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**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street  
Urbana, IL 61802**

**DATE: May 16, 2013**

**PLACE: Lyle Shields Meeting Room  
1776 East Washington Street**

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

**Urbana, IL 61802**

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

**MEMBERS ABSENT :** Roger Miller

**STAFF PRESENT :** Connie Berry, Lori Busboom, John Hall, Andrew Kass

**OTHERS PRESENT :** Kent Follmer, Joe Pitlik, Paul Cole, Pat Fitzgerald, Danny Sage, Jim Rusk

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**1. Call to Order**

The meeting was called to order at 7:01 p.m.

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

The roll was called and a quorum declared present with one member absent and 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 (March 28, 2013)**

**Mr. Courson moved, seconded by Mr. Palmgren to approve the March 28, 2013, minutes as submitted. The motion carried by voice vote.**

**5. Continued Public Hearing**

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

20  
21 Mr. Thorsland stated that the Zoning Administrator has requested that Case 685-AT-11 be continued to the  
22 May 30, 2013, meeting.

23  
24 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the May 30, 2013, meeting.

25  
26 **Mr. Palmgren moved, seconded by Mr. Courson to continue Case 685-AT-11 to the May 30, 2013,**  
27 **meeting. The motion carried by voice vote.**

28  
29 **Case 731-S-12 Petitioner: Warner Brothers, Inc, with owners Joseph H. Warner and Gerald Warner**  
30 **and shareholder/officers Kristi Pflugmacher, Kathy McBride, Denise Foster, Angela Warner Request:**  
31 **Authorize the storage and dispensing of agriculture fertilizer as a “Farm Chemicals and Fertilizer**  
32 **Sales including incidental storage and mixing of blended fertilizer” facility as a Special Use in the AG-**  
33 **1 Agriculture Zoning District. Location: A .96 acre (41,817.6 square feet) portion of a 38.55 acre tract**  
34 **in the East One-Half of the Southeast Quarter of Section 18 of Rantoul Township and commonly**  
35 **known as the farm field adjacent to the Kinze farm equipment dealership at 1254 CR 2700N, Rantoul.**

36  
37 **Case 747-AM-13 Petitioner: Warner Farm Equipment, Inc. with owners Joseph H., Warner and**  
38 **Gerald E. Warner Request: Amend the Zoning Map to change the zoning district designation from**

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1 **the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center zoning District to bring an**  
2 **existing Farm Equipment Sales and Service business into compliance. Location: A 3.8 acre tract in**  
3 **the Southwest Quarter of the Southwest Quarter of the Southeast Quarter and in the Southeast**  
4 **Quarter of the Southeast Quarter of the Southwest Quarter of Section 18 of Rantoul Township and**  
5 **commonly known as the Kinze farm equipment dealership at 1254 CR 2700N, Rantoul.**  
6

7 Mr. Thorsland called Cases 731-S-12 and 747-AM-13 concurrently.  
8

9 Mr. Thorsland informed the audience that Case 731-S-12 is an Administrative Case and as such the County  
10 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a  
11 show of hands for those who would like to cross examine and each person will be called upon. He requested  
12 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said  
13 that those who desire to cross examine are not required to sign the witness register but are requested to  
14 clearly state their name before asking any questions. He noted that no new testimony is to be given during  
15 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
16 exempt from cross examination.  
17

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

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

24 Mr. Paul Cole, attorney for the petitioners, stated that he had little to add tonight because he will be  
25 requesting that the cases be continued to the May 30, 2013, meeting. He said that the reason for the  
26 continuance request is because they have been in the process of compiling documents and information at the  
27 request of staff and they are not finished with this process.  
28

29 Mr. Cole stated that there are new materials currently before the Board which may be useful. He said that  
30 one of the new documents is a summary of deliveries of material into the tank in question. He said that  
31 amongst the questions that were raised six weeks ago about the use and capacity of the tank in question,  
32 which is for the storage of liquid fertilizer, was the tank's capacity, which is approximately 750,000 gallons.

33 He said that at the last meeting the petitioners were asked when the tank was first used for the storage of the  
34 28% fertilizer and how much fertilizer has been stored and is currently being stored. He said that the  
35 documents which were presented to staff today are summarized in tonight's Supplemental Memorandum.  
36

37  
38 Mr. Cole stated that the tank has never been at capacity and is now only at two-thirds capacity and that is all

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1 that it is going to be for this year. He said that there was a question as to if there has been any commercial  
2 use of the tank and the answer is no. He said that at the last meeting there were concerns voiced by the  
3 township regarding the impact on the local township roads due to additional truck traffic that might occur  
4 with deliveries to the tank. He said that some information was provided to the Board concerning the  
5 capacity of the tank and the capacity of each truck that would service the tank and an informal determination  
6 was made to the number of truck trips that might be required up and down the highway. He said that Mr.  
7 Follmer suggested that 160 truck trips might be required to service the tank. Mr. Cole stated that the concern  
8 regarding the roads was heightened by the fact that the Rantoul Township Highway Commissioner attended  
9 the last meeting and provided some information, not objections to the special use case, as to how the  
10 additional traffic for the use will affect the road. Mr. Cole stated that the township has obtained a report  
11 from an entity known as Applied Research Associates (ARA), Inc. and a representative for ARA is present  
12 tonight to answer any questions that the Board may have regarding the report. Mr. Cole stated that in  
13 summary the report indicates that assuming a standard of 500 trips, the impact on the road would be  
14 represented by a maintenance cost of \$16,700 over the foreseeable future. He said that he has been in  
15 discussions with counsel for the township highway commissioner and no answer has been achieved  
16 regarding the road but the petitioners are willing to do something and it will be further discussed. He said  
17 that the need for these further discussions is the primary reason why a continuance will be requested. He  
18 said that if the road issue is not resolved then there is no reason why we should be doing all of this.

