

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: October 11, 2012

PLACE: Lyle Shields Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad Passalacqua, Roger Miller

MEMBERS ABSENT : None

COUNTY BOARD

MEMBERS PRESENT: Astrid Berkson

STAFF PRESENT : Connie Berry, John Hall

OTHERS PRESENT : Patricia Belleville, John Belleville, Ruth Mitchell, Terry Crowley, Larry Crowley, Mike Buzicky, Kerry Gifford, Phillip VanNess, Bill Morfey

1. Call to Order

The meeting was called to order at 7:03 p.m.

2. Roll Call and Declaration of Quorum

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

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

3. Correspondence

None

4. Approval of Minutes (July 26, 2012 and August 16, 2012)

Mr. Thorsland stated that the July 26, 2012, and August 16, 2012, minutes were included on the agenda but were not included in the mailing packet for review.

Mr. Thorsland entertained a motion to re-arrange the agenda.

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1
2 **Mr. Miller moved, seconded by Ms. Capel to re-arrange the agenda and hear Case 728-AM-12 prior**
3 **to Cases 715-V-12, 717-AM-12, 718-S-12 and 719-V-12. The motion carried by voice vote.**

4
5 **5. Continued Public Hearing**
6

7 **Case 715-V-12 Petitioner: John Behrens Estate and Anne and Denny Anderson Request to authorize**
8 **the following in the R-1 Single Family Residence Zoning District: Part A. Variance for a side yard**
9 **and rear yard of an existing shed of 1 foot in lieu of the minimum side yard and rear yard of 5 feet;**
10 **and Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear**
11 **yard of 5 feet; and Part C. Variance from Section 4.2.D. requirement that no construction shall take**
12 **place in a recorded utility easement; and Part D. Variance from a minimum separation from a rear**
13 **property line for parking spaces of 1 foot in lieu of the minimum required 5 feet. Location: Lot 1 of**
14 **Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and**
15 **commonly known as the home at 1 Willowbrook Court, Champaign.**
16

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

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

30 Mr. Thorsland informed Ms. Astrid Berkson that he cannot allow her to testify for this case because she is
31 a
32 member of the County Board and our governing body.
33

34 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
35

36 Mr. Denny Anderson, who resides at #1 Willowbrook Ct, Champaign, stated that it has been made clear that
37 his request will not go forward unless he moves the wall four feet therefore he will agree to move the wall
38 four feet to remove anything in the utility easement.

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1
2 Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for this case tonight. He
3 said that it is important to go on record that Mr. Anderson is revising his petition at tonight's public hearing.
4 Mr. Hall stated that if the east wall of the shed that is within the utility easement is moved four feet Part C.
5 and most of Part A would be eliminated. He said that the south side of the shed would still have a one foot
6 yard. Mr. Hall stated that during previous meetings Mr. Anderson has stated that the other shed, which is the
7 shed included in Part B, is the shed that he will have no use for once the materials are relocated to Camp
8 Drake. He said that the Board could condition that variance to be only for a certain amount of time. He said
9 that Mr. Anderson's testimony places a totally different spin on the case tonight and the memorandum which
10 went out in the mailing made a clear affirmation that there was no intent to revise the site plan. Mr. Hall
11 stated that if Mr. Anderson does intend to revise his petition then the Summary of Evidence would merit a
12 lot of scrutiny tonight to make sure that it is accurate.

13
14 Mr. Thorsland stated that the October 5, 2012, Supplemental Memorandum indicates that no new site plan
15 had been received and that Mr. Anderson had no intention to move the shed although tonight he has
16 indicated that he wants to move the shed. He asked Mr. Anderson if he is correct.

17
18 Mr. Anderson stated that Mr. Thorsland used the word "want" in his statement. He said that he was clearly
19 told that the request would not be approved if the four foot remained in the easement. He said that he will
20 move the shed wall four foot if that is the only chance for a positive outcome.

21
22 Mr. Hall asked Mr. Anderson to indicate his intent for the south shed.

23
24 Mr. Anderson stated that he has earlier stated that the south shed is only there in a temporary fashion to store
25 materials. He said that the materials are being moved and it is his guess that the shed will be removed within
26 the next three months.

27
28 Mr. Hall stated that Part D is in regard to the parking along the south lot line. He asked Mr. Anderson if he
29 still wants Part D to part of the variance request.

30
31 Mr. Anderson stated that it seems reasonable to him. He said that there was an old existing two track located
32 there and he would like to have the variance. He said that currently there is a scout trailer parked there and it
33 is approximately three feet from the property line. He said that, if required, he will move or widen the track
34 an additional 24 inches although it seems silly to do so.

35
36 Mr. Hall stated that he understands that it may seem silly but if it is moved then the variance is not required
37 and the Board will have no control as to what he parks there.

38

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1 Mr. Anderson stated that he will move it therefore it will not be an issue.

2

3 Mr. Thorsland asked if the Board has any questions for Mr. Anderson.

4

5 Mr. Palmgren stated that notes have been placed on the site plan that Mr. Anderson submitted indicating that
6 if he moves the shed four feet then no variance would be required.

7

8 Mr. Thorsland informed Mr. Palmgren that the notes on the site plan were from staff and not Mr. Anderson.

9

10 Mr. Passalacqua stated that the Board still does not have a revised site plan.

11

12 Mr. Anderson stated that at the end of the last meeting he offered to move the shed four feet and he was told
13 not to do anything. He said that he is reaffirming that he will move the shed four feet.

14

15 Mr. Passalacqua stated that he suggested that Mr. Anderson not move the shed until he submitted a new site
16 plan to the Board for review. He said that the memorandum indicated that Mr. Anderson had no intention of
17 submitting a new site plan.

18

19 Mr. Anderson stated that during his last visit to the office it was made very clear that he would not receive a
20 positive outcome therefore he should reconsider moving the building four feet.

21

22 Mr. Passalacqua stated that he is still requesting a new site plan.

23

24 Mr. Thorsland asked Mr. Anderson if he willing to submit a new site plan.

25

26 Mr. Anderson stated yes.

27

28 Mr. Thorsland informed Mr. Anderson that the site plan should include the movement of the east wall four
29 feet and how Part D, regarding the parking, will be eliminated. He said that Mr. Anderson has indicated that
30 the small shed will be removed from the property within the next three months. He asked Mr. Anderson if a
31 condition was proposed for removal of the shed to be complete by January 1st would be acceptable.

32

33 Mr. Anderson stated that it is hard to guarantee that the shed would be moved within a three month period or
34 January 1st. He said that he does not have a crystal ball to guarantee the weather for removal.

35

36 Mr. Thorsland stated that the Board will probably give him some time to revise and submit a new site plan
37 for the Board's review. He stated that he would appreciate a timeline for removal of the small shed to be
38 included with the submitted information.

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1
2 Mr. Hall stated that he appreciates that someone might be able to move the shed within three months but he
3 does not see that much good that a short deadline serves and a short deadline is likely to result in more
4 problems. He said that he would hope that the Board would entertain an allowance of six months for
5 removal of the shed which would give Mr. Anderson a couple of months of good weather to get the shed
6 moved and he cannot think of a valid excuse for not having the shed moved within that time.

7
8 Mr. Anderson stated that he appreciates Mr. Hall's suggestion of six months.

9
10 Mr. Hall asked Mr. Anderson when he could submit a new site plan for the Board's review.

