DEMOLITION debris shall be in compliance with all other requirements of 415 ILCS 5/3.160 and 415 ILCS 5/22.51 or as authorized by the IEPA.
2. All other general CONSTRUCTION or DEMOLITION debris shall be removed from the LOT and taken to a duly approved disposal facility or reused in conformance with 415 ILCS 5/3.160 and 415 ILCS 5/22.51 or as otherwise authorized by the IEPA.
3. The requirements of paragraph 6.6 G.1. and 6.6 G.2. notwithstanding, uncontaminated broken concrete without protruding metal bars may be used for erosion control consistent with all other standards of this Ordinance.
4. No DEMOLITION debris shall be burned on the LOT unless all necessary approvals are received from the IEPA in which case a copy of said approval shall be provided with the application.
5. Fugitive dust shall be minimized during GRADING or DEMOLITION activities.
6. No open excavation or open basement or foundation more than four feet deep shall be left unfenced at any time and within 90 days shall be removed or filled in conformance with the requirements of this Ordinance so as to be less than four feet deep.
- K. At the time the application is filed for a DEMOLITION PERMIT or a GRADING PERMIT a fee of \$50 shall be paid except that this fee shall be waived provided that a Notice of Intent shall have been submitted to the IEPA and a copy of the Notice of Intent is submitted with the application.
- L. The Applicant for any DEMOLITION PERMIT or any LDEC PERMIT for DEMOLITION not related to other CONSTRUCTION shall notify the Zoning Administrator when the DEMOLITION has been completed and the Zoning Administrator shall inspect the DEMOLITION for compliance with this Ordinance.

Attachment A. Revised Amendment

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M. EROSION and SEDIMENT controls required by the ZONING ADMINISTRATOR pursuant to an enforcement action shall remain in place and shall be properly maintained in conformance with Section 12.8 until the DEMOLITION or GRADING has achieved FINAL STABILIZATION or until the EROSION and SEDIMENT controls are no longer needed. The ZONING ADMINISTRATOR shall then provide a letter documenting the achievement of FINAL STABILIZATION or that the EROSION and SEDIMENT control are no longer needed. EROSION and SEDIMENT controls required pursuant to the ILR10 shall remain in place until a NOTICE OF TERMINATION has been submitted to the IEPA and the County.

N. In the event that DEMOLITION or GRADING occurs with no application having been made for a DEMOLITION PERMIT or a GRADING PERMIT, no DEMOLITION PERMIT or GRADING PERMIT shall be required after FINAL STABILIZATION.

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE
PART 920 WATER WELL CONSTRUCTION CODE
SECTION 920.10 DEFINITIONS

Section 920.10 Definitions

"Abandoned Well" means a water or monitoring well that is no longer used to supply water, or that is in such a state of disrepair that the well or boring has the potential for transmitting contaminants into an aquifer or otherwise threatens the public health or safety.

"Act" means the Illinois Water Well Construction Code [415 ILCS 30].

"Annular Space" means the opening between a well-hole excavation and the well casing or between a casing pipe and a liner pipe.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients. (Section 3(b) of the Illinois Groundwater Protection Act [415 ILCS 55/3(b)])

"Bentonite Grout" means a manufactured grout product that is a mixture of sodium bentonite and water mixed at the manufacturer's recommended ratio; a mixture of granulated sodium bentonite and water that consists of a minimum of 20 percent solid bentonite clay and water that is equivalent to 9.4 pounds/gallon; or sodium bentonite in the granulated or chip form. All bentonite products shall comply with National Sanitation Foundation (NSF) International requirements.

"Borehole" also known as "drill hole" means an excavation that is drilled, cored, driven, dug or otherwise constructed that penetrates an aquifer or that may degrade the quality of the aquifer.

"Cement" means a mixture consisting of cement, sand and water in the proportion of one bag of cement (94 pounds) and an equal volume of dry sand to not more than 6 gallons of clean water.

"Chemical Injection System" means any device or combination of devices having hose, pipe or other methods of conveyance that connect directly to any water well through which a mixture of water, pesticides and fertilizers is mixed or is drawn and applied to land, crops or plants at agricultural, nursery, turf, golf course or greenhouse sites.

"Closed Loop Well" means a sealed, watertight loop of pipe buried outside of a building foundation intended to re-circulate a liquid solution through a heat exchanger but is limited to the construction of the borehole and the grouting of the borehole and does not include the piping and appurtenances used in any other capacity. "Closed loop well" does not include any horizontal closed loop well systems where grouting is not necessary by law or standard industry practice. (Section 3(h) of the Act) "Closed Loop Heat Pump Well" means the same as "Closed Loop Well".

"Closed Loop Well Contractor" means any person who installs closed loop wells for another person. "Closed loop well contractor" does not include the employee of a closed loop contractor. (Section 3(j) of the Act)

"Closed Loop Well System" means a clustered group of closed loop wells that serve the same facility.

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year. (Section 9(a)(1) of the Illinois Groundwater Protection Act)

"Consolidated Formation" means a geological formation that is firm rock referred to as bedrock.

"Construction" means all acts necessary to obtaining ground water by any method, including without limitation the location of and the excavation for the well, but not including prospecting, surveying or other acts preparatory to those activities, nor the installation of pumps and pumping equipment. (Section 3(a) of the Act)

"Contaminant" means any physical, chemical, biological, or radiological substance or matter in water. (Section 9(a)(2) of the Illinois Groundwater Protection Act):

"Crevice, Consolidated Formation" is a consolidated formation characterized by fractures.

"Department" means the Illinois Department of Public Health.

"Detention Pond" is an engineered structure designed to store storm water from a rain event. The elevation of the outlet structure designed to meet the release rate requirement is equivalent to the lowest elevation of the pond.

"Driven Water Well" means a well constructed by joining a drive point with lengths of pipe and then driving or jetting the assembly into the ground with percussion equipment or by hand.

"Established Ground Surface" means the elevation of the ground surface at the site of the well.

"Finished Ground Surface" means the final or permanent elevation of the ground surface at the site of the well.

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE
PART 920 WATER WELL CONSTRUCTION CODE
SECTION 920.120 ABANDONED WELLS

Section 920.120 Abandoned Wells

- a) Abandonment of Wells
- 1) The owner of a water well, boring, or monitoring well shall assure that a well is sealed within 30 days after it is abandoned and when the well is no longer used to supply water or is in such a state of disrepair that the well or boring has the potential for transmitting contaminants into an aquifer or otherwise threatens the public health or safety. The Department will grant an extension of this time if the owner submits a written request to the Department indicating the reasons for the request and an estimate of time in which the well will be either sealed or reused. For an extension to be granted, the owner shall assure the Department that applicable protective measures will be taken and that the methods and materials will be in compliance with the Act and this Part. Applicable protective measures may include ensuring that sources of contamination are down grade from the water source, ensuring isolation of the potential source of contamination so as to prevent a route of contamination of the groundwater, or isolating the potential source of contamination to prevent accidental introduction of contaminants into groundwater.
 - 2) Water wells shall be sealed by a licensed water well driller pursuant to the Water Well and Pump Installation Contractor's License Act. An individual who is not licensed may seal a well if all of the following conditions exist:
 - A) The well is located on land that is owned or leased by the individual;
 - B) The land is used by the individual for farming purposes or as the individual's place of abode; and
 - C) A request is made to the Department or local health department prior to the commencement of sealing indicating how the water well is to be sealed and the materials to be used. The Department or local health department will grant approval when requested prior to the commencement of sealing if the methods and materials are in compliance with this Section.