19  
20 Mr. Cole stated that staff has requested a complete site plan. He said that a site plan has been presented to  
21 staff but it does not include the detail that staff requires therefore it has been returned to the service provider  
22 and was quickly revised with further details and has been presented to the Board for review. He noted that  
23 the site plan before the Board tonight is useful but is not the final form. He said that he would like to receive  
24 comments from Mr. Hall's office and report any comments to the surveyor/engineer to finalize the site plan.

25  
26 Mr. Thorsland asked Mr. Cole if he wanted to continue the special use or both cases.

27  
28 Mr. Cole stated that both cases should be continued because they are closely related.

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

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

33  
34 Mr. Thorsland called John Hall to testify.

35  
36 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated May 16, 2013, to  
37 the Board for review. He said that the memorandum includes a Summary of Findings of Life-Cycle Cost  
38 Analysis conducted by Applied Research Associates, Inc., received May 15, 2013. He said that it is his

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1 understanding that a full report will be submitted and tonight the Board can ask the representative when that  
2 might happen. He said that also attached to the Supplemental Memorandum is new evidence that is  
3 proposed based on new information received although staff has not distributed a new Draft Summary of  
4 Evidence to the Board. He said that also attached to the new memorandum are letters from Gene Warner,  
5 received May 16, 2013; and Warner Brothers, Inc., Monthly Product Inventory Reports received May 15,  
6 2013; and Invoices from Crop Production Services; and a more detailed drainage map.

7  
8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

9  
10 Mr. Passalacqua asked Mr. Hall if any of the proposed lighting poses a problem under the dark sky stuff.

11  
12 Mr. Hall stated that the lighting that is on the property is not a part of the special use permit and there is no  
13 lighting proposed pursuant to any of this.

14  
15 Mr. Passalacqua asked if it was all good.

16  
17 Mr. Hall stated yes, it may be a bit bright but it is all good security lighting.

18  
19 Mr. Thorsland asked the Board if there were any further questions for Mr. Hall and there were none.

20  
21 Mr. Thorsland called Kent Follmer to testify.

22  
23 Mr. Kent Follmer, attorney for Kenneth and Victoria Warner, distributed exhibit photographs to the Board  
24 for review. Mr. Follmer stated that regretfully, Kenneth and Victoria Warner are unable to attend tonight's  
25 meeting. Mr. Follmer stated that Exhibit #1 is the original Plat of Survey submitted by the petitioner and the  
26 Kenneth and Victoria Warner property is highlighted in yellow with the following note: not all  
27 improvements shown here on. He said that the purpose of the submitted photographs is to show the Board  
28 what improvements are located within that square. He said that the plat indicates the location of the fertilizer  
29 tank and some of the photographs will indicate some additional improvements which are adjacent and near  
30 the tank that are not on the plat. He said that Exhibit #2 is a GIS printout and gives a brief overview of the  
31 Kenneth and Victoria Warner tract, which is highlighted in yellow. He said that underneath 400-012 is the  
32 Warner residence and four outbuildings are apparent on the tract. He said that vehicles are indicated in the  
33 upper right hand corner and those vehicles belong to the petitioner and not Kenneth and Victoria Warner.

34  
35 Mr. Follmer stated that Exhibit #3 is a photograph of the front of Kenneth and Victoria Warner's home. He  
36 said that the home is the original homestead that Kenneth Warner grew up in and has resided there for over  
37 43 years and in 1997 Kenneth purchased the home through his parent's estate. He said that Exhibits #4 and  
38 #5 are photographs of the home at different angles and Exhibits #6 and #7 are photographs of the back of the

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1 home looking southeast. He said that Exhibit #8 indicates the backyard and the beautiful landscaping that  
2 exists on the Kenneth Warner property. He said that the purpose of the photographs is to inform the Board  
3 as to what is immediately adjacent to what will possibly be subject to daily extensive tanker traffic on a  
4 gravel pavement. He said that Exhibit #9 is a photograph of a large metal shed that has a large sign  
5 indicating Harold Warner Farms. He said that Exhibits #10, #11, #12, and #13 are photographs of sheds  
6 which are located on the Kenneth Warner tract. He said that Exhibits #14, #15, #16, #17, and #18 are  
7 photographs of the landscaping on the Kenneth Warner tract. He said that when he shot the photograph for  
8 Exhibit #18 he was standing along the east property line on CR 2700N and this location will be more  
9 significant in the following photographs. Mr. Follmer stated that Exhibit #19 indicates a vehicle on a ramp  
10 which belongs to the petitioner but it is located on the Kenneth Warner tract. He said that Exhibit #20  
11 indicates the patio behind the home and it is located within close proximity and in view of the operation that  
12 has been going on for over 20 years without proper zoning.