11
12 Mr. Anderson stated that if 30 days would suffice then he will have a new site plan to staff within 30 days.
13 He said that if staff needs it within a week then he will get it to staff within one week.

14
15 Mr. Hall stated that one week is not necessary. He said that the meeting schedule is such that the Board
16 meets again on October 24th which is a very full agenda. He said that the next opportunity after the October
17 24th meeting is December 13th because all ZBA meetings have been cancelled for November. He said from
18 a staff perspective having this case return for the October 24th meeting would make that meeting even more
19 difficult than it is right now.

20
21 Mr. Thorsland stated that he would prefer that the case be continued to the December 13th meeting.

22
23 **Mr. Courson moved, seconded by Mr. Palmgren to continue Case 715-V-12 to the December 13, 2012,**
24 **meeting. The motion carried by voice vote.**

25
26 Mr. Passalacqua asked if there were any witness

27
28 Mr. Thorsland called Ms. Patricia Belleville to testify.

29
30 Ms. Patricia Belleville, who resides at 511 Park Lane Drive, Champaign, stated that she is the Chair of the
31 Windsor Park Homeowner's Association. She said that she spoke with Tim Menard, Scout Leader at Camp
32 Drake, and he informed her that only one tree house was ever built and there will be no other trees houses
33 constructed. She said that Mr. Menard also indicated that they do not allow scout masters to store any
34 building materials or equipment at Camp Drake and he has agreed to send a letter or e-mail to verify his
35 statement. She submitted photographs of the subject property as Documents of Record.

36
37 Ms. Belleville stated that some of the neighbors are present tonight because they are concerned that the sheds
38 and storage materials are not being used for the scout projects but are being used for Mr. Anderson's

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1 business. She said that Mr. Anderson has indicated that he operates a construction business or does
2 construction work therefore the neighbors are concerned that the shed will be used for other uses that may
3 not fall within the zoning requirements.

4
5 Mr. Thorsland requested that Mr. Menard send a letter or e-mail to staff confirming his statement.

6
7 Ms. Belleville stated that she will contact Mr. Menard and have him send a letter or e-mail to Mr. Hall's
8 office.

9
10 Mr. Thorsland informed the audience that if they are residents of the neighborhood and they have concerns
11 regarding Mr. Anderson's request then they should testify personally to give more weight to their concerns.

12
13 Mr. Thorsland asked if staff had any questions for Ms. Belleville.

14
15 Mr. Hall pointed out that Neighborhood Home Occupations are allowed in residential zoning districts and
16 they do allow one accessory building to be devoted to the home occupation. He said that if the Board
17 approved Mr. Anderson's variance to keep one shed on the property the Board could not prohibit the use of
18 the shed for something that is already authorized by the Ordinance. He said that the approval of the home
19 occupation is done on a permit basis over the counter and there is no public hearing and no notices are
20 mailed to neighbors. He said that his advice to the neighbors would be that if they see things that appear like
21 business activities they should call the office so that staff can investigate those activities. He said that there
22 is not prohibition against running a business from your home provided that the requirements of Section 7.1.1
23 of the Zoning Ordinance are met. He said that staff can provide a handout regarding a Neighborhood Home
24 Occupation to Ms. Belleville to assist with the understanding of what could be expected on neighboring
25 properties.

26
27 Ms. Belleville stated that she would appreciate receipt of the handout.

28
29 Mr. Passalacqua stated that outdoor storage is prohibited.

30
31 Mr. Hall stated yes.

32
33 Ms. Belleville stated that prior testimony indicated that building materials were being stored on the property
34 that were not being used for the homeowner's business therefore creating a violation of the Nuisance
35 Ordinance.

36
37 Mr. Hall stated that Ms. Belleville was correct.

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1 Ms. Belleville stated that Mr. Anderson could run a business but he could not store building materials that
2 would be used for his business on the property.

3
4 Mr. Hall stated that Mr. Anderson could not store the building materials outside but he could store them
5 inside of the designated shed for the business.

6
7 Mr. Thorsland asked the Board if there were any additional questions for Ms. Belleville and there were none.

8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Belleville and there was no one.

10
11 Mr. Thorsland called Ruth Mitchell to testify.

12
13 Ms. Ruth Mitchell, who resides at 3 Regent Court, Champaign, stated that there are numerous vehicles on
14 the subject property that appear to be commercial type vehicles. She said that a complaint has been received
15 from a neighbor who lives on Willowbrook Court regarding these vehicles therefore she thought that now
16 would be a good opportunity to ask about those vehicles and how they fall into this picture.

17
18 Mr. Hall stated that the Neighborhood Home Occupation Section 7.1.1. allows no more than one commercial
19 vehicle less than or equal to 36,000 pounds gross vehicle weight and no more than 25 feet in length shall be
20 permitted on lots within a residential zoning district. He said that one vehicle is allowed and a van and a
21 licensed trailer would be two vehicles.

22
23 Mr. Thorsland asked the Board if there were any questions for Ms. Mitchell and there was no one.

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

26
27 Mr. Thorsland asked Ms. Belleville if the submitted photographs were taken today.

28
29 Ms. Belleville stated that the photographs were taken this morning.

30
31 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
32 testimony regarding this case and there was no one.

33
34 Mr. Thorsland closed the witness register for tonight's meeting. He reminded the audience that the case has
35 been continued to December 13th.

36
37 **Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
38 **Manager and landowner Parkhill Enterprises. Request to amend the zoning Map to change the**

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1 **district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture**
2 **Zoning District. Location: Approximately 2.9 acres of an approximately 3.6 acre tract located in the**
3 **South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12**
4 **of Mahomet Township and commonly known as the Sangamon Valley Public Water District**
5 **treatment plant at 709 North Prairieview Road, Mahomet and subject to the proposed Special Use**
6 **Permit in related Case 718-S-12 and the variance requested in related Case 719-V-12.**

7
8 **Case 718-S-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
9 **Manager and landowner Parkhill Enterprises. Request to authorize the following on land that is**
10 **proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required**
11 **variance in related Case 719-V-12. Part A. Authorize expansion and use of a non-conforming water**
12 **treatment plant as a Special Use with waivers (variance) of standard conditions; and Part B.**
13 **Authorize the replacement of a non-conforming water treatment tower that is 131 feet in height as a**
14 **Special Use with waivers (variance) of standard conditions. Location: An approximately 3.6 acre tract**
15 **located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of**
16 **Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water**
17 **District treatment plant a 709 North Prairieview Road, Mahomet.**

18
19 **Case 719-V-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
20 **Manager and landowner Parkhill Enterprises. Request to authorize the following for expansion of a**
21 **non-conforming water treatment plant in related Case 718-S012 on land that is proposed to be**
22 **rezoned to the AG-2 Zoning District in related Case 717-AM-12: Part A. The expansion of a non-**
23 **conforming lot of record that does not abut and have access to a public street right of way and does**
24 **not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H; and Part B. The**
25 **use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime**
26 **farmland in the AG-2 District for the construction and use of a water treatment plant in related**
27 **Special Use Permit Case 718-S-12. Part C. Waiver (variance) of standard conditions for a lot area of**
28 **3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55feet; a side**
29 **yard of 46 feet in lieu of the required 50 feet; and Part D. Waiver (variance) for a elevated water**
30 **storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet. Location: An**
31 **approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter**
32 **of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon**
33 **Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.**

