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MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

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

**DATE: November 14, 2013 PLACE: Lyle Shields Meeting Room
1776 East Washington Street
TIME: 6:30 p.m. Urbana, IL 61802**

MEMBERS PRESENT: Catherine Capel, Paul Palmgren, Jim Randol, Eric Thorsland, Brad Passalacqua

MEMBERS ABSENT : Roger Miller

STAFF PRESENT : Connie Berry, John Hall, Andrew Kass

OTHERS PRESENT : Shawn Bickers, Lars Johnson, David Anderson, Randy Hopkins

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

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 (June 27, 2013; September 12, 2013; September 26, 2013; and October 17, 2013)

Mr. Thorsland entertained a motion to approve the June 27, 2013, September 12, 2013, September 26, 2013 and October 17, 2013, minutes.

Mr. Passalacqua moved, seconded by Ms. Capel to approve the June 27, 2013, September 12, 2013, September 26, 2013, and October 17, 2013, minutes.

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

1 Ms. Capel stated that Line 40 on page 28 of the June 27, 2013, minutes should be revised as follows: He
2 said that there would be some truck traffic on the road but generally there are more cars traveling that road
3 than trucks. She said that Line 39 on page 23 of the September 12, 2013, minutes should be revised as
4 follows: Mr. Randol moved, seconded by Mr. Palmgren to approve special condition L. as amended.
5

6 **The motion carried by voice vote.**
7

8 **5. Continued Public Hearing**
9

10 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**
11 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**
12 **for any County Board approved special use permit for a Rural Residential Development in the Rural**
13 **Residential Overlay district as follows: (1) require that each proposed residential lot shall have an**
14 **area equal to the minimum required lot area in the zoning district that is not in the Special Flood**
15 **Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with**
16 **more than two proposed lots that are each less than five acres in area or any RRO that does not**
17 **comply with the standard condition for minimum driveway separation; (3) require a minimum**
18 **driveway separation between driveways in the same development; (4) require minimum driveway**
19 **standards for any residential lot on which a dwelling may be more than 140 feet from a public street;**
20 **(5) require for any proposed residential lot not served by a public water supply system and that is**
21 **located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**
22 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract**
23 **the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6)**
24 **require for any proposed RRO in a high probability area as defined in the Illinois State Historic**
25 **Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy**
26 **of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the**
27 **Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of**
28 **the agency response.**
29

30 Mr. Hall, Zoning Administrator, stated that staff has been working on the draft Erosion Control Ordinance
31 and has not had time to prepare new information for this case tonight. He requested that Case 685-AT-11 be
32 continued to the December 12, 2013, meeting.
33

34 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the December 12, 2013, meeting.
35

36 **Mr. Palmgren moved, seconded by Mr. Randol to continue Case 685-AT-11 to the December 12, 2013,**
37 **meeting. The motion carried by voice vote.**
38

39 **6. New Public Hearings**
40

1 **Case 763-AM-13 Petitioner: David A. Andersen Request to amend the Zoning Map to change the**
2 **zoning district designation from the B-1 Rural Trade Center Zoning District to the AG-2 Agriculture**
3 **Zoning District. Location: An approximate 1 acre lot located in the Southeast Quarter of the**
4 **Southwest Quarter of the Southeast Quarter of Section 26 of St. Joseph Township and commonly**
5 **known as the house and building at 2270 CR 1300N, St. Joseph.**
6

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

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

12
13 Mr. David Anderson stated that he is requesting to rezone the property so that he can sell the property. He
14 said that the house is in disrepair and no one desires to purchase the property because, due to the current
15 zoning, they could not build a new house on the property.

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

18
19 Mr. Thorsland called John Hall.

20
21 Mr. John Hall, Zoning Administrator, stated that he does not know why there is an island of AG-2 around
22 this location. He said that normally if you would rezone from B-1 it would go to AG-1 but this property has
23 AG-2 around it and from a zoning perspective the most important thing is the amount of land. He said that
24 this is approximately one acre therefore the zoning district does not make much difference and AG-2 is the
25 same as the zoning that exists on either side. He said that in the Finding of Fact staff recommended that the
26 proposed rezoning either HELPED ACHIEVE or DOES NOT IMPEDE and there were no questions on any
27 of the goals and policies. He said that this case is very straight forward.

28
29 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

30
31 Mr. Thorsland stated that, in relation to the achievement of Goal 5, based on previous cases when a
32 residence is placed by other residences it is sometimes determined that a proposed amendment will not only
33 NOT IMPEDE but HELP ACHIEVE Goal 5. He read Goal 5 as follows: Champaign County will encourage
34 urban development that is compact and contiguous to existing cities, villages, and existing unincorporated
35 settlements. He said that staff recommends that the proposed amendment will NOT IMPEDE the
36 achievement of Goal 5 although he believes that it could possibly fall under HELP ACHIEVE because there
37 is a little unincorporated settlement near the property and the proposed amendment will make is consistent
38 with keeping it contiguous that settlement.