- b) **Sealing Requirements.** Where geologic data does not exist for a particular abandoned drilled water well, the water well shall be sealed, from the bottom up to where the well casing is removed, with neat cement grout or any bentonite product manufactured for water well sealing. Water wells, borings or monitoring wells that are abandoned shall be disinfected by introducing a sufficient amount of chlorine to produce 100 parts per million of chlorine in the water in the well and shall be sealed by placing the sealing materials from the bottom of the well to the surface by methods that will avoid segregation or dilution of material, in accordance with the following requirements:
- 1) **Non-creviced, Consolidated Formations.** Wells extending into non-creviced sandstone, or other water-bearing consolidated formations shall be sealed by filling the well with disinfected clean pea gravel or limestone chips to within 10 feet below the top of the water-bearing formation or to within 10 feet of the bottom of the casing, whichever is less. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for sealing if the upper part of the well is dry. (See Illustration J.)
 - 2) **Creviced Formations.** Wells extended into creviced formations shall be sealed by filling with disinfected clean pea gravel or limestone chips to within 10 feet below the top of the water-bearing formation or to within 10 feet below the bottom of the casing, whichever is less. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for sealing if the upper part of the well is dry. If the earth cover is less than 30 feet, the hole shall be grouted from 10 feet below the creviced formation to where the well casing is removed. (See Illustration J.)
 - 3) **Unconsolidated Formations.** If the water-bearing formation consists of coarse gravel and producing wells are located nearby, the well shall be sealed by filling with disinfected clean pea gravel or limestone chips to 10 feet below the top of water-bearing formation. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for sealing if the upper part of the well is dry. Abandoned dug and bored wells shall be sealed by using one of the following methods:
 - A) **Filling with disinfected clean pea gravel or limestone chips to within 20 feet below the top of the casing.** The upper part of the well to where the well casing is removed shall be sealed for a minimum of 20 feet by filling with neat cement grout, any bentonite product manufactured for water well sealing, or impervious material such as clay. Concrete or cement may be used for sealing if the upper part of

the well is dry;

- B) Placing a one foot layer of any bentonite product manufactured for water well sealing at the bottom of the well, followed by alternating layers of agricultural limestone (limestone fines) and any bentonite product manufactured for water well sealing. The alternating layers of agricultural lime shall be 5 to 7 feet thick and the alternating layers of any bentonite product manufactured for water well sealing shall be 6 inches thick. The uppermost or top layer shall be agricultural lime; or
 - C) Completely filling with concrete, cement grout or impervious material such as clay. (See Illustration K.)
- 4) More than One Water-Bearing Formation. If wells extend into more than one water-bearing formation, each water-bearing formation shall be sealed independently in the manner described in this Section. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed a minimum of 10 feet above and below at all intermittent water-bearing formations except artesian wells and artesian formations. Disinfected clean pea gravel or limestone chips shall be placed in each water-bearing formation between plugs. When the lower formation has an upflow of water into the upper formation, a pressure seal is required to shut off the upflow while a neat cement plug at least 50 feet in length is pumped in place and allowed to set. The upper part of the well to where the well casing is removed shall be sealed with neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for sealing if the upper part of the well is dry. (See Illustration L.)
- 5) Artesian Wells. A cement retainer shall be used with pressure grouting equipment used to place cement grout. Neat cement grout, containing bentonite from 2% to 6% by dry weight, shall be placed for a minimum of 10 feet below and 10 feet above the water bearing formation. The upper part of the well to where the well casing is removed shall be filled with neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for sealing if the upper part of the well is dry.
- 6) Buried Slab Bored Wells. Wells shall be sealed by filling with disinfected clean pea gravel or limestone chips to within 1 foot below the buried slab. The upper part of the well to where the casing is removed shall be sealed with neat cement or any bentonite product manufactured for water well sealing.
- 7) In lieu of filling the well with disinfected clean pea gravel or limestone chips as required in subsections (b)(1) through (6), wells may be sealed by grouting from the bottom up by using neat cement grout or any bentonite product manufactured for water well sealing. This material shall be applied the full depth of the well and shall terminate within 2 feet of the ground surface. Concrete grout may be used in the upper part of the well if the upper part of the well is dry.

- c) **Non-Producing Well.** If a water well is drilled and a water-bearing formation is not located, the water well driller shall fill the water well with clay, or neat cement containing bentonite or similar materials from 2% to 6% by weight, or pure bentonite in any form, not more than 10 calendar days after the well has been drilled. If a water well is drilled and a water-bearing formation is located, but the yield from the formation is not sufficient, or if the water well is to be sealed for any other reason, the water well shall be sealed in accordance with all provisions of this Part regulating the sealing of water wells.
- d) The well casing or liner shall be removed to at least 2 feet below final grade, except where the well terminates with a concrete slab that is part of a building floor. If the well terminates in a slab that is part of a building floor, the sealing material shall be placed flush with the floor. The pump and drop pipe shall be removed.
- e) **Notification**
 - 1) The Department, approved local health department, or approved unit of local government shall be notified by telephone or in writing at least 48 hours prior to the commencement of any work to seal a water well or monitoring well. Preparation of the abandoned well, such as pulling the pumping unit, may be completed prior to notification.
 - 2) When a water, boring or monitoring well is sealed, the individual performing the sealing shall submit a sealing form to the Department or approved local health department not more than 30 days after the well is sealed. The following information shall be submitted on a form provided by the Department:
 - A) The date that water, boring or monitoring well was drilled;
 - B) Depth and diameter of the water, boring or monitoring well;
 - C) Location of the water, boring or monitoring well;
 - D) Type of sealing method used;
 - E) Original water well permit number if available;
 - F) Date that the water, boring or monitoring well was sealed;
 - G) Type of water well (bored, dug, driven or drilled);
 - H) Whether the formation is clear of obstructions;
 - I) Casing record (explanation of the required removal); and
 - J) Water well driller's license number and name.

(Source: Amended at 37 Ill. Reg. 19676, effective November 25, 2013)



Abandoned Wells

Abandoned Wells

An estimated 400,000 private water wells in Illinois provide drinking water to approximately 1.3 million people. Each year, many of these wells are abandoned when they are replaced with new wells or when homes are connected to community water systems. A large number of these abandoned wells are large diameter dug wells constructed with brick or stone casings, and range in depth from 20 to 50 feet. An abandoned well can pose a health and safety hazard if it is improperly sealed or not sealed at all.