34
35 Mr. Thorsland informed the audience that Cases 718-S-12 and 719-V-12 are Administrative Cases and as
36 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
37 he will ask for a show of hands for those who would like to cross examine and each person will be called
38 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any

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1 questions. He said that those who desire to cross examine are not required to sign the witness register but
2 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
3 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
4 ZBA By-Laws are exempt from cross examination.
5

6 Mr. Thorsland informed the audience that anyone wishing to testify for these public hearings tonight must
7 sign the witness registers. He reminded the audience that when they sign the witness register they are
8 signing an oath. He asked the audience if anyone desired to sign the witness registers at this time.
9

10 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
11

12 Mr. Gifford stated that he has no new information to present at this time. He said that the memorandums
13 indicate the status of the case to-date.
14

15 Mr. Thorsland called John Hall to testify.
16

17 Mr. John Hall, Zoning Administrator, distributed three new memorandums to the Board for review. He said
18 that there are two memorandums for Case 717-AM-12. He said that Supplemental Memorandum A
19 proposes to correct the land use and zoning information on the Finding of Fact. He said that on the back
20 page of the memorandum is an illustration of the Village of Mahomet zoning which was provided at the last
21 meeting by Robert Mahrt. He said that the land on the south is in residential use and agricultural production
22 and is located within the Village of Mahomet Village limits and is zoned RU Residential Urban, R-2
23 Residential Two Family, and R-3 Residential Multiple Family. He said that the land to the west of the
24 subject property is in residential use and is located within the Village of Mahomet Village limits and is
25 zoned R-1 Residential Single Family.
26

27 Mr. Hall stated that Supplemental Memorandum B for Case 717-AM-12 includes evidence which is
28 proposed to be added to item 3 of the Finding of Fact which is the finding regarding the Village of Mahomet.
29 He said that the new evidence was taken from the draft minutes which were included in the mailing and
30 summarizes the statements made by Robert Mahrt, Village Planner for the Village of Mahomet. He said that
31 item 3.B. is a review of the Village of Mahomet's Zoning Ordinance requirements for conditional uses. He
32 said that Mr. Mahrt explained that if this use were in the Village it could be authorized as a public building
33 erected by any governmental agency as a conditional use. He said that the items of evidence reviews that
34 there are no specific standards for a public building erected by an governmental agency as a conditional use
35 but the Village of Mahomet Zoning Ordinance requires a public hearing for any conditional use and
36 authorizes special conditions to be imposed to insure that the five following things are met: a. the
37 establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the
38 public health, safety, morals, comfort, or general welfare; and b. the conditional use will not be injurious to

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1 the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor
2 substantially diminish and impair property values in the neighborhood; and c. the establishment of the
3 conditions use will not impede the normal and orderly development and improvement of surrounding
4 property for uses permitting the in the district; and d. adequate utilities, access roads, drainage, and/or other
5 necessary facilities will be provided; and e. adequate measures will be taken to provide ingress and egress
6 and egress so designed as to minimize traffic congestion in the public streets; and f. the conditional use shall
7 in all other respects conform to the applicable regulations of the district in which it is located and the Board
8 shall find that there is a public necessity. He said that attached to Supplemental Memorandum B is Section
9 9.1 from the Village of Mahomet zoning Ordinance received October 25, 2001. He said that it is possible
10 that something may have changed but these kinds of things rarely change and are very similar and he would
11 dare say that they are intended to be identical to the same findings that this Board will have to make in the
12 special use permit case.

13
14 Mr. Hall stated that the new memorandum for Cases 718-S-12 and 719-V-12 includes the draft minutes from
15 the September 27th public hearing and the new site plan is included separately. He said that the new site plan
16 shows a berm on the north line of the property and the berm stops at a dashed line which is called out as the
17 future extension of the south right-of-way line of Middleton Drive. He said that item 6 on the site plan reads
18 as follows: Middleton Drive south right-of-way line to be extended through property with future
19 development (by others) fence to be relocated at time of development. He said that the fence does go around
20 the perimeter of the proposed property and Board members will recall that this was discussed at the last
21 meeting. He said that the site plan is not proposing to extend Middleton Drive but is intended to make it
22 clear that this plan anticipates an extension of Middleton Drive, more or less as indicated, and states that it
23 will move the fence as required. He said that he wants to make it clear that the site plan indicates the
24 proposed setback line 55 feet away from the perimeter of the property but it also includes that setback line to
25 the middle of the property. He said that the Zoning Ordinance would not require a setback line anywhere
26 other than around the perimeter and he doubts that this will ever become an issue for this case. He said that
27 he just wanted to make it clear that the Zoning Ordinance doesn't require that setback line where it angles off
28 of the west property line and then goes over to the setback line to the east. He said that he does not believe
29 that it creates a problem on the site plan but he wanted to let the Board know that it is not required by the
30 Ordinance and the Board is not intending to require it. He said that the petitioner has done everything that
31 the Board has asked them to do and they have done everything that they can to make the new construction
32 comply with the standards and petitioned for a variance for the existing structures that do not meet the
33 standards.

34
35 Mr. Hall stated that the new memorandum has the same evidence regarding the description of the Village of
36 Mahomet's zoning and summarizes the changes made to the site plan which consists of the screening berm
37 on the north side and the notes regarding the right-of-way for Middleton Drive. He said that the other
38 evidence is in other areas of the Summary of Evidence where staff discusses the site plan. He said that the

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1 memorandum for Case 717-V-12 staff excerpted the testimony of Robert Mahrt from the draft minutes and
2 staff has made no attempt to correct typos or any other required corrections. He said that the minutes are
3 only included to remind everyone as to what was discussed at the last hearing.

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

6
7 Mr. Thorsland stated that he has witness registers for each case by which the same people have signed. He
8 requested that when a witness is called upon that they indicate which case they are referring to at that time or
9 if their testimony refers to all of the cases.

10
11 Mr. Thorsland called Phillip VanNess to testify.

12
13 Mr. Phillip VanNess, attorney for the petitioner, stated that his purpose here today is to basically answer any
14 questions that the Board or staff may have regarding their requests. He said that they have presented the
15 evidence that they have and have made all of the changes that the Board has requested therefore they urge
16 the Board to approve that application as submitted and move the map amendment case forward to the
17 County Board. He said that the petitioner understands that they have to deal with the Village of Mahomet
18 and they have initiated contact with the Village of Mahomet and will let those issues deal with themselves
19 and not deal with them at the ZBA.

20
21 Mr. Thorsland asked the Board if there were any questions for Mr. VanNess and there were none.

22
23 Mr. Thorsland asked if staff had any questions for Mr. VanNess and there were none.

24
25 Mr. Thorsland called Kerry Gifford to testify.

26
27 Mr. Kerry Gifford, General Manager for Sangamon Valley Public Water District, stated that he is present
28 tonight to any questions that the Board or staff may have and to request support of their requests.

29
30 Mr. Thorsland asked the Board if there were any questions for Mr. Gifford and there were none.

31
32 Mr. Thorsland asked if staff had any questions for Mr. Gifford and there were none.

33
34 Mr. Thorsland called Mike Buzicky to testify.

35
36 Mr. Mike Buzicky, engineer with Sodeman and Associates, stated that Sodeman and Associates was the
37 engineers of record for the preliminary site plan and revised the site plan as requested. He said that they
38 made a note and line drawings for the Middleton Drive extension through the property and added an Ameren

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1 easement line and extended the berm per the request of the adjacent church. He said that he would be happy
2 to answer any questions that the Board or staff may have regarding their requests.