39
40 Ms. Capel stated that she agrees with Mr. Thorsland and it also encourages redevelopment.

1
2 Mr. Hall asked the Board if they would be comfortable in indicating that the proposed amendment HELPS
3 ACHIEVE Goal 5 and not breaking it down to why. He said that staff did break it down and there was a lot
4 of evidence for Goal 5 but his concern was that in the future if someone looked at the Finding of Fact they
5 might get the impression that Goal 5 should be completely analyzed for a completely rural location.
6

7 Ms. Capel stated that she understands Mr. Hall's concern and that changing the recommendation for Goal 5
8 to HELP ACHIEVE could set precedence for rural review.
9

10 Mr. Hall stated that if the Board believes that it does help Goal 5 they could indicate that the proposed
11 amendment will HELP ACHIEVE the achievement of Goal 5 and then add a statement that in general this is
12 more relevant to Goal 4 because this is in an area of other homes near Tipton. He said that Goal 5 does
13 discuss unincorporated settlements and Tipton is one of Champaign County's unincorporated settlements.
14

15 Mr. David Andersen stated that Tipton is no longer a town and it is his understanding the existing structure
16 on his property was originally a general store for Tipton. He said that he would not have purchased the
17 property if he had known that he could not tear down the house and rebuild a home. He said that there used
18 to be a small town near the railroad tracks but the town has ceased to exist.
19

20 Mr. Passalacqua stated that for the purposes of the rezoning he believes that the Board is getting too deep in
21 the history of the area. He said that he believes that the Board should go with staff's recommendation of
22 NOT IMPEDE.
23

24 Mr. Thorsland and Ms. Capel agreed.
25

26 Mr. Thorsland stated that the Board will now review the Summary Finding of Fact.
27

28 **Summary Finding of Fact for Case 763-AM-13:**
29

30 From the documents of record and the testimony and exhibits received at the public hearing conducted on
31 November 14, 2013, the Zoning Board of Appeals of Champaign County finds that:
32

- 33 1. Regarding the effect of the proposed amendment on the Land Resource Management Plan
34 (LRMP):
35 A. **Regarding Goal 4:**
36 • **Objective 4.3 requiring any discretionary development to be on a suitable site**
37 **because it will *HELP ACHIEVE* the following:**
38 • **Policy 4.3.4 requiring existing public infrastructure be adequate to support**
39 **the proposed development effectively and safely without undue public**
40 **expense (see Item 13.C.(3)).**

- 1 • Policy 4.3.3 requiring existing public services be adequate to support the
2 proposed development effectively and safely without undue public expense
3 (see Item 13.C.(2)).
4 • Policy 4.3.2 requiring a discretionary development on best prime farmland to
5 be well-suited overall (see Item 13.C.(1)).
6
7 • Objective 4.2 requiring discretionary development to not interfere with
8 agriculture because it will *HELP ACHIEVE* the following:
9 • Policy 4.2.2 requiring discretionary development in a rural area to not
10 interfere with agriculture or negatively affect rural infrastructure (see Item
11 13.B.(1)).
12
13 • Objective 4.1 requiring minimization of the fragmentation of farmland,
14 conservation of farmland, and stringent development standards on best prime
15 farmland because it will *HELP ACHIEVE* the following:
16 • Policy 4.1.6 requiring that the use, design, site and location are consistent
17 with policies regarding suitability, adequacy of infrastructure and public
18 services, conflict with agriculture, conversion of farmland, and disturbance
19 of natural areas (see Item 13.A.(2)).
20 • Policy 4.1.1 requiring that other land uses only be accommodated under very
21 restricted conditions or in areas of less productive soils (see Item 13.A.(1)).
22
23 • Based on achievement of the above Objectives and Policies and because it will either
24 not impede or is not relevant to the other Objectives and Policies under this goal, the
25 proposed map amendment will *HELP ACHIEVE Goal 4 Agriculture*.
26
27 B. **Regarding Goal 6:**
28 • Objective 6.1 ensuring that development does not endanger public health or safety
29 because it will *HELP ACHIEVE* the following:
30 • Policy 6.1.1 establishing minimum lot dimensions for rural residential
31 development to provide adequate area for wastewater systems (see Item
32 15.A.(1)).
33
34 • Based on achievement of the above Objectives and Policies and because it will either
35 not impede or is not relevant to the other Objectives and Policies under this goal, the
36 proposed map amendment will *HELP ACHIEVE Goal 6 Public Health and Public*
37 *Safety*.
38
39 C. The proposed amendment will *NOT IMPEDE* the following LRMP goal(s):
40 • **Goal 1 Planning and Public Involvement**
41 • **Goal 2 Governmental Coordination**