13  
14 Mr. Follmer stated that Exhibit #21 is a photograph of CR 2700N looking west with the residence on the  
15 right. He said that Exhibit #22 indicates CR 2700N looking east with the farm equipment business on the  
16 left. He said that Exhibit #23 is a photograph looking south along the east boundary with the concrete  
17 marker noted by the arrow. He said that the concrete marker is the east boundary of the property line and  
18 there are some trees to the left which provide a natural buffer between the existing business and the Kenneth  
19 Warner home. He said that if the map amendment and special use are approved there will be a different  
20 scenario along the east side of the property and Kenneth Warner would hate to see those mature trees  
21 removed to allow for additional gravel. He said that Exhibits #23 and #24 also indicate a view of the mature  
22 trees on the eastern boundary and Kenneth and Victoria Warner are very concerned that if the petitioners  
23 receive approval of their requests that the trees will be removed and the grass will become gravel and the  
24 dust and noise would be even worse than it would be if the trees remain.

25  
26 Mr. Follmer stated that Exhibit #25 is a photograph of the rear of the Kenneth Warner property looking east  
27 and Exhibit #26 is a photograph of the rear of the Kenneth Warner property looking northwest. He said that  
28 Exhibit #27 indicates the extensive amount of gravel on the petitioner's property which could be an area for  
29 a berm or fencing and some type of analysis should be completed by professionals. He said that Exhibit #29  
30 indicates the rear of the Kenneth Warner property looking northeast towards the new fertilizer tank and the  
31 petitioner's property. He said that Exhibits #30 and #31 indicates the rear of the Kenneth Warner property  
32 and Kenneth Warner is standing near the property line. Mr. Follmer stated that Exhibit #32 is a photograph  
33 of three large fuel tanks that have been erected after the last hearing in April, 2013. He said that Kenneth  
34 Warner saw the tanks and Mr. Follmer contacted staff. He said that the fuel tanks are very large and are not  
35 depicted on any plats or drawings that have been submitted and Kenneth and Victoria Warner would like to  
36 know what is or will be stored in these tanks and how they fit into the other businesses that the Warner Bros.  
37 are running. He said that these tanks would certainly hold more than enough fuel that the Warner Bros.  
38 would require for their farm operation. He said that Exhibits #32, #33, and #34 indicates newly poured

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1 concrete with rebar sticking up and a rusty water tank that are not depicted on any of the plats or drawings  
2 that have been submitted. He said that he is sure that there is a reasonable explanation for these additions  
3 and it is possible that they are secondary containments that the Department of Agriculture is requiring. He  
4 said that Kenneth and Victoria Warner do not appreciate new structures being built without staff or the  
5 Board being notified. He said that everyone should be notified of any additions or changes to the plans so  
6 that we are all on the same page.

7  
8 Mr. Follmer stated that Exhibit #36 is a photograph of the pipes that go from the tank and mixes the fertilizer  
9 with water and puts it into the metal shed where the mixing occurs. He said that he is sure that the case will  
10 be continued and he will have an opportunity to voice his client's concerns to the Board again. He said that  
11 the volume of traffic is a concern and the petitioners have indicated that the trucks that will be coming and  
12 going will primarily be for their own use. He said that if the map amendment and the special use permit are  
13 not allowed by this Board then the Warner Bros. will be able to continue use their property for their own  
14 farming operation including those farms which they crop share. He said that there is going to be a fair  
15 amount of traffic on the petitioner's property even if the cases are denied and then perhaps a status quo could  
16 be established. He said that Kenneth and Victoria Warner have not complained about the operation of the  
17 farm equipment business surrounding their property because he is a good brother but Joe and Gene Warner  
18 are taking the business a step further by constructing a \$1 million dollar tank without proper authorization  
19 and constructing three large fuel tanks. He said that Kenneth and Victoria Warner would like to know if  
20 Warner Bros. will be selling fuel to clients or will they be utilizing the tanks for their own farming operation.

21  
22 Mr. Follmer stated that his clients are concerned about dust, hours of operation, noise and the impact on CR  
23 2700N and would like to know what form of limitations will be practically placed if the map amendment and  
24 special use permit are approved. He said that he does not believe that the County will set up a booth to  
25 police the operation to determine how many trucks are going in and out of the facility. He said that just  
26 because Warner Bros. built a \$1 million dollar tank doesn't mean that it has to stay or that it has to have a  
27 commercial license to pursue their need. He said that the selling of leased space as opposed to gallons of  
28 28% is confusing because he does not understand how someone can indicate in their petition that they want  
29 to lease space in a tank as opposed to selling gallons of 28%. He said that he has not personally been  
30 involved in farming operations but if the petitioners are going to be selling fertilizer and fuel then they  
31 should be up front and tell the Board and if the authorization from the Department of Agriculture allows  
32 such activity then his clients would be able to anticipate it. He said that his clients are concerned where the  
33 additional uses will stop if these requests are allowed.

34  
35 Mr. Thorsland asked the Board if there were any questions for Mr. Follmer and there were none.

36  
37 Mr. Thorsland asked if staff had any questions for Mr. Follmer and there were none.  
38

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1 Mr. Thorsland called Joe Pitlick to testify.

2  
3 Mr. Joe Pitlick, representative for Applied Research Associates, stated that he has been asked by Danny  
4 Sage, Rantoul Township Highway Commissioner, to present a Summary of Findings from their investigation  
5 of CR 2700N and the area of concern. He said that their life-cycle cost analysis was based on calculations of  
6 what the projected truck volume on the road would be.