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

5
6 Mr. Thorsland asked if staff had any questions for Mr. Buzicky and there were none.

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

9
10 Mr. Thorsland asked the audience if anyone else desired to sign the witness register and there was no one.

11
12 Mr. Thorsland stated that the two new memorandums for Case 717-AM-12 indicate new evidence to be
13 added to item 3 of the Finding of Fact. He asked the Board if there were any changes to the proposed
14 evidence and there were none.

15
16 Mr. Hall stated that item 2 of the Finding of Fact should be revised as follows: The subject property is an
17 approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of
18 the Southwest Quarter of Section 12 of Mahomet Township less the original .70 acre parcel and commonly
19 known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road,
20 Mahomet.

21
22 Mr. Thorsland read LRMP Goal 1. He said that staff has recommended that LRMP Goal is NOT
23 RELEVANT to the proposed rezoning and the Board agreed.

24
25 Mr. Thorsland read LRMP Goal 2. He said that staff has recommended that the proposed amendment WILL
26 HELP ACHIEVE Goal 2 and WILL HELP ACHIEVE Objective 2.1 and Policy 2.1.2 and the Board agreed.

27
28 Mr. Thorsland read LRMP Goal 3. He said that staff has recommended that the proposed amendment WILL
29 NOT IMPEDE achievement of Goal 3 and the Board agreed.

30
31 Mr. Thorsland read LRMP Goal 4. He said that staff has recommended that the proposed amendment WILL
32 HELP ACHIEVE Goal 4. He said that staff has also recommended that the proposed rezoning WILL HELP
33 ACHIEVE Objective 4.1, Policy 4.1.1, Policy 4.1.6, Objective 4.2, Policy 4.2.2, Policy 4.2.3, Policy 4.2.4,
34 Objective 4.3, Policy 4.3.2, Policy 4.3.3, Policy 4.3.4, and Policy 4.3.5. The Board agreed with staff's
35 recommendations.

36
37 Mr. Passalacqua stated that he agrees with staff's recommendations because this is an expansion as opposed
38 to a separate location.

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1
2 Mr. Thorsland read LRMP Goal 5. He said that staff has recommended that the proposed amendment WILL
3 HELP ACHIEVE Goal 5. He said that staff has recommended that the proposed rezoning WILL HELP
4 ACHIEVE Objective 5.1. and WILL NOT IMPEDE Policy 5.1.1. He said that staff recommended that the
5 proposed rezoning WILL HELP ACHIEVE Policy 5.1.3, Policy 5.1.5, 5.1.6, Objective 5.2, Policy 5.2.2,
6 Objective 5.3, Policy 5.3.1, and Policy 5.3.2. He said that staff recommends that the proposed rezoning
7 WILL NOT IMPEDE Policy 5.2.3. The Board agreed with staff's recommendations.

8
9 Mr. Passalacqua stated that he agrees with staff's recommendations because the petitioner is using the
10 property effectively and efficiently and is containing the expansion on one site.

11
12 Mr. Thorsland read Goal 6. He said that staff recommends that the proposed amendment WILL HELP
13 ACHIEVE Goal 6. He said that staff recommends that the proposed rezoning WILL HELP ACHIEVE
14 Objective 6.1, Policy 6.1.3, and Objective 6.3. The Board agreed with staff's recommendations.

15
16 Mr. Thorsland read Goal 7. He said that staff recommends that the proposed amendment WILL NOT
17 IMPEDE Goal 7.

18
19 Mr. Passalacqua stated that the willingness to make the accommodations for Middleton Drive indicates that
20 the proposed amendment WILL HELP ACHIEVE Goal 7.

21
22 Mr. Thorsland asked the Board if they agreed with Mr. Passalacqua's recommendation that the proposed
23 amendment WILL HELP ACHIEVE Goal 7 and the Board agreed.

24
25 Mr. Thorsland read Goal 8. He said that staff recommends that the proposed amendment WILL HELP
26 ACHIEVE Goal 8 and that Objectives 8.3, 8.4, 8.5, 8.6, 8.7, 8.8 and 8.9 are NOT RELEVANT to the
27 proposed amendment. He said that the proposed rezoning WILL NOT IMPEDE Policy 8.1.3 and WILL
28 HELP ACHIEVE Objective 8.2, and Policy 8.2.1 and the Board agreed with staff's recommendations.

29
30 Mr. Thorsland read LRMP Goal 9. He said that staff recommends that the proposed amendment WILL NOT
31 IMPEDE the achievement of Goal 9 and the Board agreed.

32
33 Mr. Thorsland read LRMP Goal 10. He said that staff recommends that the proposed amendment IS NOT
34 RELEVANT to the proposed amendment and the Board agreed.

35
36 Mr. Thorsland stated that item 20 of the Finding of Fact discusses the *LaSalle Factors*.

37
38 Mr. Hall stated that the only comments regarding the *LaSalle Factors* are in the Summary Finding of Fact.

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1
2 Ms. Capel asked if Table 1: Land Use and Zoning Summary requires revision due to the evidence included
3 in Supplemental Memorandum A.

4
5 Mr. Hall stated that the land use to the south is Agriculture/Residential and the zoning is Village of Mahomet
6 RU Residential Urban, R-2 Residential Two Family, and R-3 Residential Multiple Family. He said that the
7 land to the west is Residential and the zoning is Village of Mahomet R-1 Residential Single Family.

8
9 Mr. Thorsland stated that there are two proposed special conditions for approval.

10
11 Mr. Hall reminded the Board that at the last meeting proposed Special Condition B was discussed and it is at
12 the Board's discretion whether or not to require it. He said that there are two views regarding proposed
13 Special Condition B. He said that one view is that compliance with the Village of Mahomet subdivision
14 regulations is already required therefore why call it out and the other view is that it is known that it is
15 required therefore why not call it out so that the requirement is not overlooked. He said that either approach
16 is entirely valid and the Board normally calls things out so that they are not overlooked.

17
18 Mr. Passalacqua stated that it is very clear that these things are already ongoing in the process and the
19 Village of Mahomet is being represented very well therefore he sees no reason to include the requirement as
20 a condition for approval.

21
22 Mr. Thorsland stated that testimony has been received that the petitioner and the Village of Mahomet are
23 discussing the subdivision requirement.

24
25 Mr. Passalacqua stated that he does not believe that the subdivision requirement needs to be included
26 therefore he would suggest that proposed Special Condition B be stricken.

27
28 Mr. Palmgren concurred with Mr. Passalacqua.

29
30 Mr. Thorsland read proposed Special Condition A as follows: **The owners of the subject property hereby**
31 **recognize and provide for the right of agricultural activities to continue on adjacent land consistent**
32 **with the Right to Farm Resolution 3425 to ensure conformance with policies 4.2.3 and 5.1.5.**

33
34 Mr. Thorsland asked the petitioners if they agreed with proposed Special Condition A and the petitioner
35 indicated that agreed.

36
37 Mr. Thorsland stated that it appears that proposed Special Condition B should be removed due to
38 redundancy although he encourages the Village of Mahomet and the petitioner to work on this issue.

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1
2 Ms. Capel asked Mr. Hall if the Zoning Compliance Certificate can be issued prior to the subdivision
3 requirement being met.