- 1 ● Goal 3 Prosperity
- 2 ● Goal 5 Urban Land Use
- 3 ● Goal 7 Transportation
- 4 ● Goal 8 Natural Resources
- 5 ● Goal 9 Energy Conservation
- 6 ● Goal 10 Cultural Amenities
- 7

8 D. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource
9 Management Plan.

10
11 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors
12 because of the following:

- 13 ● The amendment will allow the subject property to be redeveloped.
- 14
- 15 ● The subject property is suitable for the existing and proposed use.
- 16
- 17 ● The proposed amendment will help improve the condition of the property and the
18 surrounding area.
- 19

20 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE the purpose of the**
21 **Zoning Ordinance** because:

- 22 ● Establishing the AG-2 District at this location will, help classify, regulate, and
23 restrict the location of the uses authorized in the AG-2 District (Purpose 2.0 (i) see
24 Item 21.I.).
- 25
- 26 ● Establishing the AG-2 District at this location will, help divide the entire County
27 into districts of such number, shape, area, and such different classes according to
28 the use of land, buildings, and structures, intensity of the use of lot area, area of
29 open spaces, and other classification (Purpose 2.0 (j) see Item 21.J.).
- 30
- 31 ● Establishing the AG-2 District at this location will, help fix regulations and
32 standards to which buildings, structures, or uses therein shall conform (Purpose
33 2.0 (i) see Item 21.K.).
- 34
- 35 ● Establishing the AG-2 District at this location will, help prohibit uses, buildings,
36 or structures incompatible with the character of such districts (Purpose 2.0 (i) see
37 Item 21.L.).
- 38
- 39 ● Establishing the AG-2 District at this location will, help protect the most
40 productive farmland from unplanned intrusions of urban uses (Purpose 2.0 (i) see

1 Item 21.N.).

2
3 4. Regarding the error in the present Ordinance that is to be corrected by the proposed change:

- 4 ● The subject property has been zoned as it is since 1973 and the long term use of
- 5 the property has been residential instead of commercial.

6
7 Mr. Thorsland stated that there are no new Documents of Record.

8
9 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and

10 Summary Finding of Fact.
11
12 **Ms. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents of**

13 **Record and Summary Finding of Fact. The motion carried by voice vote.**
14
15 Mr. Thorsland entertained a motion to move to the Final Determination for Case 763-AM-13.

16
17 **Mr. Passalacqua moved, seconded by Mr. Palmgren to move to the Final Determination for Case**

18 **763-AM-13. The motion carried by voice vote.**
19
20 Mr. Thorsland informed the petitioner that one Board member is absent and one Board seat is vacant

21 therefore it is at his discretion to either continue Case 763-AM-13 until a full Board is present or request that

22 the present Board move forward to the Final Determination. He informed the petitioner that four affirmative

23 votes are required for approval.
24
25 Mr. Andersen requested that the present Board move to the final determination for Case 763-AM-13.
26
27 **Final Determination for Case 763-AM-13:**

28
29 **Ms. Capel moved, seconded by Mr. Passalacqua that pursuant to the authority granted by Section 9.2**

30 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**

31 **determines that the Zoning Ordinance Amendment requested in Case 763-AM-13 should BE**

32 **ENACTED by the County Board in the form attached hereto.**
33
34 Mr. Thorsland requested a roll call vote.
35
36 The roll was called:
37

	Palmgren-yes	Passalacqua-yes	Randol-yes
	Miller-absent	Capel-yes	Thorsland-yes

1 Mr. Hall informed Mr. Andersen that he has received a recommendation for approval therefore Case 763-
2 AM-13 will be forwarded to the Environment and Land Use Committee meeting on December 5, 2013. He
3 informed Mr. Andersen that the ELUC meeting begins at 6:00 p.m. and is held in the Lyle Shields Meeting
4 Room.

5
6 **Case 764-V-13 Petitioner: Lars Johnson with agent Shawn Bickers Request to authorize the following**
7 **in the R-4 Multiple Family Residence Zoning District to authorize the construction of an addition to**
8 **an existing townhouse: Part A. Variance for a side yard of 1 foot in lieu of the minimum required 5**
9 **feet; Part B. Variance for lot coverage of 44% in lieu of the maximum allowed 40%; and Part C.**
10 **Variance for a front setback for an existing townhome of 40 feet from the centerline of Briar Hill**
11 **Drive in lieu of the minimum required 55 feet' and Part D. Variance for a front yard for an existing**
12 **townhome of 20 feet in lieu of the minimum required 25 feet; and Part E. Variance from Section**
13 **4.2.2D. requirement that no construction shall take place in a recorded utility easement. Location:**
14 **Lot 1 of Wisegarver's Subdivision in the Southeast Quarter of Section 21 of Champaign Township**
15 **and commonly known as the townhome at 2120 Briar Hill Drive, Champaign.**

16
17 Mr. Thorsland informed the audience that Case 764-V-13 is an Administrative Case and as such the County
18 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
19 show of hands for those who would like to cross examine and each person will be called upon. He requested
20 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
21 that those who desire to cross examine are not required to sign the witness register but are requested to
22 clearly state their name before asking any questions. He noted that no new testimony is to be given during
23 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
24 exempt 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. Passalacqua stated that he has a few construction projects out for bid in which Mr. Shawn Bickers,
31 co-petitioner, will be a sub-contractor for those projects, therefore due to this conflict he must remove
32 himself from this case.