7  
8 Mr. Pitlick stated that they performed a brief field investigation between US 45 and the Warner operation  
9 and the two cores indicated that there was approximately 2 to 2-1/2 inches of chip seal on an aggregate base  
10 and they found that the aggregate base was still intact but varied in thickness from 6 – 12 inches effective  
11 which is typical. He said that the road is behaving well and it is a well built, light-duty township road which  
12 is typical of what would be found in the area and it is in very good shape and has been reconstructed not that  
13 far in the past and has been well maintained. He said that based on Rantoul Township's typical maintenance  
14 practices which is to chip-seal on average of every four years and based on the traffic that the road currently  
15 receives the western portion of the road has a Illinois DOT/ADT of 75 vehicles and the eastern most limit  
16 has 275 but it is closer to US 45. He said that two scenarios were written for those parts of the road and  
17 projected the traffic over a 12-year span with a 1% growth to account for an increase in traffic that would  
18 generally be seen across the state and that growth was applied to both scenarios so that if the growth does not  
19 occur it is equally weighted in both scenarios. He said that they estimated approximately 500 trucks per  
20 year, 250 to fill the tank and 250 to empty the tank. He said that they looked at taking Rantoul Township's  
21 typical chip-seal practice every four years and set traffic thresholds at those therefore they summed up the  
22 traffic over each year and came up with a cumulative number. He said that the value that is indicated in the  
23 report is an EASL, Equivalent Axle Single Load, and they have assigned 1.8 M.U. for multiple units for  
24 semi-trucks and a 1% S.U. for single units and this would indicate the damage factor or how much life of the  
25 road that a vehicle consumes. He said that for reference a car is about .0004 because cars do not have much  
26 impact on the road and the real damage is caused by the trucks. He said that cars will not be an incremental  
27 factor for this operation. He said that using these thresholds they projected when Rantoul Township, on an  
28 EASL count, would have done their chip-seals and then looked at it with the additional truck traffic when  
29 this would have occurred and they added 10% for patching and summed those up over time. He said that  
30 overall, they determined a \$16,700 increase over a twelve year life span using life cycle cost analysis they  
31 credited back the remaining life of the road at the end of that life period so that the timing occurs right at the  
32 end of the year and is not partially credited either for or against the township. He said that they came up with  
33 a uniform cost of approximately of \$1,467 per year to account for the additional maintenance.

34  
35 Mr. Thorsland asked the Board if there were any questions for Mr. Pitlik and there were none.

36  
37 Mr. Thorsland asked if staff had any questions for Mr. Pitlik.

38

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1 Mr. Hall asked Mr. Pitlik if their study found that after year 12 the additional truck traffic did not result in  
2 any additional cost.

3  
4 Mr. Pitlik stated that the road is behaving well today and the amount of trucks is not an obscene number and  
5 the hope is that the road is in good enough shape and their investigation shows that therefore, ~~acomplete~~  
6 reconstruction of the road will not be necessary because of this proposed use. He said that Rantoul  
7 Township practices a fairly aggressive chip-seal schedule which starts to build up the existing structure over  
8 time therefore, provided that they continue to follow this aggressive chip-seal schedule and they do the  
9 corrective measures for patching, the base will continue to build. He said that over time, if the truck traffic  
10 stays constant and the road gets thicker the additional costs should normalize out over time. He said that as  
11 background traffic starts to get higher in their analysis therefore the 500 trucks per year that are constant for  
12 the Warner operation will start to blend into the background. He said that their hope is that after the 12 years  
13 it is not a significant factor otherwise they will consume the entire life of the road because the chip-seal will  
14 only last so long to where you have to actually go in and reconstruct the base in a fashion that will allow for  
15 the additional truck traffic at that time. He said that the cost to complete that work is on the order of what  
16 they would be if they had to do a reconstruction.

17  
18 Mr. Hall asked Mr. Pitlik if the Board will receive a more robust copy of the analysis.

19  
20 Mr. Pitlik stated that the field summary and photographs of the site will be submitted along with the final  
21 report which should be received by next week.

22  
23 Mr. Hall asked Mr. Pitlik if the township paid for this research.

24  
25 Mr. Pitlik stated yes. He said that their contract is with the Rantoul Township Highway Commissioner.

26  
27 Mr. Hall asked if one could consider the cost of this study as another cost for this facility.

28  
29 Mr. Pitlik stated absolutely. He said that in similar situations, such as the wind farm roads, they are hired by  
30 the developer to investigate the current conditions of the road and to come up with an upgrade strategy and  
31 design strategy for those roads for a 20-year life cycle. He said that this situation is more of a light duty  
32 approach because the tank is already up.

33  
34 Mr. Hall asked Mr. Pitlik if the size of the equipment at the implement dealership would cause any  
35 identifiable wear and tear on the road.

36  
37 Mr. Pitlik stated that it would depend on the volume of how many pieces of equipment are being sold. He  
38 said that he would guess, in comparison to other implement dealers in Champaign County that it isn't a huge

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1 dealership and those trucks will not be any heavier than any other trucks that are out there. He said that  
2 during the last traffic count this particular business was in operation therefore to some extent that was  
3 factored into the traffic count. He said that if the traffic count was performed over a limited window it may  
4 have not captured much of the traffic there but the load limit in Illinois is 80,000 pounds unless the township  
5 highway commissioner or the County posts the load limit down but that was not the case when the road was  
6 built because it was built when the limit was 72,500 pounds.