4
5 Mr. Hall stated that this issue will come up during the permitting process and if the subdivision has not been
6 completed by permitting a condition will be included on the permit indicating the proof of completion will
7 be required prior to the issuance of a Zoning Compliance Certificate. He said that he will contact the Village
8 of Mahomet during the time of permitting and before any construction is authorized staff must be informed
9 that the subdivision process is well under way.

10
11 Mr. Thorsland asked the petitioner if they understood Mr. Hall's statement and the petitioner indicated yes.

12
13 Mr. Thorsland entertained a motion to approve proposed Special Condition A.

14
15 **Ms. Capel moved, seconded by Mr. Passalacqua to approve proposed Special Condition A. The**
16 **motion carried by voice vote.**

17
18 Mr. Thorsland stated that the following Documents of Record should be added: 17: Woods Subdivision
19 Area General Plan received July 13, 2012; and 18: Supplemental Memorandum for Case 717-AM-12 dated
20 September 27, 2012, with attachments: A. Tax Maps (2000, 2001, 2005, and 2011; and B. Letter dated
21 January 4, 2003, from Teri Legner, Village of Mahomet Administrator, to Ivan Sherburn, Sangamon Valley
22 Public Water District; and C. The Woods General Area Plan. He continued with new item 19: Village of
23 Mahomet Zoning Map submitted by Robert Mahrt at the September 27, 2012, public hearing; and 20: Letter
24 from Rick Smith, Mahomet Christian Church, received October 2, 2012; and 21: Supplemental
25 Memorandum for Case 717-AM-12 dated October 5, 2012, with attachment: A. Letter from Rick Smith,
26 Mahomet Christian Church, received October 2, 2012; and 22: Revised Site Plan received October 8, 2012,
27 and 23: Revised Site Plan received October 10, 2012; and 24: Supplemental Memorandum for Case 717-
28 AM-12 dated October 11, 2012, with attachment: A. Village of Mahomet Zoning Map; and 25:
29 Supplemental Memorandum B for Case 717-AM-12 dated October 11, 2012, with attachment: A. Section
30 9.1 from the Village of Mahomet Zoning Ordinance received October 25, 2001; and 26: Supplemental
31 Memorandum for Cases 718-S-12 and 719-V-12 dated October 11, 2012, with attachments: A. Revised Site
32 Plan received October 10, 2012; and B. Draft minutes of public hearing on September 27, 2012.

33
34 **Summary Finding of Fact for Case 717-AM-12:**

35
36 From the documents of record and the testimony and exhibits received at the public hearing conducted on
37 June 28, 2012, September 27, 2012, and October 11, 2012, the Zoning Board of Appeals of Champaign
38 County finds that:

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- 1 1. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the Land
2 Resource Management Plan because:
3
4 A. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the
5 following LRMP goals:
6 • 2, 4, 5, 6, 7, and 8
7 B. The proposed Zoning Ordinance map amendment **WILL NOT IMPEDE** the
8 achievement of the other LRMP goals:
9 • 3 and 9
10 C. The proposed Zoning Ordinance map amendment is **NOT RELEVANT** to the
11 following goals:
12 • 1 and 10
13

14 Mr. Thorsland entertained a motion to approve the Summary Finding of Fact as read.
15

16 **Mr. Miller moved, seconded by Mr. Courson to approve the Summary Finding of Fact as read. The**
17 **motion carried by voice vote.**
18

- 19 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
20 factors.
21

22 Mr. Thorsland entertained a motion to approve that the proposed Zoning Ordinance map amendment **IS**
23 consistent with the *LaSalle* and *Sinclair* factors.
24

25 **Mr. Courson moved, seconded by Mr. Palmgren that the proposed Zoning map amendment IS**
26 **consistent with the *LaSalle* and *Sinclair* factors. The motion carried by voice vote.**
27

28 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
29 of Fact as amended.
30

31 **Mr. Courson moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**
32 **Record and Findings of Fact as amended. The motion carried by voice vote.**
33

34 Mr. Thorsland entertained a motion to move to the Final Determination for Case 717-AM-12.
35

36 **Mr. Courson moved, seconded by Mr. Palmgren to move to the Final Determination for Case 717-**
37 **AM-12. The motion carried by voice vote.**
38

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1 Mr. Thorsland informed the petitioner that a full Board is present tonight and four affirmative votes are
2 required for approval.

3
4 **Final Determination for Case 717-AM-12:**

5
6 **Mr. Courson moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of**
7 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Appeals of Champaign**
8 **County finds that the Zoning Ordinance Map Amendment requested in Case 717-AM-12 should BE**
9 **ENACTED by the County Board in the form hereto subject to the following special condition:**

- 10
- 11 **A. The owners of the subject property hereby recognize and provide for the right of**
- 12 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
- 13 **Resolution 3425 to ensure conformance with policies 4.2.3 and 5.1.5.**

14
15 Mr. Thorsland requested a roll call vote.

16			
17	Palmgren-yes	Passalacqua-yes	Capel-yes
18	Courson-yes	Miller-yes	Thorsland-yes

19
20 Mr. Hall informed the petitioners that the request has received a recommendation of approval and the case
21 will be forwarded to the Committee of the Whole meeting on November 8, 2012, at the ILEAS building on
22 East Main Street, Urbana.

23
24 Mr. Thorsland requested a five minute recess.

25
26 **The Board recessed at 8:35 p.m.**
27 **The Board resumed at 8:42 p.m.**

28
29 Mr. Thorsland stated that the Board will now review the Revised Draft Summary of Evidence for Cases
30 718-S-12 and 719-V-12. He said that the Supplemental Memorandum dated October 11, 2012, proposes
31 revisions to Item 4.B(2) and 4.B(4) of the Summary of Evidence as follows: 4.B(2): Land on the south is
32 in residential use and agricultural production and is located within the Village of Mahomet Village limits
33 and is zoned RU Residential Urban, R-2 Residential Two Family, and R-3 Residential Multiple Family.

34
35 Mr. Thorsland stated that the memorandum also proposes the following revision and additions to Item 5:
36 5.A: The site plan received June 19, 2012, and revised on August 16, 2012, and October 10, 2012; and
37 5A(3)(e): The locations of proposed 6' to 8' height fencing and landscape screening. The landscape
38 screening consists of a berm on the east side and a berm along the north property line. Existing trees on the

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1 west side well be utilized as well; and new Item 5.A(3)(i): The location of the future south right-of-way line
2 of Middletown Drive in the northeast corner of the subject property; and new Item 5.A(4): an existing 50 feet
3 wide Ameren easement in the southwest corner of the subject property; and 5.A(5): a note indicating that the
4 proposed treatment plant will utilize a lighting system conforming to the Champaign County lighting
5 requirements; and 5.A(6): a note indicating that the fence will be relocated when the south right-of-way line
6 of Middleton Drive is extended through the property.

7
8 Mr. Thorsland stated that the following revisions and proposed evidence should be added to Item 8.F:
9 Regarding outdoor lighting on the subject property , the revised site plans received August 16, 2012,
10 and October 10, 2012, indicates the following: (1) The Sangamon Valley Public Water District utilizes two
11 overhead pole mounted lighting units located along the existing access road, one at the entrance at
12 Prairieview Road and one at the plant gate. The locations of these two overhead lights are indicated on the
13 site plan; and (2) The new water plant will utilize a lighting system conforming to the Champaign County
14 lighting regulations.