33
34 Mr. Thorsland stated that the record should show that Mr. Passalacqua has recused himself from Case
35 764-V-13.

36
37 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

38
39 Mr. Lars Johnson, who resides at 1956 W. Berwyn, Chicago, stated that Parts B, C and D of the requested
40 variance were existing conditions when the structure was built in 1976. He said that it appears that there was

1 some sort of staff error in allowing the structure to be built at its current location.
2
3 Mr. Andrew Kass, Associate Planner, stated that when he reviewed the Zoning Use Permit that authorized
4 the construction of the townhomes he noticed that construction was started prior to obtaining an approved
5 permit. He said that the Zoning Administrator at the time sent a letter to the contractor notifying them of the
6 need for a permit. Mr. Kass stated that when the permit was approved a 29 foot front yard was being
7 indicated but that is not the case. He said that as Mr. Johnson indicated Parts B, C, and D are existing
8 conditions that were present when he agreed to purchase the property. He said that this case is just like any
9 other variance case that is before the Board in that any necessary variance possible is included in case there
10 is a fire or tornado the townhomes can be rebuilt within the same footprint.
11
12 Mr. Johnson stated that in regards to Part A, the addition will be built upon the footprint of an existing hot
13 tub enclosure and will not be expanding beyond that footprint. He said that in regards to Part E. the recorded
14 utility easement is within an area which is 45 to 50 feet between the adjacent townhomes therefore there is
15 ample room to bring in equipment for maintenance within the easement.
16
17 Mr. Thorsland asked the Board if there were any questions for Mr. Johnson.
18
19 Mr. Randol asked Mr. Johnson if there were any utilities, such as water or sewer, within the recorded
20 easement at this time.
21
22 Mr. Johnson stated no. He said that Ameren visited the site and indicated that they did not have any
23 facilities within the easement and the Urbana-Champaign Sanitary District visited the site today and
24 indicated that the sewer is south of the proposed addition.
25
26 Mr. Hall stated that staff knew that Urbana Champaign Sanitary District was supposed to visit the site today
27 but staff has not received any word yet from their representative.
28
29 Mr. Johnson stated that he met with the representatives from the Urbana Champaign Sanitary District at the
30 site and they were unable to locate the manhole cover but from the sewer access in the street they could see
31 that it would barely miss the addition. He said that the representatives told him that they would return
32 tomorrow with a camera so that they could accurately locate the sewer lines.
33
34 Mr. Hall asked Mr. Johnson if the representatives indicated if the sewer line was actually located in the
35 recorded easement.
36
37 Mr. Johnson stated no.
38
39 Mr. Kass stated that the sewer line could be located in an easement for the subdivision which is located to
40 the south of the subject property.

1
2 Mr. Hall asked Mr. Kass if there is a recorded easement for the adjacent subdivision to the south.
3
4 Mr. Kass stated that he does not have any information tonight regarding the subdivision to the south of the
5 subject property.
6
7 Mr. Hall stated that if the Board does not make a final determination on this case tonight staff should
8 investigate this issue.
9
10 Mr. Randol stated that he would like to know the depth of the sewer line and whether or not maintenance,
11 such as digging, would hinder the addition to Mr. Johnson's townhome.
12
13 Mr. Johnson stated that the Urbana Champaign Sanitary District representatives indicated that they will go
14 back to the property tomorrow and use a camera so that they can be 100% sure where the sewer line is
15 located. He said that he is not sure if there is an easement located on the other lot between the buildings.
16
17 Mr. Hall asked Mr. Johnson when the Urbana Champaign Sanitary District representatives will be at the
18 subject property with the camera.
19
20 Mr. Johnson stated that the representative will be at the subject property tomorrow with the camera.
21
22 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Johnson and there
23 were none.
24
25 Mr. Thorsland called Andrew Kass to testify.
26
27 Mr. Andrew Kass, Associate Planner, distributed a new Supplemental Memorandum dated November 14,
28 2013, to the Board for review. He said that the memorandum includes an e-mail dated November 12, 2013
29 from Mark Radi, Director of Engineering Services, Urbana Champaign Sanitary District. He said that after
30 tonight's testimony from Mr. Johnson it appears that the e-mail includes some outdated information. Mr.
31 Kass read Mr. Radi's e-mail as follows: "Andy, any building upon an easement would require specific
32 approval from the district's Board. Based upon the extremely limited information we have today, staff
33 would recommend not allowing the encroachment. The owner would need to explain why this is
34 unavoidable." Mr. Kass stated that he assumes a new e-mail will be sent from Mr. Radi after the Urbana
35 Champaign Sanitary District representatives investigate the location of the sewer line with the camera
36 mechanism is utilized at the easement location.
37
38 Mr. Thorsland stated that the Urbana Champaign Sanitary District Board would still have to give approval of
39 the proposed construction within the easement.
40

1 Mr. Kass stated that Mr. Thorsland is correct. He said that if there is no sewer line within the easement he is
2 pretty sure that Mr. Radi would not be as opposed to the proposed construction at that location although he
3 cannot speak for Mr. Radi.