7  
8 Mr. Thorsland stated that seasonally, fertilizer is taken out in early spring. He asked if there is a seasonally  
9 difference in a chipped road during the different seasons.

10  
11 Mr. Pitlik stated that the road is not seasonally posted but that does not mean that it is not susceptible to  
12 increased damage. He said that that there is a seasonal adjustment for traffic factors, and the most single  
13 damaging time is during the spring thaw when the ground goes from frozen conditions to saturated wet  
14 conditions. He said that it is not uncommon for roads to be posted in the spring until such time as the  
15 highway commissioner deems the roads can support the heavier traffic. Mr. Pitlik noted that it is up to the  
16 highway commissioner's discretion when to post the roads. He said that posting the roads is an option,  
17 however, that is an unknown factor at this time.

18  
19 Mr. Thorsland asked whether there were any cross examination questions for Mr. Pitlik.

20  
21 Mr. Cole stated that he would like to cross-examine the witness, however, before he did that, he would like  
22 to ask the Chair a few general questions.

23  
24 Mr. Cole stated that it was his understanding that the Zoning Board of Appeals did not represent the  
25 Township Road Commissioner, nor do they approve or negotiate contracts with petitioners on behalf of the  
26 Township Road Commissioner, nor do they have interplay with the Township or the Township's consultants.

27 Mr. Cole said that there were a number of questions raised that seem to indicate that the ZBA is going to  
28 approve or disapprove whatever the Road Commissioner decides to do. Mr. Cole said that he wanted to  
29 make sure the ZBA was aware of their role which does not include entering into negotiations between the  
30 Warner's and the Road Commissioner.

31  
32 Mr. Thorsland said that he also had questions based on Mr. Pitlik's testimony.

33  
34 Mr. Cole asked Mr. Pitlik whether it was accurate that his study indicated that it would take 250 truck loads  
35 to fill the tank. Mr. Pitlik said that they used 500 truck trips, which were 250 trucks in, 250 trucks out. Mr.  
36 Pitlik said that the number of trucks was based on the volume of the tank as well as the additional 120,000  
37 gallon storage capacity.

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1 Mr. Cole asked whether Mr. Pitlik's opinion of the cost should be based upon a more accurate number. Mr.  
2 Pitlik said that if a final number is agreed upon by all parties, that number would be used to modify the  
3 report.

4  
5 Mr. Follmer asked Mr. Pitlik where he came up with the number 500. Mr. Pitlik said that it is based upon  
6 the 750,000 gallon capacity during discussions with the Road Commissioners. He noted that during those  
7 discussions, it was stated that there was an additional 120,000 gallons of storage. Mr. Pitlik said that, using  
8 a conservative assumption that the tank would be cycled once annually, so 500 truck trips was a safe number  
9 to use during their analysis.

10  
11 Mr. Follmer asked whether 500 truck trips is a low number. He also asked whether the truck trips in the  
12 spring when the roads are susceptible to more damage was taken into consideration when producing the  
13 report. Mr. Pitlik said that the analysis is routine and could be revised once a range of numbers is pinned  
14 down.

15  
16 Mr. Follmer asked whether the numbers would be doubled if the tank were to be filled twice in one year.  
17 Mr. Pitlik said that the outcome would most likely be doubled.

18  
19 Mr. Thorsland noted that it appears that these cases will be continued. He asked staff when these cases  
20 would next appear before the ZBA. Mr. Hall stated that he believed that Mr. Cole was anticipating  
21 continuance to later than May 30, 2013, however, with the amount of testimony received at tonight's  
22 meeting, it is doubtful that final action could be taken then. Mr. Hall said that with a case this complex, a  
23 thirty day continuance at the earliest is not uncommon. He noted that the upcoming meeting dates are  
24 heavily docketed. Mr. Hall said that it is a possibility that an updated Summary of Evidence and Finding of  
25 Fact could be provided at the May 30<sup>th</sup> meeting as well as working through the remaining issues on the site  
26 plan.

27  
28 Mr. Courson asked whether the proposed project would be taxed as a business instead of a farm operation  
29 should the Special Use Permit be granted which would potentially increase the amount of property taxes paid  
30 to the County and to the local township for road maintenance.

31  
32 Mr. Hall said that Mr. Courson's question goes to the heart of the issue of this case. If it is not approved it is  
33 an agricultural use but if the Special Use is approved, then it is a commercial use and may be taxed at a  
34 higher rate which seems logical.

35  
36 Mr. Courson stated that if it is considered a commercial operation it would help absorb the township road  
37 maintenance costs. He said that he does not know if the County Assessment Office could give any input.

38

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1 Mr. Hall stated that he would doubt that the real estate taxes will make up for the road damage.

2

3 Mr. Courson stated that when he built his commercial building his real estate taxes went up.

4

5 Mr. Hall stated that the Rantoul Township Supervisor is present tonight therefore the Board could ask for his  
6 input.

7

8 Mr. Rusk stated that if this was assessed at \$1 million dollars then the real estate taxes would approximately  
9 be \$27,000 per year and schools would receive about \$19,000 of that.