15
16 Mr. Thorsland stated that the following revisions and proposed evidence should be added to Item 9.C(2)(e):
17 The site plans received on August 16, 2012, and October 10, 2012, indicates that there will be a total of 15
18 parking spaces, including 2 handicap accessible spaces located on the subject property. Screening has been
19 indicated on the site plan as a landscaped berm and an 8 feet in height opaque fence along the east property
20 line. There are some trees located in the southwest corner of the subject property that could provide
21 screening. In addition a landscaped berm along the north property line is indicated. He said that the
22 following revisions and addition of proposed evidence should be added to Item 9.C.(3)(c): The site plans
23 received August 16, 2012, and October 10, 2012, indicates that a 15' x 40' loading berth will be located next
24 to the proposed treatment plant. The existing water treatment plant has received deliveries since 1973 so
25 there is an unloading area on the property. There are some trees located in the southwest corner of the
26 subject property that could provide screening.

27
28 Mr. Thorsland stated that only one special condition is proposed Cases 718-S-12 and 719-V-12 and this
29 special condition was stricken from Case 717-AM-12. He said that proposed special condition is in regard
30 to the Village of Mahomet Subdivision Regulation. He asked the Board if they agreed that the proposed
31 special condition should be stricken from Cases 718-S-12 and 719-V-12 as well and the Board agreed.

32
33 Mr. Thorsland stated that the Documents of Record for Cases 718-S-12 and 719-V-12 are identical to the
34 revised Documents of Record for Case 717-AM-12.

35
36 **Finding of Fact for Case 718-S-12:**

37
38 From the documents of record and the testimony and exhibits received at the public hearing for zoning case

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1 718-S-12 held on June 28, 2012, September 27, 2012 and October 11, 2012, the Zoning Board of Appeals of
2 Champaign County finds that:

- 3
4 **1. The requested Special Use Permit IS necessary for the public convenience at this**
5 **location.**
6

7 Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this
8 location because it makes available safe drinking water in an appropriate quantity.
9

10 Ms. Capel stated it is an expansion of the current plant.
11

- 12 **2. The requested Special Use Permit is so designed, located, and proposed to be operated**
13 **so that it WILL NOT be injurious to the district in which it shall be located or**
14 **otherwise detrimental to the public health, safety and welfare.**
15

- 16 **a. The street has ADEQUATE traffic capacity and the entrance location has**
17 **ADEQUATE visibility.**
18

19 Mr. Courson stated that the street has ADEQUATE traffic capacity and the entrance location has
20 ADEQUATE visibility.
21

- 22 **b. Emergency services availability is ADEQUATE.**
23

24 Mr. Courson stated that emergency services availability is ADEQUATE.
25

- 26 **c. The Special Use WILL be compatible with adjacent uses.**
27

28 Mr. Thorsland stated that the Special Use WILL be compatible with adjacent uses.
29

- 30 **d. Surface and subsurface drainage will be ADEQUATE.**
31

32 Ms. Capel stated that surface and subsurface drainage will be ADEQUATE.
33

- 34 **e. Public safety will be ADEQUATE.**
35

36 Ms. Capel stated that public safety will be ADEQUATE.
37

- 38 **f. The provisions for parking will be ADEQUATE.**

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Mr. Courson stated that the provisions for parking will be ADEQUATE.

And except that in the CR, AG-1, and G-2 DISTRICTS the following additional criteria shall also apply:

g. The property is BEST PRIME FARMLAND and the property with the proposed improvements IS WELL SUITE OVERALL.

Mr. Thorsland stated that property is BEST PRIME FARMLAND and the property with the proposed improvements IS WELL SUITE OVERALL.

h. The existing public services ARE available to support the proposed special use effectively and safely without undue public expense.

Mr. Courson stated that the existing public services ARE available to support the proposed special use effectively and safely without undue public expense.

i. The existing public infrastructure together with proposed improvements IS adequate to support the proposed development effectively and safely without undue public expense.

Mr. Passalacqua stated that the existing public infrastructure together with proposed improvements IS adequate to support the proposed development effectively and safely without undue public expense.

Mr. Courson stated that the requested Special Use Permit 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 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 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

3b. The requested Special Use Permit DOES preserve the essential character of the DISTRICT in which it is located because:

10/11/12

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

3
4 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and
5 codes.

6
7 **b. The Special Use WILL be compatible with adjacent uses.**

8
9 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

10
11 **c. Public safety will be ADEQUATE.**

12
13 Mr. Thorsland stated that public safety will be ADEQUATE.

14
15 Ms. Capel stated that the requested Special Use Permit DOES preserve the essential character of the
16 DISTRICT in which it is located.

17
18 **4. The requested Special Use Permit IS in harmony with the general purpose and intent of**
19 **the Ordinance because:**

20
21 **a. The special Use is authorized in the District.**

22
23 **b. The requested Special Use Permit IS necessary for the public convenience at this**
24 **location.**

25
26 Mr. Thorsland stated that the requested Special Use Permit IS necessary for the public convenience at this
27 location.

28
29 **c. The requested Special Use Permit is so designed, located, and proposed to be**
30 **operated so that it WILL NOT be injurious to the district in which it shall be**
31 **located or otherwise detrimental to the public health, safety and welfare.**

32
33 Mr. Passalacqua stated that the requested Special Use Permit is so designed, located and proposed to be
34 operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise
35 detrimental to the public health, safety and welfare.

36
37 **d. The requested Special Use Permit DOES preserve the essential character of the**
38 **DISTRICT in which it is located.**

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Mr. Courson stated that the requested Special Use Permit DOES preserve the essential character of the DISTRICT in which it is located.

- 5. **The requested Special Use IS an existing nonconforming use and the requested Special Use Permit WILL make the existing use more compatible with its surroundings.**
- 6. **Regarding necessary waivers of standard conditions:**

A. **Regarding the requested waiver of the standard condition in Section 6.1.3 for a water treatment plant for a lot size of 3.6 acres in lieu of the Standard Condition of 5 acres:**

(1) **The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Ms. Capel stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

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

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

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

Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure.

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

Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO

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1 NOT result from actions of the applicant.

2

3 (5) The requested waiver IS the minimum variation that will make possible
4 the reasonable use of the land/structure.

5

6 Mr. Courson stated that the requested waiver IS the minimum variation that will make possible the
7 reasonable use of the land/structure.

8

9 B. Regarding the requested waiver of the standard condition in Section 6.1.3 for a
10 water treatment plant for a front yard of 17 feet in lieu of the Standard
11 Condition front yard of 55 feet for the elevated water storage tank:

12

13 (1) The waiver IS in accordance with the general purpose and intent of the
14 Zoning Ordinance and WILL NOT be injurious to the neighborhood or
15 to the public health, safety and welfare.

16

17 Mr. Courson stated that the waiver IS in accordance with the general purpose and intent of the Zoning
18 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety and welfare.

19

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

23

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

27

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

31

32 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
33 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
34 or construction.

35

36 (4) The special conditions, circumstances, hardships or practical difficulties
37 DO NOT result from actions of the applicant.

38

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

3
4 **(5) The requested waiver IS the minimum variation that will make possible**
5 **the reasonable use of the land/structure.**
6

7 Mr. Passalacqua stated that the requested waiver IS the minimum variation that will make possible the
8 reasonable use of the land/structure.