Abandoned Wells as Safety Hazards

When abandoned wells are left open, children, animals or even adults can fall into them, causing injury or death. To prevent such accidents, all abandoned wells must be properly sealed.

Abandoned Wells as Sources of Pollution

An abandoned well can serve as a route for contaminating groundwater. Contaminated surface water, agricultural runoff and effluent from private sewage disposal systems can enter the groundwater through such wells and cause pollution of other wells in the area used for drinking water.

Legal Requirements

The Illinois Water Well Construction Code requires the owner of a water well, boring or monitoring well to properly seal the well within 30 days after it is abandoned and no longer used to supply water. If a well or boring is in such a state of disrepair that it has the potential for transmitting contaminants into the groundwater or otherwise threatens the public health or safety, it also must be sealed.

The Groundwater Protection Act mandates that where an abandoned well is found to contaminate another potable water well, the owner of the abandoned well is responsible for providing a safe and sufficient supply of water to the owner of the well that has been contaminated.

Sealing Abandoned Wells

The basic concept in sealing an abandoned well is restoring the geological conditions that existed before the well was drilled. Therefore, the particular method for sealing a well depends on the

type of water well and the local geological features.

A licensed water well driller must seal an abandoned well. A homeowner may seal his or her own well if a written request is made to the local health department or to the Illinois Department of Public Health describing procedures and materials, all of which must comply with the well code. The local health department or the Department's nearest regional office must be notified at least 48 hours prior to the start of the work to seal such wells and, after the sealing is finished, a completed sealing form must be submitted to the local health department or the Department's central office in Springfield.

Most dug or bored wells can be sealed by filling them with clean clay. Drilled wells are somewhat more complex to seal and require pea gravel or limestone chips (fill material) and neat cement grout, or any bentonite product manufactured for water well sealing (sealing material). The depth, geology and construction of the particular abandoned well to be sealed determine the appropriate levels at which these materials must be placed. For all types of wells, the well casing must be removed at least two feet below the final grade.

For More Information

More detailed information can be found in the Illinois Water Well Construction Code, available on the internet at <http://www.ilga.gov/commission/jcar/admincode/077/07700920sections.html>. A hard copy can be obtained from the local health departments or from one of the regional offices listed below.

Regional Offices

ROCKFORD REGION

4302 N. Main St.
Rockford, IL 61103-1209
815-987-7511

MARION REGION

2309 W. Main St., Suite 106
Marion, IL 62959-1195
618-993-7010

PEORIA REGION

5415 N. University St.
Peoria, IL 61614-4784
309-693-5360

EDWARDSVILLE REGION

#22 Kettle River Drive
Glen Carbon, IL 62034
618-656-6680

CHAMPAIGN REGION

2125 S. First St.
Champaign, IL 61820-7944
217-278-5900

WEST CHICAGO REGION

245 W. Roosevelt Road,
Building 5
West Chicago, IL 6018-4803
630-293-6800

Illinois Department of Public Health, Division of Environmental Health, 525 W. Jefferson St., Springfield, IL 62761, 217-782-5830, TTY (hearing impaired use only) 800-547-0466. Questions may be directed to your local health department, to one of the Illinois Department of Public Health regional offices or to the Department's central office in Springfield.

Updated July 2010

idph online home ● Illinois Department of Public Health
environmental health home ● 535 West Jefferson Street
Springfield, Illinois 62761
Phone 217-782-4977
Fax 217-782-3987
TTY 800-547-0466
[Questions or Comments](#)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE
PART 905 PRIVATE SEWAGE DISPOSAL CODE
SECTION 905.40 SEPTIC TANKS

Section 905.40 Septic Tanks

- a) **Septic Tank Approval.** Manufacturers of prefabricated septic tanks shall submit a set of plans for each size and configuration of septic tank to the Department for approval. Plans shall be drawn to scale and show all dimensions, baffles, tees, cleanouts and material specifications. The Department will provide a written approval for each size tank when the plans are found to conform to the requirements of this Part.
- 1) The Department will issue an approval number to each manufacturer for each series of approved septic tanks and will maintain a listing of the approved manufacturers and approved septic tank series.
 - 2) No prefabricated septic tank shall be sold, offered for sale, or installed other than those which have been approved by the Department. The tank shall bear the manufacturer's approval number and the liquid capacity of the tank, in gallons, prominently displayed on the outside end wall of the tank above, or next to, the outlet pipe so that this information is readily visible after installation and prior to covering. The Illinois Department of Public Health approval number shall not be used on any tank other than the septic tank for which it is has been issued.
 - 3) All persons who manufacture, sell, offer for sale or deliver septic tanks or aerobic treatment plants in or into the State of Illinois shall record the following information about each septic tank or aerobic treatment plant sold or delivered. This information shall be available for inspection by the Department or local authority upon request.
 - A) Name of purchaser or property owner (if different);
 - B) Location of delivery (county and address, legal description or driving directions);
 - C) Date of sale and delivery; and
 - D) Size of septic tank or model of aerobic unit.

- b) **Septic Tank Construction.** Septic tanks shall be designed and constructed in accordance with the following: (Appendix A, Illustration E is an illustration of these requirements.)
- 1) A septic tank shall be watertight and constructed of sound and durable materials not subject to excessive corrosion, decay, frost damage or cracking due to settling or backfilling.
 - 2) **Engineering Specifications**
 - A) The tank shall support a top-dead load of not less than 500 pounds per square foot, and concrete tanks shall have a minimum 28-day compressive strength of 3000 pounds per square inch (psi).
 - B) Tanks shall be designed and constructed so that they will not collapse or rupture when subjected to anticipated earth and hydrostatic pressures when the tanks are either full or empty. The manufacturer, design engineer or structural engineer shall certify in writing to the Department that the tank is designed and constructed to meet the load requirements of this Part. If additional loading is anticipated, the tank shall be strengthened to accommodate the additional loading.
 - 3) **Materials.** Septic tanks shall be constructed of any of the following approved materials:
 - A) Poured-in-place reinforced concrete.
 - B) Precast reinforced concrete.
 - C) Concrete block, provided that the core is filled with concrete and reinforcing rods are inserted in the core prior to pouring.
 - D) Reinforced plastic.
 - E) Reinforced fiberglass.
 - F) Thermoplastic.
 - 4) **Depth.** The minimum liquid depth of the tank shall be 42 inches, and the maximum liquid depth shall be 72 inches.
 - 5) **Inlet and Outlet Connections**
 - A) The invert elevation of the inlet shall be at least 2 inches above the liquid level in the tank.
 - B) The inlet and outlet openings of the septic tank shall be provided with cast-in watertight openings.
 - 6) **Baffles.** Septic tank baffles shall meet the following requirements:

- A) Inlet baffles shall be provided and shall extend at least 6 inches below the surface of the liquid.
- B) Inlet baffles shall be located no farther than 12 inches from the inlet orifice.
- C) Inlet and outlet baffles shall have a clearance of at least one inch but not greater than 3 inches of free space between the underside of the tank lid and the baffles.
- D) Outlet baffles shall be provided and shall extend to a depth of 40% of the liquid depth.
- E) Outlet baffles shall be located no farther than 6 inches from the outlet end wall.
- F) Slip-in baffles shall extend the full width of the tank.
- G) The sides of "V" or semi-circular type baffles shall fit tightly against the end wall of the tank.
- H) Venting shall be provided through all baffles and a free vent area equal to the cross-sectional area of the building shall be provided.
- I) Submerged pipe T-branches or sanitary tees may be used at the inlets and outlets in lieu of baffles, provided that all of the above-stated distances and depths are maintained.
- J) Submerged pipe T-branches or sanitary tees used as inlet baffles shall be 6 inches in diameter or larger. Outlet baffles shall be 4 inches in diameter.
- K) Submerged pipe T-branches or sanitary tees shall meet the requirements of ASTM 2661, ASTM 2665 or ASTM 3034, or ASTM 2751, provided that the pipe does not have an SDR (Standard Dimension Ratio) number greater than 35.
- L) When submerged pipe T-branches or sanitary tees are used as baffles, it shall be the responsibility of the septic tank manufacturer to assure proper location of components during initial installation.
- M) When a single compartment septic tank is manufactured or used, a gas deflection baffle shall be provided below the outlet baffle of the tank configured to deflect rising gas bubbles away from the outlet structure and toward the interior of the tank. This baffle shall be constructed of a durable material not subject to corrosion or decay. (Appendix A, Illustration E, Exhibit C is an illustration.) An NSF International/ANSI Standard 46, Section 10 septic tank filter may be used in lieu of the gas deflector baffle. The septic tank filter baffle shall be installed so that it is extended or suspended to a depth equal to 40% of the liquid level of the tank. The tank access over the filter

shall be provided with an access riser that extends to 3 inches above the ground surface or greater.

- 7) Access. Access shall be provided over the inlet and outlet of the tank to facilitate inspection and cleaning. The manhole or access opening shall have a fitted lid with a minimum dimension of 12 inches (width or diameter). Risers shall be watertight and constructed of a durable material. If the top of the tank is greater than 12 inches below the ground surface, a riser with a minimum dimension of 12 inches (width or diameter) shall be provided to bring access over the inlet and outlet to within 12 inches of the ground surface. The joint between the septic tank and the risers shall be watertight. If a 2-compartment tank is used, and the tank has an opening over the wall between the compartments, the center opening shall have access provided within 12 inches of the ground surface.

c) Capacity

- 1) Septic tanks for individual residences shall be sized in accordance with Appendix A, Illustration F. Septic tanks for any establishment other than residential property shall be sized in accordance with the estimated flow provided in Appendix A, Illustration A and as provided in subsection (c)(2).
- 2) The volume below the liquid level for flows up to 500 gallons per day shall be at least 750 gallons. For flows greater than 500 gallons per day, the volume shall be equal to at least 1½ the estimated daily sewage flow. When the total flow exceeds 1,350 gallons per day, 2 or more tanks in series, or a multi-compartment tank, shall be installed.

d) Multiple Tanks or Compartments. When multiple compartment septic tanks or multiple septic tanks in series are used, the capacity of the first compartment or tank shall be ½ to ⅔ of the total required capacity. Two-compartment tanks shall also comply with the following:

- 1) The wall separating the first and second compartments shall be tight-fitting and designed to handle the differential in pressure if one side is pumped.
- 2) The wall separating the compartments shall extend to within 3 inches of the tank lid and shall have a free vent area equal to the cross-sectional area of the house sewer.
- 3) The center of the opening between compartments shall be in line with the center of the inlet and outlet openings.
- 4) The depth to the invert of the opening between compartments shall be 40% of the liquid depth.
- 5) A gas deflection baffle shall be provided below the outlet baffle of the tank configured to deflect rising gas bubbles away from the outlet structure and toward the interior of the tank. This baffle shall be constructed of a durable material that is not subject to corrosion or decay. An NSF International/ANSI Standard 46, Section 10 septic tank filter may be used in

lieu of the gas deflector baffle. The septic tank filter baffle shall be installed so that it is extended or suspended to a depth equal to 40% of the liquid level of the tank. The tank access over the filter shall be provided with an access riser that extends to 3 inches or more above the ground surface.

- 6) For a 2-compartment tank, openings with a minimum dimension of 18 inches shall be located over the inlet and outlet of the tank or 12-inch openings as follows:
 - A) One located over the inlet;
 - B) One over the outlet; and
 - C) One centered over the compartment wall.
- e) Septic Tank Installation
 - 1) The septic tank shall be set level and backfilled to prevent floatation or drifting of the tank. Level shall mean plus or minus ½ inch in any direction (length or width or diameter of the tank).
 - 2) If the inlet, outlet or access openings are to be set at or below the seasonal high water table, all openings in the tank shall be made watertight using mastic, tar, silicone caulk, etc.
 - 3) There shall be no connections, such as joints, splices or fittings, within the area of overdig around the septic tank.
- f) Abandoned Treatment Units. Septic tanks, cesspools, pit privies, aerobic treatment plants and seepage pits that are no longer in use shall be completely pumped. The floor and walls shall be cracked or crumbled so that the tank will not hold water, and the tank shall be filled with sand or soil. If the tank is removed from the ground, the excavation shall be filled with soil.

(Source: Amended at 37 Ill. Reg. 14994, effective August 28, 2013)

Asbestos in My Building

Information presented in this publication is intended to provide a general understanding of the statutory and regulatory requirements governing managing asbestos. This information is not intended to replace, limit or expand upon the complete statutory and regulatory requirements found in the Illinois Environmental Protection Act and Title 35 of the Illinois Administrative Code.



This fact sheet does not apply to privately owned homes and apartments with four or less units.

What is asbestos?

Asbestos is a naturally occurring mineral found in certain rocks. This mineral separates into strong, thin fibers that are invisible to the naked eye. Asbestos was commonly used in building materials before the mid-1970s and occasionally until the late 1980s because it is strong, fire- and corrosion-resistant, and a good insulator. Common uses of asbestos include the following:



- As a building material additive to enhance strength (for example, asbestos was added to concrete, asphalt, and vinyl materials in roof shingles, pipes, siding, wall board, floor tiles, joint compounds and adhesives)
- As a fireproofing material applied on steel beams and columns during construction of multistory buildings
- As a thermal insulation and as a means of controlling condensation
- As an ingredient in acoustical plaster
- As a component of a mixture sprayed on ceilings and walls to produce a soft, textured appearance

If the materials discussed above contain more than one percent asbestos as determined using polarized light microscopy (PLM), they are considered asbestos-containing materials (ACM). ACM can be friable or nonfriable. When dry, friable ACM can be crumbled or reduced to a powder by hand pressure and presents greater health risks to human health than nonfriable ACM. When dry, nonfriable ACM cannot be crumbled or reduced to a powder by hand pressure.