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

6
7 Mr. Hall stated that in a situation like this the question arises as to how much work the Urbana Champaign
8 Sanitary District is going to do in locating the sewer line versus the information the ZBA needs to make a
9 decision for the variance. He said that he wonders if the Board would want the petitioner to go so far as to
10 have a technical drawing completed by an engineer/surveyor who would accurately report depth and
11 separation.

12
13 Mr. Randol indicated that he would prefer a technical drawing because the ZBA does not want to make a bad
14 situation worse. He said that the more accurate information we can have the better. He said that if there is a
15 sewer easement there and the district hasn't used it the ZBA needs to know if they have any future intent of
16 using the easement.

17
18 Mr. Hall stated that it would be good to have something from the Urbana Champaign Sanitary District about
19 the fact that the easement exists even though there is no sewer line there currently and what their position is
20 on the easement. He said that the Urbana Champaign Sanitary District has responded to Mr. Johnson's
21 situation very quickly therefore by the December 12th meeting the ZBA could have the information needed to
22 make a decision.

23
24 Mr. Thorsland stated that he gets the impression from Mr. Radi's e-mail that the Urbana Champaign Sanitary
25 District Board makes the decision on these matters once they have adequate information to base their
26 decision upon.

27
28 Mr. Thorsland called Shawn Bickers to testify.

29
30 Mr. Shawn Bickers, who resides at 4306 Summerfield Road, Champaign, stated that the reason why he and
31 Mr. Johnson decided not to construct the addition to the rear of the building is because the architectural
32 design of the condominiums is that the entire rear of the structure is glass therefore when you are inside the
33 condominium the entire family room on the first floor has a glass wall. He said that if the addition was built
34 on the rear of the structure the family room would be trapped without a view. He said that they decided to
35 construct the addition on the south because there was an existing trellis structure at that location with 47 feet
36 between the subject property and the adjacent townhome. He said that there is a landscape buffer of pine
37 trees and leafy trees on the street and south sides of the structure therefore the addition would be inside of
38 that buffer and would be hidden from view for both sides.

39
40 Mr. Thorsland stated that the photographs indicate that construction has been started on the addition.

1
2 Mr. Bickers stated that there are three different phases to the project. He said that there is an interior trim for
3 the cabinetry portion of the job and the cedar siding on the structure had gone bad therefore it has to be
4 removed and replaced. He said that he was hired by the Condominium Association to replace the cedar
5 siding and Mr. Johnson hired him to construct the addition at the same time therefore he went to the County
6 to obtain a permit. He said that in Champaign, Urbana and Savoy a check is not required until the
7 application is approved therefore after he went to the County with his application and fees he spoke with the
8 excavator and the excavator incorrectly assumed that the permit was issued and began excavating the
9 foundation. Mr. Bickers stated that he was out of town when the excavator dug the footings and installed the
10 block foundation and when he returned he informed the excavator that he did not have the approved permit
11 from the County yet. He said that he called the County to determine the status of the permit and that is when
12 staff informed him that there was an issue with the side yard of the addition and the existing easement
13 therefore he ceased all further work on the project. He said that the siding that has been removed from the
14 townhome has not been replaced and will not be replaced until the Board determines the outcome of the
15 variance request.

16
17 Mr. Thorsland asked Mr. Bickers if the addition will be accessed from the interior or exterior of the
18 townhome.

19
20 Mr. Bickers stated that the addition, which will be utilized as an office and golf cart bay, will be accessed
21 from the family room of the townhome. He said that the golf cart bay will be accessed through a garage door
22 that will be located on the south side of the addition although they could go to the west and still be within the
23 landscape buffer.

24
25 Mr. Thorsland asked Mr. Bickers if the garage door is to be placed on the south side of the addition, which is
26 already one foot from the side yard, Mr. Johnson would have to cross the neighbor's lot to access the golf
27 cart bay.

28
29 Mr. Bickers stated yes. He said that on the original plans that were drawn it was realized that there was only
30 a one foot side yard therefore an access in the block foundation was not built so that the access can be shifted
31 if necessary to the west, street side, of the addition. He said that the neighbor who lives in the condominium
32 to the south of the subject property was under the same assumption for the location of the lot line and that
33 neighbor has a mowing agreement where they split the mowing responsibility of the area in between the two
34 structures. He said that the neighbor to the south is now concerned about the trees that are located in the area
35 that was assumed to be Mr. Johnson's property and their responsibility for maintenance of those trees. He
36 said that the neighbors have been very cooperative in discussing the addition.