9
10 **C. Regarding the waiver of the standard condition in Section 6.1.3 for a water**
11 **treatment plant for a side yard of 36 feet in lieu of the Standard Condition side**
12 **yard of 50 feet for the existing accessory building:**

13
14 **(1) The waiver IS in accordance with the general purpose and intent of the**
15 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or**
16 **to the public health safety, and welfare.**
17

18 Mr. Passalacqua stated that the waiver IS in accordance with the general purpose and intent of the Zoning
19 Ordinance and WILL NOT be injurious to the neighborhood or to the public health safety, and welfare.

20
21 **(2) Special conditions and circumstances DO exist which are peculiar to the**
22 **land or structure involved, which are not applicable to other similarly**
23 **situated land and structures elsewhere in the same district.**
24

25 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
26 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
27 same district.

28
29 **(3) Practical difficulties or hardships created by carrying out the strict letter**
30 **of the regulations sought to be varied WILL prevent reasonable or**
31 **otherwise permitted use of the land or structure or construction.**
32

33 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
34 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
35 or construction.

36
37 **(4) The special conditions, circumstances, hardships, or practical difficulties**
38 **DO NOT result from actions of the applicant.**

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Mr. Courson stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

- (5) **The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.**

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

D. Regarding the requested waiver of the standard condition in Section 6.1.3 for a water treatment plant for an elevated water storage tank that is 131 feet in height in lieu of the Standard Condition of 50 feet:

- (1) **The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Mr. Courson stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

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

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

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

Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.

- (4) **The special conditions, circumstances, hardships, or practical difficulties**

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DO NOT result from actions of the applicant.

Mr. Thorsland stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

(5) The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

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

7. No special conditions are hereby imposed.

Mr. Thorsland stated that the Board will now review the Findings of Fact for Case 719-V-12.

Findings of Fact for Case 719-V-12:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 719-V-12 held on June 28, 2012, September 27, 2012 and October 11, 2012, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because it is an existing facility built prior to the adoption of the Zoning Ordinance, there are limited options for expansion and the petitioner desires to build on the same site.

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

Mr. Palmgren stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the facility will not be able to expand for the needed services and water quantity and quality will be diminished.

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

Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because it was developed before the adoption of the Zoning Ordinance and expanded on the same site and the well is located on the property.

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

Mr. Thorsland stated that requested variance IS in harmony with the general purpose and intent of the Ordinance because it allows expansion of the plant in a compact and contiguous manner.

5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare.

Mr. Courson stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the design of the site plan provides for screening berms to minimize impact on surrounding properties and the site plan also indicates the future expansion of Middleton Drive for future development across the northeast corner of the property.

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

Mr. Passalacqua stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because it is an expansion of an existing facility on a minimum sized lot with minimal disruption of surrounding area.

7. No special conditions are imposed.

Mr. Thorsland entertained a motion to approve Findings of Fact for Cases 718-S-12 and 719-V-12 as amended.

Mr. Passalacqua moved, seconded by Mr. Courson to approve the Findings of Facts for Cases 718-S-12 and 719-V-12 as amended. The motion carried by voice vote.

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

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1 of Fact for Cases 718-S-12 and 719-V-12 as amended.

2
3 **Mr. Courson moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents of**
4 **Record and Finding of Fact for Cases 718-S-12 and 719-V-12 as amended. The motion carried by**
5 **voice vote.**

6
7 Mr. Thorsland entertained a motion to move to the final determination for Cases 718-S-12 and 719-V-12.

8
9 **Mr. Courson moved, seconded by Mr. Palmgren to move to the final determination for Cases 718-S-12**
10 **and 719-V-12. The motion carried by voice vote.**

11
12 **Final Determination for Case 718-S-12:**

13
14 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**
15 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
16 **requirements for approval of Section 9.1.11B. HAVE been met and pursuant to the authority granted**
17 **by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special Use**
18 **requested in Case 718-S-12 is hereby GRANTED to the petitioners Sangamon Valley Public Water**
19 **District and Parkhill Enterprises, LLC to authorize: Part A. Authorize the expansion and use of a**
20 **non-conforming water treatment plant as a Special Use with waivers (variance) of standard**
21 **conditions; and Part B. Authorize the replacement of a non-conforming water tower that is 131 feet in**
22 **height as a Special Use with waivers (variance) of standard conditions.**

23
24 Mr. Thorsland requested a roll call vote.

25
26 **Miller-yes Palmgren-yes Passalacqua-yes**
27 **Capel-yes Courson-yes Thorsland-yes**

28
29 **Final Determination for Case 719-V-12:**

30
31 **Mr. Courson moved, seconded by Mr. Palmgren that the Champaign County Zoning Board of**
32 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
33 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
34 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**
35 **of Champaign County determines that the Variance requested in Case 719-V-12 is hereby GRANTED**
36 **to the petitioner Sangamon Valley Public Water District and Parkhill Enterprises, LLC to authorize:**

37
38 **Part A. The expansion of a nonconforming lot of record that does not abut a private accessway**

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as required by Zoning Ordinance paragraph 4.2.1H.

Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.

Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; a side yard of 46 feet in lieu of the required 50 feet.

Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet.

Mr. Thorsland requested a roll call vote.

Miller-yes

Palmgren-yes

Passalacqua-yes

Capel-yes

Courson-yes

Thorsland-yes

Mr. Hall congratulated the petitioners because it gets no more difficult than a special use permit with variances and they have made it through it all. He said that the ZBA is the final authority on special use and variance cases.

6. New Public Hearing

Case 728-AM-12 Petitioner: K & S Property Management Request to amend the zoning map to change the zoning district designation from the AG-1, Agriculture Zoning District to the R-4, Multiple Family Residence Zoning District to allow the re-establishment of a multi-family use in an existing Building (variances will be required) for which the nonconforming rights have expired. Location: A 1.5 acre tract in the Southwest Quarter of the Southwest Quarter of Section 15 of Rantoul Township and commonly known as the Jones Building at 1518B CR 2700N, Rantoul.

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

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

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1 sign the witness register for that public hearing. He reminded the audience that when they sign the
2 witness register they are signing an oath.

3
4 Mr. Thorsland informed the audience that the petitioner is not present tonight although the Board will take
5 witness testimony. He said that Case 728-AM-12 will be continued to a later date.

6
7 Mr. Thorsland asked Mr. William Morfey if he would like to present testimony at tonight's public hearing
8 or withhold his testimony until the next hearing.

9
10 Mr. Morfey stated that he would like to present his testimony at tonight's public hearing.

11
12 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 11, 2012,
13 to the Board for review. He said that the new memorandum has a letter dated October 10, 2012, from Mr.
14 Rick Stone attached. Mr. Hall stated that Mr. Stone had arranged to be out of town tonight and even if he
15 had been available he has not submitted a site plan, floor plan, or any information regarding the buildings.
16 Mr. Hall said that he has no new information to report and would like to see the Board entertain Mr. Stone's
17 request for a continuance. Mr. Hall said that Mr. Stone has suggested a 60 or 75 day continuance although
18 under the By-laws the Board can continue a hearing for up to 100 days which would be January 17, 2013,
19 although the 2013 meeting calendar has not been prepared yet. Mr. Hall stated that 75 days would place the
20 case in December and the Board already has a full meeting on December 13th. He said that if the Board
21 would like to hold a meeting on December 27th the case could be continued to that meeting date.

22
23 Ms. Capel stated no.

24
25 Mr. Passalacqua stated that he will be out of town on the December 27th.

26
27 Mr. Thorsland called William Morfey to testify.