10

11 Mr. Thorsland requested that Mr. Rusk sign the witness register so that he can present testimony.

12

13 Mr. Thorsland called Jim Rusk to testify.

14

15 Mr. Jim Rusk, Rantoul Township Supervisor, stated that he contacted the Rantoul Township Assessor  
16 regarding the real estate taxes generated for the commercial use. Mr. Rusk stated that the Rantoul Township  
17 Assessor stated that if it is considered commercial and valued at \$1 million dollars then it would generate  
18 approximately \$27,000 in real estate taxes for the township. He said that percentages would be taken out of  
19 the \$27,000 for the schools and other taxing bodies. He said that the township would probably end up with a  
20 couple thousand dollars per year from the operation.

21

22 Mr. Passalacqua asked Mr. Rusk what would be the difference if the operation was taxed as agriculture.

23

24 Mr. Rusk stated that he cannot answer that question.

25

26 Mr. Thorsland asked the Board if there were any additional questions for Mr. Rusk and there were none.

27

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

29

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

31

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

34

35 Mr. Thorsland asked the Board if they would like to continue these cases at this time.

36

37 Mr. Cole, attorney for the petitioners, stated that the date May 30<sup>th</sup> is a critical date for Warner Brothers  
38 because they are already well into the season and they need to know what they can do. He said that the

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1 Board has raised some very interesting questions and the tax issue is fascinating and he will be reviewing  
2 that issue very closely. He said that if the May 30<sup>th</sup> date is not met and the Board's docket is full in June  
3 then the cases will be continued to July or further which is not desirable because Warner Brothers need to  
4 make some important commercial or non-commercial decisions. He said that he would hate to see this thing  
5 not to come to decision at all and fizzle and go away. He said that it wouldn't be fatal to the Warners if that  
6 were the case but it would be a shame for everyone else to have missed the opportunity.

7  
8 Mr. Passalacqua stated that perhaps Warner Brothers should have worked this out before the tank was built.  
9 He said that the Board understands Mr. Cole's concerns but this started out backwards.

10  
11 Mr. Courson agreed with Mr. Passalacqua. He said that Warner Brothers should have had all of their ducks  
12 in order before they worried about the business end of the project.

13  
14 Mr. Passalacqua stated that staff knows the reality of getting the documents in and preparing them for review  
15 by the Board prior to the meeting therefore he will take staff's guidance for a continuance date. He asked if  
16 May 30<sup>th</sup> is a possible continuance date for these cases.

17  
18 Mr. Hall stated that the only thing that the Board should expect on May 30<sup>th</sup> is a more robust traffic analysis  
19 and a more complete site plan and up-dated Summary of Evidence and Finding of Fact. He asked if the  
20 Board wants staff to complete any analysis at all on the tax question. He said that the reason why Case 685-  
21 AT-11 never moves ahead is because there is always something else that is more important therefore if this  
22 case is more important than Case 685-AT-11 that has been before this Board for two years then he will work  
23 on that for the May 30<sup>th</sup> meeting and the Board can put off Case 685-AT-11 again.

24  
25 Mr. Passalacqua stated that he is requesting staff's guidance.

26  
27 Mr. Hall stated that his guidance is the Board's priorities. He said that staff can begin work on the tax  
28 analysis although the Planning and Zoning Department is not known for its tax analysis background and can  
29 always talk to the County Assessment Office for their input.

30  
31 Mr. Thorsland asked Mr. Courson if Mr. Rusk's tax analysis was sufficient.

32  
33 Mr. Courson stated that it would be more prudent for the petitioner to prove that they will not be damaging  
34 the roads or there will be sufficient costs paid by the real estate taxes for road maintenance.

35  
36 Ms. Capel stated that the agreement is between the petitioner and the highway commissioner and it appears  
37 that the highway commissioner is happy.

38

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- 1 Mr. Courson stated that if the testimony regarding concerns about the road is not important to this Board  
2 then why does the Board listen to those concerns.  
3
- 4 Mr. Thorsland stated that Case 685-AT-11 has been kicked along for over two years therefore is it necessary  
5 to get it completed prior to Case 732-AT-12.  
6
- 7 Mr. Hall stated that Cases 685-AT-11 and 732-AT-12 are completely independent from each other and are  
8 both heavily filled with facts and data.  
9
- 10 Mr. Thorsland stated that already the May 30<sup>th</sup> meeting appears to be very busy. He asked the Board if they  
11 desire to squeeze these two cases in for the May 30<sup>th</sup> meeting or continue them to the June 13<sup>th</sup> meeting.  
12
- 13 Mr. Courson stated that he would prefer that the cases be continued to the June 13<sup>th</sup> meeting.  
14
- 15 Mr. Passalacqua stated that if these cases were continued to the May 30<sup>th</sup> meeting Case 685-AT-11 could be  
16 heard first.  
17
- 18 Mr. Hall stated that if staff is merely accepting any documentation that is submitted then there might be  
19 reasonable time for staff to update the Board. He said that he is assuming that the Board wants to know that  
20 the petitioner has met all of the township's requirements.  
21
- 22 Mr. Passalacqua stated that the petitioner could provide a copy of the real estate tax bill which would show  
23 the Board the current numbers with a high degree of accuracy and the only projection would be if it were to  
24 change.  
25
- 26 Mr. Courson asked if a special condition could be proposed regarding the road agreement with the township.  
27
- 28 Mr. Passalacqua stated that we had a special condition for the wind farm regarding the road agreement.  
29
- 30 Mr. Hall stated that as he recalled the Board did not take action on the wind farm case until the Board knew  
31 that the petitioner and the townships had reached an agreement.  
32
- 33 Mr. Thorsland stated that in fairness to the other cases the Board is not inclined to continue these cases to the  
34 May 30<sup>th</sup> meeting. He informed Mr. Cole that it would be beneficial to have all required documentation and  
35 agreements in place and submitted to staff for review by the Board prior to the next meeting.  
36
- 37 Mr. Thorsland entertained a motion to continue Cases 731-S-12 and 747-AM-13 to the June 13, 2013,  
38 meeting.