37
38 Mr. Thorsland asked the Board if there were any questions for Mr. Bickers and there were none.

39
40 Mr. Thorsland asked if staff had any questions for Mr. Bickers and there were none.

1
2 Mr. Hall asked the Board if they were concerned about where the golf cart enters the addition.
3
4 Mr. Thorsland stated that the Board is potentially granting a variance of a one foot side yard therefore he has
5 a concern that the garage door is going to be pointed into the neighbor's yard.
6
7 Mr. Randol stated that the current neighbor may not always be at that location therefore it is unknown what a
8 future owner may think about Mr. Johnson crossing their yard.
9
10 Mr. Thorsland stated that he wants to make sure that the Urbana Champaign Sanitary District Board has
11 decided whether or not they are going to allow the addition to be built within that easement. He said that he
12 would like to have something in writing from the Urbana Champaign Sanitary District Board regarding their
13 determination. He said that he does not want the garage door for the golf cart bay to be directed towards the
14 neighbor's yard.
15
16 Mr. Hall stated that this is good guidance for the petitioner to contact the neighbor to the south to see if they
17 would document their agreement to allow access to the golf cart bay across their property.
18
19 Mr. Bickers stated that if they could get access or a document from the neighbor regarding access to the golf
20 cart bay from the south, it would be better because there are two air conditioning units which are located on
21 the west side of the subject structure which would need to be relocated for the golf cart to enter from that
22 side. He said that it is common practice in this area for the golf cart traffic to travel within those easements.
23 He said that there are similar structures constructed on two other condominiums which are located to the
24 south of the subject property.
25
26 Mr. Thorsland stated that even though it is common practice for the golf carts to travel across the easement
27 now does not mean that a new owner of the condominium to the south will allow it in the future.
28
29 Mr. Bickers stated that if it is necessary they could move the two air conditioning units.
30
31 Mr. Thorsland stated that he would like to have a final determination from the Urbana Champaign Sanitary
32 District Board and a complete site plan indicating the location of the access.
33
34 Mr. Randol stated that before the ZBA makes any final determination this Board needs to know what the
35 Urbana Champaign Sanitary District Board has determined because ZBA should not allow the variance if
36 they are opposed.
37
38 Mr. Hall asked Mr. Johnson if the Urbana Champaign Sanitary District gave him a timeline as to when they
39 would have a decision.
40

- 1 Mr. Johnson stated that the representatives only indicated that they would return to the site tomorrow with
2 their camera to determine the location of the sanitary sewer line.
3
- 4 Mr. Hall stated that if there is some kind of formal process whereby the Urbana Champaign Sanitary District
5 Board takes action then the ZBA would like to have that action completed before they make a determination
6 for the variance. He said that if a decision from the Urbana Champaign Sanitary District Board has not made
7 a decision by the December 12th meeting date then the ZBA will not make a final determination at that
8 meeting.
9
- 10 Mr. Johnson stated that as this process moves along he will need to weigh the possible costs involved with
11 this project. He said that he will check with the Urbana Champaign Sanitary District regarding their findings
12 tomorrow and what procedural movement that they must complete to approve the construction within the
13 easement. He said there is over 47 feet between the two condominium buildings therefore if it is a matter of
14 obtaining a document indicating that the homeowner's associations of both subdivisions agree to the access
15 issue then he will pursue obtaining that documentation.
16
- 17 Mr. Thorsland stated that Mr. Johnson may need a golf cart easement over the utility easement.
18
- 19 Mr. Randol stated if the Urbana Champaign Sanitary District is agreeable.
20
- 21 Mr. Thorsland informed Mr. Johnson that he should call staff as soon as he has a determination of the
22 location of the sewer line from the Urbana Champaign Sanitary District. He said that this case will be
23 continued to the December 12th meeting therefore it would be good if all of the required information is
24 completed prior to that meeting. He said that the ZBA would like to have a formal document indicating
25 where the golf cart bay access will be located. He said that the Board understands that the cost of moving
26 the air conditioning units will be greater than removing a few trees and fortunately no further construction
27 has occurred but unfortunately the block foundation has been installed.
28
- 29 Mr. Johnson stated that there are metal gates at the end of the street and everyone drives their golf carts
30 down their street into the Lincolnshire Fields Golf Course.
31
- 32 Mr. Thorsland stated that the Board understands what currently occurs but if the ZBA started approving
33 garages that empty out onto other property owner's lots it would cause the County a lot of grief.
34
- 35 Mr. Hall stated that the Board would like to see a scaled drawing indicating the location and depth of the
36 sewer line.
37
- 38 Mr. Randol stated that the drawing should indicate the location of the sewer line in relationship to the
39 property line and the proposed construction.
40