When is ACM a problem?

If ACM is in good condition and left in place, it should not present health risks. However, if the ACM has been damaged or is crumbling, or if a building is to be demolished, renovated, or remodeled, care must be taken to prevent the release of asbestos fibers into the air. Inhalation of microscopic asbestos fibers from friable ACM can cause health risks. Once inhaled, asbestos fibers can become lodged in tissue for a long time and can cause cancer.

Asbestos can also cause asbestos-related diseases or problems such as asbestosis, a progressive, disabling and potentially fatal disease; mesothelioma, a rare cancer of the mesothelium, the thin tissue layer that lines body cavities and surrounds internal organs; and pleural plaques, scar tissue in the chest cavity. The number of fibers a person must inhale to develop asbestos-related disease is not known. At very low exposure levels (such as being in the same room as a cracked tile containing asbestos), the risks can be negligible. However, during demolition, renovation and removal activities, risks from exposure greatly increase. Also, smoking greatly increases the risk of asbestos-related lung cancer. Almost all known cases of asbestos-related lung cancer occurred among people who smoked and were exposed to asbestos.

Because asbestos presents a significant risk to human health when released to air, asbestos is considered a hazardous air pollutant regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations.

What are NESHAP regulations?

NESHAP regulations are Federal regulations under the Clean Air Act (CAA) that apply to the facility owners and contractors who perform work in public and commercial buildings. Asbestos NESHAP regulations address common small business activities such as milling, manufacturing and fabricating operations, demolition and renovation activities, waste disposal issues, active and inactive waste disposal sites, and asbestos conversion processes. A privately owned home or an apartment with four or less units is exempt from the regulations unless the building has either had previous use or future planned use as a commercial or public facility. For privately owned homes and apartments with four or less units, please refer to the fact sheet titled "How Do I Manage Asbestos In My House Or Apartment Building?"



How do I comply with NESHAP?

The term "facility" as used in NESHAP regulations refers to a residential structure or any building that has been or will be used as a commercial property. The only exemptions are privately owned homes or residential structures having four or less dwelling units.

Category II nonfriable ACM consists of any material except for Category I nonfriable ACM that contains more than one percent asbestos as determined using PLM and that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

If an inspector has determined that regulated ACM removal is necessary, a notice of the removal must be delivered or postmarked to the Illinois Environmental Protection Agency (Illinois EPA) at least 10 working days prior to the commencement of demolition or renovation if the amount of regulated ACM to be removed exceeds 160 square feet, 260 linear feet, or 1 cubic meter. This notification of demolition and renovation form can be obtained by calling the Illinois EPA Office of Small Business.

Although you will hire a licensed contractor to conduct regulated ACM removal work, you should be aware of the requirements below for contractors during removal activities.

- A NESHAP-trained person must be present.
- The area from which the asbestos will be removed should be sealed off and any forced-air heating systems should be shut off.
- Workers should wear a respirator fitted with cartridges that filter out asbestos fibers.
- The asbestos should not be broken into small pieces because this can increase the amount of airborne asbestos fibers.
- The asbestos should be kept wet during the entire removal process.
- The asbestos waste should be containerized and labeled for disposal at an approved landfill.
- The area from which the asbestos was removed should be cleaned thoroughly with a wet mop, rags or sponges.
- Asbestos removal workers should decontaminate themselves.

What other regulations apply to asbestos?

Only a licensed contractor should remove regulated ACM. Licensed asbestos contractors can be found in the telephone book yellow pages or by calling the Illinois Department of Public Health at (217) 782-3517.

In addition to NESHAP requirements, other regulatory standards apply to asbestos. The first two items listed below apply to regulated ACM removal contractors, and the remaining items apply to the facility owner.

1. The Asbestos School Hazard Reauthorization Act extends the training requirements specified in the Asbestos Hazard Emergency Response Act, which regulates asbestos removal in schools, to public and commercial buildings.
2. The Commercial and Public Buildings Asbestos Abatement Act, which is a state regulation administered by the Illinois Department of Public Health, requires that asbestos project designers, inspectors, workers, supervisors, and contractors to be licensed prior to performing their respective duties in public and commercial buildings for each project where the amount of friable ACM involved exceeds 3 square or linear feet.
3. The Occupational Health and Safety Administration (OSHA) regulates the abatement of asbestos. Employers are required to (1) identify or presume the presence of asbestos in the workplace; (2) communicate that information to their employees; (3) meet training, medical surveillance and exposure documentation requirements for employees working with and around ACM; and (4) follow certain practices and procedures during disturbance of ACM.
4. Local governmental agencies may also have asbestos-related regulations. For example, the City of Chicago and Cook County have ordinances that require the filing of notices and fee assessments. Contact local governmental entities in your area prior to conducting any renovation or demolition activities.



How do I obtain more information?

For more information on ACM, please call the Illinois EPA Office of Small Business Helpline toll-free at (888) EPA-1996 or the DCCA Small Business Environmental Assistance Helpline at (800) 252-3998. All calls are considered confidential and the caller can remain anonymous.

Related Information

- [Office of Small Business Helpline \(/topics/small_business/contact/helpline/index\)](/topics/small_business/contact/helpline/index)
- [How Do I Manage Asbestos In My House Or Apartment Building? \(/topics/air_quality/asbestos/house_or_apartment/index\)](/topics/air_quality/asbestos/house_or_apartment/index)

Quick Links

-  [Emergency Response \(/topics/emergency_response/index\)](/topics/emergency_response/index)
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-  [Forms \(/topics/forms/index\)](/topics/forms/index)
-  [A to Z Topic List \(/topics/a_to_z_list\)](/topics/a_to_z_list)

State Government

-  [State of Illinois \(http://www.illinois.gov/\)](http://www.illinois.gov/)
-  [Office of the Governor \(http://www2.illinois.gov/Gov\)](http://www2.illinois.gov/Gov)
-  [Inspector General \(http://www2.illinois.gov/oeig/Pages/default.aspx\)](http://www2.illinois.gov/oeig/Pages/default.aspx)
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Contact Us

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Asbestos in House or Apartment

Information presented in this publication is intended to provide a general understanding of the statutory and regulatory requirements governing managing asbestos. This information is not intended to replace, limit or expand upon the complete statutory and regulatory requirements found in the Illinois Environmental Protection Act and Title 35 of the Illinois Administrative Code.

This fact sheet applies to privately owned homes and apartments with four or less units. If your building was at one time used for public or commercial purposes, refer to the "[How Do I Manage Asbestos in My Building?](#) ([/topics/air-quality/asbestos/building/index](#))" fact sheet.

What is asbestos?