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**Mr. Courson moved, seconded by Mr. Passalacqua to continue Cases 731-S-12 and 747-AM-13 to the June 13, 2013, meeting. The motion carried by voice vote.**

**6. New Public Hearings**

**Case 746-AM-13 Petitioner: Parkhill Enterprises, LLC Request to amend the Zoning Map to change the zoning district designation from the AG-2 Agriculture Zoning District to the B-3 Highway Zoning District. Location: A .877 acre tract in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of Section 13 of Mahomet Township and commonly known as the farmland immediately north of the Super Pantry convenience store located at 506 South Prairieview Road, Mahomet.**

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

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

Mr. Pat Fitzgerald, attorney for Parkhill Enterprises, LLC, stated that he is representing the owner of the subject property, Tri-Star Marketing, Inc, the proposed operator of the new enhanced Mobil/Super Pantry that will be located on the subject real estate. He assured the Board that no new construction has been started and there is no building to contend with other than the one that has been in existence for a number of years.

He said that the petitioners would like to request that the Preliminary Memorandum dated May 8, 2013, from the Champaign County Department of Planning and Zoning be included into the record for tonight's proceedings and that the aerial attachment also be included. He said that the aerial attachment proves that a picture is worth a thousand words. He said that the existing Mobil/Super Pantry is noted on the exhibit and the slightly less than one acre of real estate, which is directly north of the existing facility, is the subject of the rezoning request.

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

Mr. Passalacqua asked Mr. Hall that the Natural Resources Report indicates that the area that is in farmland has severe limitations related to its low terrain. He asked if these limitations are in regard to the farmland or the proposed improvement.

5/16/13

1 Mr. Hall stated that these results would be reported for any soil in Champaign County.

2  
3 Mr. Thorsland stated that page 22 of 25 of the Finding of Fact includes a Summary Finding of Fact. He read  
4 the Summary Finding of Fact as follows:

5 **SUMMARY FINDING OF FACT**

6  
7 From the documents of record and the testimony and exhibits received at the public hearing conducted on  
8 **May 16, 2013**, the Zoning Board of Appeals of Champaign County finds that:

- 9  
10 1. The proposed amendment will **HELP ACHIEVE** the Land Resource Management Plan because  
11 of the following (objectives and policies are very briefly summarized):  
12 A. The proposed map amendment will **HELP ACHIEVE** the following LRMP goals:  
13  
14 **Goal 4 Agriculture** because while it will either not impede or is not relevant to the other  
15 Objectives and Policies under this goal, it will **HELP ACHIEVE** the following:  
16 • Objective **4.1 requiring minimization of the fragmentation of farmland, conservation**  
17 **of farmland, and stringent development standards on best prime farmland** because it  
18 will **HELP ACHIEVE** the following:  
19 • Policy **4.1.1 requiring that other land uses only be accommodated under very**  
20 **restricted conditions or in areas of less productive soils (see Item 14.A.(1)).**  
21  
22 • Policy **4.1.6 requiring that the use, design, site and location are consistent with**  
23 **policies regarding suitability, adequacy of infrastructure and public services,**  
24 **conflict with agriculture, conversion of farmland, and disturbance of natural areas**  
25 **(see Item 14.A.(2)).**  
26  
27 • Objective **4.2 requiring discretionary development to not interfere with agriculture**  
28 because it will **HELP ACHIEVE** the following:  
29 • Policy **4.2.1 requiring a proposed business in a rural area to support agriculture or**  
30 **provide a service that is better provided in the rural area (see Item 14.B.(1)).**  
31  
32 • Policy **4.2.2 requiring discretionary development in a rural area to not interfere with**  
33 **agriculture or negatively affect rural infrastructure (see Item 14.B.(2)).**  
34  
35 • Objective **4.3 requiring any discretionary development to be on a suitable site**  
36 because it will **HELP ACHIEVE** the following:  
37 • Policy **4.3.1 requiring a discretionary development on other than best prime**  
38 **farmland to be suited overall (see Item 14.C.(1)).**  
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- Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.C.(2)).

- Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.C.(3)).

**Goal 5 Urban Land Use** because while it will either not impede or is not relevant to the other Objectives and Policies under this goal, it will **HELP ACHIEVE** the following:

- Objective 5.1 ensure that the population growth and economic development is accommodated by new urban development in or adjacent to existing population centers because it will **HELP ACHIEVE** the following:
  - Policy 5.1.3 consider municipal ETJ areas that are served or that are planned to be served by sanitary sewer as contiguous urban growth areas (Item 15.A.(1)).
- Objective 5.3 requiring the County to oppose new urban development unless adequate utilities infrastructure, and public services are provided because it will **HELP ACHIEVE** the following:
  - Policy 5.3.1 require new urban development in unincorporated areas to be sufficiently served by available public services without undue public expense and encouraging other jurisdictions to do the same (Item 15.B.(1)).
  - Policy 5.3.2 require new urban development to be adequately served by public infrastructure without undue public expense and encouraging other jurisdictions to do the same (Item 15.B.(2)).