1 Mr. Hall stated that Mr. Johnson should hire a surveyor to prepare an accurate scaled drawing.
2
3 Ms. Capel asked Mr. Hall if the trees should be indicated on the drawing as well.
4
5 Mr. Hall stated that the important thing is that the drawing is drawn at a usable scale and accurate.
6
7 Mr. Johnson stated that he will wait for the determination from the Urbana Champaign Sanitary District
8 Board and if it is a positive determination he will call a surveyor. He said that he should know more
9 tomorrow. He noted that the photographs before the Board tonight indicate the existing bushes and trees on
10 the property. He said that the two pine trees behind and west of the structure will hide the addition from the
11 street.
12
13 Mr. Hall asked Mr. Bickers if there will be a problem with the foundation and the bare wall being exposed to
14 the winter elements.
15
16 Mr. Bickers stated no. He said that he intends to cover the foundation and weatherproof the bare wall.
17
18 Mr. Thorsland entertained a motion to continue Case 764-V-13 to the December 12, 2013, meeting.
19
20 **Mr. Randol moved, seconded by Ms. Capel to continue Case 764-V-13 to the December 12, 2013,**
21 **meeting. The motion carried by voice vote.**
22

23 **7. Staff Report**
24

25 Mr. Kass informed the Board that November 15th is his last day with Champaign County. He said that he
26 has accepted a City Planner II position with the City of Waukee, Iowa and is looking forward to moving back
27 to Iowa with his family.
28

29 The Board congratulated Mr. Kass.
30

31 **8. Other Business**
32 **A. Review of Docket**
33

34 Mr. Hall distributed the current docket to the Board for review.
35

36 **B. Monthly Report**
37

38 Mr. Hall noted that the September report has been posted the County's website. He said that a township
39 protest has been received for Case 732-AT-12 but nonetheless ELUC did recommend approval and has been
40 forwarded to the County Board. He said that Case 732-AT-12 is not on the Consent Agenda but he does

- 1 believe that all of the ELUC members will support it but since there was a protest ELUC did not believe that
2 the case should be on the Consent Agenda.
3
- 4 Mr. Thorsland asked Mr. Hall if there was a protest received for the Jesse rezoning.
5
- 6 Mr. Hall stated that the City of Champaign protested the rezoning but the County Board overrode the protest.
7
- 8 Mr. Kass stated that the County Board unanimously approved the rezoning.
9
- 10 Mr. Hall stated that the County is building a string of overrides of municipal protests and he believes that
11 what is behind that is that some of the protests are not well founded.
12
- 13 Ms. Capel asked Mr. Hall if the Sebens' case is likely to have a protest.
14
- 15 Mr. Kass did not believe that the Sebens' case will have a protest.
16
- 17 Mr. Hall stated that he believes that Mr. Sebens' property is located more than one and one-half miles from
18 the Village of Savoy. He said that staff has had a slow spell but we are getting a sprinkle of cases on the
19 docket.
20
- 21 Mr. Thorsland stated that tonight is also Paul Palmgren's last ZBA meeting. Mr. Thorsland said that Mr.
22 Palmgren has decided to not reapply for reappointment to the Board.
23
- 24 Mr. Palmgren stated that his term on the Board has been educational and there have been some meetings that
25 he has enjoyed but there are others that he has not. He said that he has always believed that zoning is
26 important and during his time on the Board he has discovered how important it truly is. He congratulated
27 staff for their great work.
28
- 29 Ms. Capel stated that Mr. Palmgren is correct regarding his statement about the importance of zoning. She
30 said that she attended a meeting last night where a Vermilion County landowner discussed his dismay with
31 the location of the wind farm near his property and how it affected his family. She said that it is a shame that
32 Vermilion County slapped together an ordinance that did not protect the landowners, participating and non-
33 participating.
34
- 35 Mr. Palmgren stated that Iroquois County is still trying to remedy the conflict with the wind farms and the
36 landowners. He said that noise is an issue and the landowners who have no interest in the wind farm appear
37 to have it forced upon them. He said that he believes that the setback requirements should be even greater
38 but now is not the time to make that argument.
39
- 40 Mr. Passalacqua stated that the separation distance in Florida is one mile from a non-participating

1 landowner.

2

3 Mr. Palmgren stated that it appears that the wind farm company did not want to spend the money to offer the
4 non-participating landowners an incentive for agreeing to their project therefore it was forced upon those
5 people. He said that he knows an attorney who worked with the developers and he indicated that the
6 efficiency of the wind turbines is between 13 and 25% which is about half of what this Board was told.

7

8 Mr. Passalacqua stated that he was informed that the efficiency of the turbines was not his business.

9

10 Mr. Hall stated that the Board has to make a finding that a use is not injurious and he believes that the
11 efficiency of the wind turbines is a consideration if the Board wants to take the time to get reliable data.