Asbestos is a naturally occurring mineral found in certain rocks. This mineral separates into strong, thin fibers that are not visible to the naked eye. Asbestos was commonly used in home building materials before the mid-1970s and occasionally until the late 1980s because it is strong, fire- and corrosion-resistant and a good insulator. Common uses of asbestos include the following:



- As a building material additive to enhance strength (for example, asbestos was added to concrete, asphalt, and vinyl materials in roof shingles, pipes, siding, wall board, floor tiles, joint compounds, and adhesives)
- As a fireproofing material applied on steel beams and columns during construction of multistory homes
- As a thermal insulation and as a means of controlling condensation
- As an ingredient in acoustical plaster
- As a component of a mixture of sprayed on ceilings and walls to produce a soft, textured appearance.

If the materials discussed above contain more than one percent asbestos, they are considered asbestos-containing materials (ACM). ACM can be friable or nonfriable. When dry, friable ACM can be crumbled or reduced to a powder by hand pressure and presents a greater risk to human health than nonfriable ACM. When dry, nonfriable ACM cannot be crumbled or reduced to a powder by hand pressure.

When is ACM a problem?

If ACM is in good condition and left in place, it should not present health risks. However, if a building is going to be demolished, renovated, or remodeled, care should be taken to prevent the release of asbestos fibers into the air. Inhalation of microscopic asbestos fibers from friable ACM can cause health risks. Once inhaled, asbestos fibers can become lodged in tissue for a long time and can cause cancer. Asbestos can also cause asbestos-related diseases or problems such as asbestosis, a progressive disabling and potentially fatal disease; mesothelioma, a rare cancer of the mesothelium, a thin tissue layer that lines body cavities and surrounds internal organs; and pleural plaques, scar tissue in the chest cavity. The number of fibers a person must inhale to develop asbestos-related disease is not known. At very low exposure levels (such as being in the same room as a cracked tile containing asbestos), the risks can be negligible. However, during renovation and removal activities, risks from exposure are greatly increased. Also, smoking greatly increases the risk of asbestos-related lung cancer. Almost all known cases of asbestos-related lung cancer occurred among people who smoked and were exposed to asbestos.

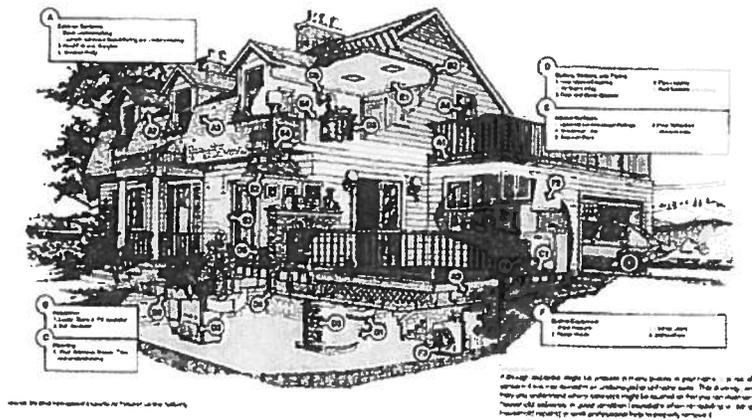
A person must inhale asbestos fibers in order to incur any chance of developing an asbestos-related disease. Swallowing fibers does not pose a health risk.

Could ACM be present in my house or apartment building?

Friable ACM is present in many public and commercial buildings, schools, houses, apartment buildings, and factories built before the mid-1970s and in some buildings after the mid-1970s. If you are not sure ACM is present in your dwelling, ask people who frequently work around ACM such as plumbers, contractors and heating specialists. You can also hire an asbestos inspector. A licensed inspector may obtain samples for laboratory analysis. Call the Illinois Department of Public Health at (217) 782-3517 for a list of licensed asbestos inspectors.



Where Do I Look For Asbestos In My House?



[You can also view a larger version of this image, either [800 pixels](#) ([/Assets/iepa/air_quality/asbestos/where_in_the_home_800.gif](#)) or [1024 pixels](#) ([/Assets/iepa/air_quality/asbestos/where_in_the_home_1024.gif](#)) wide.]

A. Exterior Surfaces

1. Deck Undersheeting
2. Cement Asbestos Board Siding and Undersheeting
3. Roof Felt and Shingles
4. Window Putty

B. Insulation

1. Loose Blown-in Fill Insulation
2. Batt Insulation

C. Flooring

1. Vinyl Asbestos Sheets, Tiles, and Undersheeting

D. Boilers, Heaters, and Piping

1. Heat Source Covering
2. Air Duct Lining
3. Door and Cover Gaskets
4. Pipe Lagging
5. Wall Gaskets and Lining

E. Interior Surfaces

1. Sprayed-On Acoustical Ceilings
2. Acoustical Tiles
3. Textured Paint
4. Heat Reflectors (Woodstoves)

F. Built-In Equipment

1. Water Heaters
2. Range Hoods
3. Clothes Dryers
4. Dishwashers



Important:

Although asbestos might be present in many places in your home, it is not of concern if it is maintained in an undamaged or unfriable state. This drawing can help you understand where asbestos might be located so that you can maintain household asbestos in good condition (especially when remodeling or doing household repairs) or seek professional help to properly remove it.

Source: Modified from Spokane County Air Pollution Control Authority.

If ACM is present in my house or apartment building, should I remove it?

Leaving ACM in place when possible is often the best option. If friable ACM is present, you should inspect it regularly for damage, such as (1) missing or fallen sections of sprayed on fireproofing or insulation or (2) pieces hanging loose from ACM. If ACM is damaged, it can be repaired rather than removed. If ACM is damaged, you should call a trained professional to make the repairs.

You should hire a qualified inspector to inspect your building for ACM prior to any renovation or demolition activities. In some cases, ACM may need to be removed during a renovation project; however, this is not required. ACM does not have to be removed if it is in good condition.

Removal is often not the best option for reducing asbestos exposure. Often, it is best to leave ACM in place because disturbing it may release airborne microscopic fibers that could be inhaled.

How do I prevent the release of airborne asbestos fibers?

The following methods can be used to prevent the release of airborne asbestos fibers:

Repair of damaged ACM such as the insulation around pipes, boilers, tanks, or ducts by wrapping the ACM with heavy tape such as duct tape.

Encapsulation by treating ACM with a liquid compound called an "encapsulant" that provides a seal to prevent release of fibers. Encapsulation is not appropriate if the ACM is deteriorated or the encapsulant does not adhere to the ACM.

Enclosure by constructing an airtight, impermeable, permanent barrier around the ACM.

Asbestos repair materials can be purchased from suppliers listed under "Safety equipment and clothing" in the telephone book yellow pages.

If necessary, how do I remove ACM?