**Goal 8 Natural Resources** because while it will either not impede or is not relevant to the other Objectives and Policies under this goal, it will **HELP ACHIEVE** the following:

- Objective 8.2 requiring the County to conserve its soil resources because it will **HELP ACHIEVE** the following:
  - Policy 8.2.1 requiring the County to minimize the conversion of farmland to non-agricultural development with special consideration for best prime farmland (Item 18.A.(1)).

- B. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):
- **Goal 1 Planning and Public Involvement**
  - **Goal 2 Governmental Coordination**

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- 1                   ●     **Goal 3 Prosperity**
- 2                   ●     **Goal 6 Public Health and Public Safety**
- 3                   ●     **Goal 7 Transportation**
- 4                   ●     **Goal 10 Cultural Amenities**

6           C.   The proposed amendment is **NOT RELEVANT** to the following LRMP goal(s):

- 7                   ●     **Goal 9 Energy Conservation**

9   2.    The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors because:

- 11               ●     The subject property is suitable for the proposed use.
- 13               ●     The proposed map amendment is in general conformance with the Village of Mahomet’s Comprehensive Land Use Plan Map.

16   3.    The proposed Zoning Ordinance map amendment will **HELP ACHIEVE the purpose of the Zoning Ordinance** because it is consistent with all of the purposes of the Zoning Ordinance.

19   4.    Regarding the error in the present Ordinance that is to be corrected by the proposed change:

- 20               ●     The use of real estate in the immediate area has changed since the applicable zoning ordinance was adopted and the proposed rezoning is consistent with the current uses in the immediate area.

23   He asked the Board if there were any changes or revisions to the Summary Finding of Fact and there were none.

26   Mr. Thorsland entertained a motion to approve the Summary Finding of Fact.

28   **Ms. Capel moved, seconded by Mr. Palmgren to approve the Summary Finding of Fact. The motion carried by voice vote.**

31   Mr. Thorsland stated that there are no new Documents of Records.

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

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

5/16/13

1 Mr. Thorsland entertained a motion to move the Final Determination for Case 746-AM-13.

2  
3 **Mr. Palmgren moved, seconded by Mr. Courson to move to the Final Determination for Case 746-**  
4 **AM-13. The motion carried by voice vote.**

5  
6 Mr. Thorsland informed the petitioners that a full Board is not present at this time due to absence of one  
7 Board member and one vacant seat therefore it is at their discretion whether to move to a final determination  
8 with the present Board or continue the case until the vacant seat is filled.

9  
10 Mr. Fitzgerald requested that the current Board proceed to the Final Determination.

11  
12 Mr. Thorsland read the proposed special condition for Case 746-AM-13 as follows:

- 13  
14 **A. A Zoning Use Permit Application shall not be approved for construction on the subject**  
15 **property until the applicant has submitted a stormwater drainage plan that is in**  
16 **compliance with the Champaign County Stormwater Management Policy or the**  
17 **equivalent requirements of the Village of Mahomet.**

18  
19 The above special condition is required to ensure the following:

20 **That the proposed development of the subject property is in compliance with applicable**  
21 **stormwater management policies.**

22  
23 Mr. Thorsland asked Mr. Fitzgerald if he agreed to the proposed special condition.

24  
25 Mr. Fitzgerald stated that he did agree to the proposed special condition.

26  
27 Mr. Thorsland stated that the Board will take a five minute break.

28  
29 **The Board recessed at 8:15 p.m.**

30 **The Board resumed at 8:18 p.m.**

31  
32 Mr. Thorsland entertained a motion to approve the proposed special condition.

33  
34 **Mr. Courson moved, seconded by Ms. Capel to approve the proposed special condition. The motion**  
35 **carried by voice vote.**

36  
37 **Final Determination for Case 746-AM-13:**

5/16/13

1 **Mr. Passalacqua moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2**  
 2 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**  
 3 **determines that the Zoning Ordinance Amendment requested in Case 746-AM-13 should BE**  
 4 **ENACTED by the County Board in the form attached hereto.**

5

6 Mr. Thorsland requested a roll call vote.

7

8 The roll was called:

9

10	<b>Courson-yes</b>	<b>Miller-absent</b>	<b>Palmgren-yes</b>
11	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

12

13 Mr. Hall informed the petitioner that they have received a recommendation for approval therefore this case  
14 will be forwarded to the June 6, 2013, Environment and Land Use Committee meeting.

15

16 **7. Staff Report**

17

18 None

19

20 **8. Other Business**

21 **A. Review of Docket**

22

23 None

24 **B. March 2013 Monthly Report**

25

26 None

27

28 Mr. Kass stated that two new cases have been received and docketed since the last meeting.

29

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

31

32 None

33

34 **10. Adjournment**

35

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

37

38 **Mr. Passalacqua moved, seconded by Mr. Courson to adjourn the meeting at 8:20 p.m. The motion**

ZBA

*AS APPROVED AUGUST 15, 2013*

5/16/13

1 **carried by voice vote.**

2

3

4 Respectfully submitted

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9 Secretary of Zoning Board of Appeals

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*DRAFT SUBJECT TO APPROVAL DRAFT ZBA //*

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