12

13 Mr. Passalacqua stated that it costs money to get reliable data.

14

15 Mr. Thorsland stated that the Board has a member that does not consistently attend meetings. He said that
16 there was a period of attendance by this member because Mr. Thorsland continued to call him about the
17 meetings but the member and even Mr. Thorsland grew tired of that. He said that there are three possible
18 candidates for the Board, one being the reappointment of Ms. Capel, and the other two are new
19 appointments. He said that these three appointments would give the ZBA a full Board but there is always
20 this one member who is nearly continuously absent. He said that the By-laws has a provision that the Board
21 can ask a Board member to step away from the Board and attendance is a factor in that provision. He said
22 that if things go well in December there could potentially be seven members in attendance but more than
23 likely there will only be six. He said that the Board could vacate this member's seat on the Board so that
24 there is potentially always seven Board members in attendance to the meetings.

25

26 Ms. Capel asked Mr. Thorsland if he could explain the procedure for vacating the seat.

27

28 Mr. Thorsland read the provision, Section 3.4, of the ZBA By-laws as follows: The Governing Body shall
29 have the power to remove any member of the Board for cause only after public hearing. Such hearing shall
30 be held no less than 10 days after the member concerned has been given written notice of the charges against
31 him or her. The Chairperson may make a recommendation to the Governing Body for removal of a Zoning
32 Board member due to malfeasance, misfeasance, or nonfeasance generally, and in particular: a) failure to
33 disclose any conflict of interest pursuant to Section 6.8 herein; b) failure to disclose any substantial or
34 material *ex-parte* communications at the earliest opportunity subsequent to any such communications
35 pursuant to Section 7.4 herein; c) failure to attend two meetings within a period of one year, without
36 recorded consent of the Chairperson; or d) repeated or excessive tardiness, as determined by the Chairperson.

37

38 Mr. Passalacqua stated that this is a sad situation because the member does bring a lot to the table but when
39 Mr. Passalacqua interviewed for this position it was indicated that attendance is required and expected at
40 every meeting.

1
2 Mr. Thorsland stated that the Board has come dangerously close to cancelling meetings due to the lack of a
3 quorum and there have been many nights when there have only been four Board members present. He said
4 that Mr. Passalacqua respectfully recused himself from a case tonight therefore there were only four Board
5 members present tonight for voting purposes. He said that if this situation occurs again cases could be
6 delayed.

7
8 Ms. Capel asked when this member's term expires.

9
10 Mr. Hall stated that the member's term expires on 11/30/14.

11
12 Ms. Capel stated that this member could resign at any time.

13
14 Mr. Hall pointed out that in December the Board will be complete with seven members therefore being
15 absent one member occasionally should not be a problem.

16
17 Mr. Thorsland stated that the only reason that he has mentioned this situation is because it is a situation that
18 has been nagging at him and other members of the Board. He said that because there has been a consistent
19 empty seat for such a long time it has been more of a problem than maybe it will be in the future with two
20 new members and a reappointment. He noted that the Board does not need to act upon this situation now.

21
22 Mr. Passalacqua stated that he believes that the Board member in question has great input therefore he would
23 like to see this member have more motivation to attend the meetings as opposed to vacating the seat. He
24 said that everyone has other responsibilities with work and family but we have a responsibility to attend the
25 meetings that we signed on for as members.

26
27 Ms. Capel asked Mr. Thorsland if he has discussed resignation with that Board member.

28
29 Mr. Thorsland stated that he has discussed resignation with the Board member during a private phone
30 conversation. Mr. Thorsland stated he will call the Board member and relay the Board's concerns and
31 encourage a better attendance to the meetings.

32
33 Mr. Passalacqua encouraged Mr. Thorsland to make the call tomorrow. He said that he would hate to lose
34 such a valuable Board member.

35
36 Mr. Thorsland stated that he agrees and his frustration is only with the attendance and not the value of the
37 work of that Board member. He informed the Board that they may also utilize their contact information
38 provided by staff and encourage that Board member to attend the meetings

39
40 Mr. Passalacqua asked Mr. Hall if staff has completed a site visit recently.

1
2 Mr. Hall stated no. He said that Mr. Anderson’s permit allows one year for completion. He said that Mr.
3 Anderson received a Neighborhood Home Occupation and the variance allowed some encroachment in some
4 of the side yards but everything in the east yard must be removed and he has one year to do so.

5
6 **9. Audience Participation with respect to matters other than cases pending before the Board**

7
8 None

9
10 **10. Adjournment**

11
12 Mr. Thorsland entertained a motion to adjourn the meeting.

13
14 **Mr. Palmgren moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
15 **voice vote.**

16
17 The meeting adjourned at 7:42 p.m.

18
19
20 Respectfully submitted

21
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25 Secretary of Zoning Board of Appeals
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ZBA

AS APPROVED DECEMBER 12, 2013

11/14/13

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ZBA

AS APPROVED DECEMBER 12, 2013

11/14/13

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