The National Emission Standards for Hazardous Air Pollutants (NESHAP) and other asbestos-related regulations do not apply to privately owned homes and apartments with four or less units. However, ACM should be removed prior to demolition activities and some renovation activities. A licensed contractor should remove the ACM. These contractors can be found in the telephone book yellow pages or by calling the Illinois Department of Public Health at (217) 782-3517. However, if you plan to conduct the removal yourself, you should follow the Illinois EPA recommendations listed below.

- Seal off the area from which the asbestos will be removed, and shut off any forced air heating systems.
- Wear a respirator fitted with cartridges that filter out asbestos fibers.
- Avoid breaking the asbestos into small pieces because this can increase the amount of airborne fibers. If asbestos is removed improperly and is broken or crumbles, causing dust, health risks increase.
- Keep the asbestos wet during the entire removal process by using a spray bottle or other device.
- Place the asbestos in leakproof plastic bags, and seal the bags.
- Place the sealed bags in a cardboard box to prevent them from breaking open, and dispose of the bags at a permitted landfill.
- Clean the area from which the asbestos was removed thoroughly with a wet mop, rags, or sponges.
- Wash yourself and change your clothes.

Quick Links

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-  [Illinois Business Portal \(http://www.illinois.gov/business/Pages/default.aspx\)](http://www.illinois.gov/business/Pages/default.aspx)
-  [Get Covered Illinois \(https://getcoveredillinois.gov\)](https://getcoveredillinois.gov)

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How do I obtain more information?

For more information on ACM, call the Illinois EPA Office of Small Business Helpline toll-free at (888) EPA-1996 or the DCCA Small Business Environmental Assistance Helpline at (800) 252-3998. All calls are considered confidential and the caller can remain anonymous.

Related Information

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- [How Do I Manage Asbestos In My Building? \(/topics/air_quality/asbestos/building/index\)](/topics/air_quality/asbestos/building/index)
- [Illinois Department of Public Health \(http://www.idph.state.il.us/\)](http://www.idph.state.il.us/)



strengthen existing criminal sanctions regarding environmental damage, by enacting specific penalties for injury to public health and welfare and the environment.

(b) It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.

(c) The terms and provisions of this Act shall be liberally construed so as to effectuate the purposes of this Act as set forth in subsection (b) of this Section, but to the extent that this Act prescribes criminal penalties, it shall be construed in accordance with the Criminal Code of 2012.

(Source: P.A. 97-1150, eff. 1-25-13.)

(415 ILCS 5/3) (from Ch. 111 1/2, par. 1003)
Sec. 3. Definitions.

(415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

Sec. 3.160. Construction or demolition debris.

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

To the extent allowed by federal law, uncontaminated concrete with protruding rebar shall be considered clean construction or demolition debris and shall not be considered "waste" if it is separated or processed and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) in subsection (b) of this Section.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any

clean construction or demolition debris or other waste.

To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is (i) used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure, and, if used as fill material in a current or former quarry, mine, or other excavation, is used in accordance with the requirements of Section 22.51 of this Act and the rules adopted thereunder or (ii) separated or processed and returned to the economic mainstream in the form of raw materials or products, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i), or (iii) solely broken concrete without protruding metal bars used for erosion control, or (iv) generated from the construction or demolition of a building, road, or other structure and used to construct, on the site where the construction or demolition has taken place, a manmade functional structure not to exceed 20 feet above the highest point of elevation of the property immediately adjacent to the new manmade functional structure as that elevation existed prior to the creation of that new structure, provided that the structure shall be covered with sufficient soil materials to sustain vegetation or by a road or structure, and further provided that no such structure shall be constructed within a home rule municipality with a population over 500,000 without the consent of the municipality.

For purposes of this subsection (b), reclaimed or other asphalt pavement shall not be considered speculatively accumulated if: (i) it is not commingled with any other clean construction or demolition debris or any waste; (ii) it is returned to the economic mainstream in the form of raw materials or products within 4 years after its generation; (iii) at least 25% of the total amount present at a site during a calendar year is transported off of the site during the next calendar year; and (iv) if used as a fill material, it is used in accordance with item (i) of the second paragraph of this subsection (b).

(c) For purposes of this Section, the term "uncontaminated soil" means soil that does not contain contaminants in concentrations that pose a threat to human health and safety and the environment.

(1) No later than one year after the effective date of this amendatory Act of the 96th General Assembly, the Agency shall propose, and, no later than one year after receipt of the Agency's proposal, the Board shall adopt, rules specifying the maximum concentrations of contaminants that may be present in uncontaminated soil for purposes of this Section. For carcinogens, the maximum concentrations shall not allow exposure to exceed an excess upper-bound lifetime risk of 1 in 1,000,000; provided that if the most stringent remediation objective or applicable background concentration for a contaminant set forth in 35 Ill. Adm. Code 742 is greater than the

concentration that would allow exposure at an excess upper-bound lifetime risk of 1 in 1,000,000, the Board may consider allowing that contaminant in concentrations up to its most stringent remediation objective or applicable background concentration set forth in 35 Ill. Adm. Code 742 in soil used as fill material in a current or former quarry, mine, or other excavation in accordance with Section 22.51 or 22.51a of this Act and rules adopted under those Sections. Any background concentration set forth in 35 Ill. Adm. Code 742 that is adopted as a maximum concentration must be based upon the location of the quarry, mine, or other excavation where the soil is used as fill material.

(2) To the extent allowed under federal law and regulations, uncontaminated soil shall not be considered a waste.

(Source: P.A. 96-235, eff. 8-11-09; 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

(415 ILCS 5/22.51)

Sec. 22.51. Clean Construction or Demolition Debris Fill Operations.

(a) No person shall conduct any clean construction or demolition debris fill operation in violation of this Act or any regulations or standards adopted by the Board.

(b)(1)(A) Beginning August 18, 2005 but prior to July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation, unless they have applied for an interim authorization from the Agency for the clean construction or demolition debris fill operation.

(B) The Agency shall approve an interim authorization upon its receipt of a written application for the interim authorization that is signed by the site owner and the site operator, or their duly authorized agent, and that contains the following information: (i) the location of the site where the clean construction or demolition debris fill operation is taking place, (ii) the name and address of the site owner, (iii) the name and address of the site operator, and (iv) the types and amounts of clean construction or demolition debris being used as fill material at the site.

(C) The Agency may deny an interim authorization if the site owner or the site operator, or their duly authorized agent, fails to provide to the Agency the information listed in subsection (b)(1)(B) of this Section. Any denial of an interim authorization shall be subject to appeal to the Board in accordance with the procedures of Section 40 of this Act.

(D) No person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation for which the Agency has denied interim authorization under subsection (b)(1)(C) of this Section. The Board may stay the prohibition of this subsection (D) during the pendency of an appeal of the Agency's denial of the

interim authorization brought under subsection (b) (1) (C) of this Section.