28
29 Mr. William Morfey, who resides at 1520 CR 2700N, Rantoul, stated that he resides on one property east of
30 the junk apartment that the Board is being asked to vote on. He said that he feels that Champaign County
31 does not need another problem multi-family building on this problem. He said that ever since he has resided
32 at his property the subject property has been a problem. He said that Rantoul is less than two miles away and
33 has plenty of rental properties available and are tearing down some of their problem multi-family residences
34 and the City of Urbana is doing the same thing.

35
36 Mr. Morfey stated that subject property has never been kept up and the present owner sold the property to
37 Mr. Ramos who also owns the Cherry Orchard apartments, which have been nothing but a problem as well.
38 He said that if Mr. Stone sold the property to Mr. Ramos then it is obvious that Mr. Stone realized that the

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1 subject property was not a good investment and did not want the property. Mr. Morfey stated that if Mr.
2 Stone had kept the property and kept it up the correct way, as people would desire to see multi-family
3 residences maintained, the Board would not have this case before them tonight.

4
5 Mr. Morfey stated that he visited the property on Tuesday, October 9, 2012, and took pictures of the property
6 to show how it has been maintained. He said that the yard was kept mowed during the summer months but
7 they began mowing late in the summer. He said that no trimming of the grass was done and the trash and
8 debris was moved from around the building to the middle of the driveway and parking area which faces his
9 property. He said that he took the photographs on Tuesday morning and while he was out in the yard with
10 his dogs the owner pulled in and mowed the yard, trimmed the brush, used the weed-eater therefore making
11 the place look a lot better. He said that he views the subject property from his backyard every day. He said
12 that he has lived in Champaign County all of his life and will continue to do so and will probably be buried
13 in Champaign County. He said that he has never met the owner of the subject property and he does not
14 know what kind of person the owner is but at least he has been up front about how he intends to take care of
15 the property because he hasn't done much other than clean it up a little bit prior to this hearing. He said that
16 he is surprised that there are not more neighbors in attendance tonight regarding this case. He said that he
17 does not believe that the subject property should be rezoned R-4 Multiple Family because the owner is not
18 going to live there and it will just be a rental property that he needs to paint and fill with people and then
19 allow it to go back to the quality property that it is now.

20
21 Mr. Thorsland asked Mr. Morfey if he would like to submit the photographs as Documents of Record.

22
23 Mr. Morfey stated yes.

24
25 Mr. Thorsland asked if staff had any questions for Mr. Morfey.

26
27 Mr. Hall asked Mr. Morfey if it is just the condition of the property that he is concerned about. He asked
28 Mr. Morfey if he would be more in favor of the rezoning if the property were maintained under a modern and
29 contemporary maintenance program with annual inspections.

30
31 Mr. Morfey stated that he is concerned about the current and future property maintenance of the property as
32 well as some of the clientele. He said that there are people who desire to move away from the cities and into
33 the rural areas because they assume that they can get away with more in the rural area.

34
35 Mr. Hall stated that the only thing that staff can promise is enforcement of the Nuisance Ordinance and not
36 who rents the property.

37
38 Mr. Morfey stated that when he first moved to his current residence the lady who owned the subject property

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1 lived on the property and the property was in pretty good shape. He said that when he moved to his property
2 he was well aware that he was going to deal with the declining property called Cherry Orchard Apartments.
3 He said that shortly after he purchased his property the lady sold the subject property and another group
4 moved on the property. He said that he is sure that METCAD's records could indicate how many calls they
5 received regarding the activities that were occurring on the property. He said that the County finally shut
6 down the apartments and possibly that is when the new owner picked up the property put a new roof on the
7 building and tried to fix it up. He said that he is concerned that the owner sold it to Mr. Ramos and he should
8 have seen how Mr. Ramos was maintaining their property at the time of the sale which appears to be an
9 indication that the current owner was trying to get out of the situation.

10
11 Mr. Hall stated that staff will add Mr. Morfey to the mailing list and as long as this case is before the Board
12 staff will try to find the conditions under which the property could be improved. He said that it may prove
13 that the conditions are too restrictive and will not be accepted in which case the outcome is pretty
14 guaranteed. He said that he would like to obtain Mr. Morfey's comments regarding anything that could be
15 posed as a condition to make sure that the Board is meeting the concerns of the neighbors as much as
16 possible.

17
18 Mr. Morfey stated that he works for the City of Urbana Fire Department and they perform multi-family and
19 commercial inspections therefore he has an idea of how the buildings should be maintained. He said that if
20 the property is rezoned to R-4 Multi-family then he will have no issue with that as long as the property is
21 maintained. He said that he plans on being a good neighbor.

22
23 Mr. Thorsland asked the Board if there were any questions for Mr. Morfey.

24
25 Mr. Palmgren asked Mr. Morfey if the building was built as it currently exists with the staircases.

26
27 Mr. Morfey stated yes. He said that the staircases go to two units each and there are sixteen units in the
28 entire complex.

29
30 Mr. Thorsland asked the Board if there were any additional questions for Mr. Morfey and there were none.

31
32 Mr. Thorsland requested a continuance date for Case 728-AM-12. He said that it appears that the case will
33 be continued to the first or second meeting in January 2013.

34
35 Mr. Hall stated that if the second meeting in January is within the 100-day limit then he would recommend
36 that the case be continued to that meeting. He said that it would be possible to have this case on the same
37 agenda as one or all of the text amendment cases. He said that the County Board schedule in 2013 is
38 unknown therefore it is also unknown as to when the ZBA will meet in 2013.

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Mr. Thorsland stated that if the case is placed on the docket for the second meeting in January and staff discovers that the continuance date is outside of the 100-day limit the Board can reschedule the case at the December 13th meeting.

Mr. Thorsland entertained a motion to continue Case 728-AM-12 to the second meeting in January 2013.

Mr. Passalacqua moved, seconded by Mr. Palmgren to continue Case 728-AM-12 to the second meeting in January 2013. The motion carried by voice vote.

Mr. Thorsland stated that the Board will now go back to the regular agenda and hear Case 715-V-12.

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Hall stated that there have been a few more text amendments added to the docket. He said that Board members may recall the limits on vehicles for rural home occupations and finally the Committee of the Whole has agreed to allow this text amendment to proceed. He said that there is also a text amendment to add an AG Drainage Contractors Facility to the Ordinance and a text amendment to amend Contractor's Facility as it is currently authorized in the Ordinance and adding it to the B-1 and B-5 Districts. He said that the request was made by some constituents and the Committee of the Whole agreed to allow those text amendments to proceed.

B. September 2012 Monthly Report

Mr. Hall stated that at the end of September there have been 27 cases filed this year compared to 17 cases completed in 2011. He said that the Board has completed 21 cases compared to 12 cases completed in 2011 and there are almost the same amount of cases pending which is why this year has been such a busy year. He said that the same thing holds true for Zoning Use Permits. He said that in September staff exceeded the number of permits, the value for permits and fees for the five-year average. He said that in terms of complaints there have only been 76 received this year and 58 have been resolved.

C. October 24, 2012, meeting

ZBA

AS APPROVED DECEMBER 13, 2012

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1 Mr. Hall reminded the Board that the next public hearing will be held on Wednesday, October 24th.

2

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

4

5 None

6

7 10. Adjournment

8

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

10

11 **Mr. Courson moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
12 **voice vote.**

13

14 The meeting adjourned at 9:30 p.m.

15

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19

20 Respectfully submitted

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25 Secretary of Zoning Board of Appeals

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