(2) Beginning September 1, 2006, owners and operators of clean construction or demolition debris fill operations shall, in accordance with a schedule prescribed by the Agency, submit to the Agency applications for the permits required under this Section. The Agency shall notify owners and operators in writing of the due date for their permit application. The due date shall be no less than 90 days after the date of the Agency's written notification. Owners and operators who do not receive a written notification from the Agency by October 1, 2007, shall submit a permit application to the Agency by January 1, 2008. The interim authorization of owners and operators who fail to submit a permit application to the Agency by the permit application's due date shall terminate on (i) the due date established by the Agency if the owner or operator received a written notification from the Agency prior to October 1, 2007, or (ii) or January 1, 2008, if the owner or operator did not receive a written notification from the Agency by October 1, 2007.

(3) On and after July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation (i) without a permit granted by the Agency for the clean construction or demolition debris fill operation or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with Board regulations and standards adopted under this Act or (ii) in violation of any regulations or standards adopted by the Board under this Act.

(4) This subsection (b) does not apply to:

(A) the use of clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation located on the site where the clean construction or demolition debris was generated;

(B) the use of clean construction or demolition debris as fill material in an excavation other than a current or former quarry or mine if this use complies with Illinois Department of Transportation specifications; or

(C) current or former quarries, mines, and other excavations that do not use clean construction or demolition debris as fill material.

(c) In accordance with Title VII of this Act, the Board may adopt regulations to promote the purposes of this Section. The Agency shall consult with the mining and construction industries during the development of any regulations to promote the purposes of this Section.

(1) No later than December 15, 2005, the Agency shall propose to the Board, and no later than September 1, 2006, the Board shall adopt, regulations for the use of clean construction or demolition debris as fill material in current and former quarries, mines, and other excavations. Such regulations shall include, but shall not be limited to, standards for clean construction or demolition debris fill operations and the submission and review of permits required under this Section.

(2) Until the Board adopts rules under subsection (c)(1) of this Section, all persons using clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation shall:

(A) Assure that only clean construction or demolition debris is being used as fill material by screening each truckload of material received using a device approved by the Agency that detects volatile organic compounds. Such devices may include, but are not limited to, photo ionization detectors. All screening devices shall be operated and maintained in accordance with manufacturer's specifications. Unacceptable fill material shall be rejected from the site; and

(B) Retain for a minimum of 3 years the following information:

(i) The name of the hauler, the name of the generator, and place of origin of the debris or soil;

(ii) The approximate weight or volume of the debris or soil; and

(iii) The date the debris or soil was received.

(d) This Section applies only to clean construction or demolition debris that is not considered "waste" as provided in Section 3.160 of this Act.

(e) For purposes of this Section:

(1) The term "operator" means a person responsible for the operation and maintenance of a clean construction or demolition debris fill operation.

(2) The term "owner" means a person who has any direct or indirect interest in a clean construction or demolition debris fill operation or in land on which a person operates and maintains a clean construction or demolition debris fill operation. A "direct or indirect interest" does not include the ownership of publicly traded stock. The "owner" is the "operator" if there is no other person who is operating and maintaining a clean construction or demolition debris fill operation.

(3) The term "clean construction or demolition debris fill operation" means a current or former quarry, mine, or other excavation where clean construction or demolition debris is used as fill material.

(4) The term "uncontaminated soil" shall have the same meaning as uncontaminated soil under Section 3.160 of this Act.

(f)(1) No later than one year after the effective date of this amendatory Act of the 96th General Assembly, the Agency shall propose to the Board, and, no later than one year after the Board's receipt of the Agency's proposal, the Board shall adopt, rules for the use of clean construction or demolition debris and uncontaminated soil as fill material at clean construction or demolition debris fill operations. The rules must include standards and procedures necessary to protect groundwater, which may include, but shall not be limited to, the following: requirements regarding testing and certification of soil used as fill material, surface water

runoff, liners or other protective barriers, monitoring (including, but not limited to, groundwater monitoring), corrective action, recordkeeping, reporting, closure and post-closure care, financial assurance, post-closure land use controls, location standards, and the modification of existing permits to conform to the requirements of this Act and Board rules. The rules may also include limits on the use of recyclable concrete and asphalt as fill material at clean construction or demolition debris fill operations, taking into account factors such as technical feasibility, economic reasonableness, and the availability of markets for such materials.

(2) Until the effective date of the Board rules adopted under subdivision (f)(1) of this Section, and in addition to any other requirements, owners and operators of clean construction or demolition debris fill operations must do all of the following in subdivisions (f)(2)(A) through (f)(2)(D) of this Section for all clean construction or demolition debris and uncontaminated soil accepted for use as fill material. The requirements in subdivisions (f)(2)(A) through (f)(2)(D) of this Section shall not limit any rules adopted by the Board.

(A) Document the following information for each load of clean construction or demolition debris or uncontaminated soil received: (i) the name of the hauler, the address of the site of origin, and the owner and the operator of the site of origin of the clean construction or demolition debris or uncontaminated soil, (ii) the weight or volume of the clean construction or demolition debris or uncontaminated soil, and (iii) the date the clean construction or demolition debris or uncontaminated soil was received.

(B) For all soil, obtain either (i) a certification from the owner or operator of the site from which the soil was removed that the site has never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or (ii) a certification from a licensed Professional Engineer or licensed Professional Geologist that the soil is uncontaminated soil. Certifications required under this subdivision (f)(2)(B) must be on forms and in a format prescribed by the Agency.

(C) Confirm that the clean construction or demolition debris or uncontaminated soil was not removed from a site as part of a cleanup or removal of contaminants, including, but not limited to, activities conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; as part of a Closure or Corrective Action under the Resource Conservation and Recovery Act, as amended; or under an Agency remediation program, such as the Leaking Underground Storage Tank Program or Site Remediation Program, but excluding sites subject to Section 58.16 of this Act where there is no presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on, or from the real property.

(D) Document all activities required under subdivision (f)(2) of this Section. Documentation of any

chemical analysis must include, but is not limited to, (i) a copy of the lab analysis, (ii) accreditation status of the laboratory performing the analysis, and (iii) certification by an authorized agent of the laboratory that the analysis has been performed in accordance with the Agency's rules for the accreditation of environmental laboratories and the scope of accreditation.

(3) Owners and operators of clean construction or demolition debris fill operations must maintain all documentation required under subdivision (f)(2) of this Section for a minimum of 3 years following the receipt of each load of clean construction or demolition debris or uncontaminated soil, except that documentation relating to an appeal, litigation, or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. Copies of the documentation must be made available to the Agency and to units of local government for inspection and copying during normal business hours. The Agency may prescribe forms and formats for the documentation required under subdivision (f)(2) of this Section.

Chemical analysis conducted under subdivision (f)(2) of this Section must be conducted in accordance with the requirements of 35 Ill. Adm. Code 742, as amended, and "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as amended.

(g)(1) No person shall use soil other than uncontaminated soil as fill material at a clean construction or demolition debris fill operation.

(2) No person shall use construction or demolition debris other than clean construction or demolition debris as fill material at a clean construction or demolition debris fill operation.

(Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)