

AS APPROVED JUNE 26, 2014

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
1776 E. Washington Street
Urbana, IL 61801

DATE: May 29, 2014

PLACE: Lyle Shield's Meeting Room
1776 East Washington Street
Urbana, IL 61802

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

MEMBERS ABSENT : Roger Miller

STAFF PRESENT : Connie Berry, Susan Chavarria, John Hall, Andrew Levy

OTHERS PRESENT : Herb Schildt, John Peisker, Scott Kunkel, Jim Lopez, Steve Burdin, Don Wauthier, David Wilde, Mike Simmons, Don Kuhlman, John Santos, Jake Wolf

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

3. Correspondence

None

4. Approval of Minutes (April 17, 2014)

Mr. Thorsland entertained a motion to approve the April 17, 2014 minutes.

Ms. Capel moved, seconded by Ms. Griest to approve the April 17, 2014, minutes as submitted.

Mr. Thorsland asked the Board if there were any additions or corrections required for the submitted minutes.

Ms. Capel noted the following minor edit on Page 6, Line 32. She said that the following sentence should be revised to read as follows: He said that he cannot believe that the customer's vehicles going in and out of the property will be a significant issue but the Hensley Township Highway Commissioner must be aware of what is being proposed so that he can state clearly to the Board whether or not he has any concerns.

1 **The motion carried by voice vote.**

2
3 Mr. Thorsland introduced Susan Chavarria, Regional Planning Manager, and Andrew Levy, Regional
4 Planning Commission Planner/Sustainability Coordinator to the Board. He said the Ms. Chavarria will be
5 serving as the Department of Planning and Zoning Interim Associate Planner and Mr. Levy will be assisting
6 the Planning and Zoning Department with various text amendment cases.
7

8
9 Mr. Thorsland entertained a motion to re-arrange the agenda and call Case 776-S-14, Windsor Road
10 Christian Church as the first case of the meeting.
11

12 **Ms. Capel moved, seconded by Mr. Passalacqua to re-arrange the agenda and call Case 776-S-14,
13 Windsor Road Christian Church as the first case of the meeting. The motion carried by voice vote.**
14

15 **Case 776-S-14 Petitioner: Windsor Road Christian Church and Administrative Minister Mike
16 Simmons Request: Authorize the expansion and use of an existing, nonconforming church in the AG-2
17 Agriculture Zoning District. Location: A 10 acre tract in the Northeast Quarter of the Northeast
18 Quarter of the Northwest Quarter of Section 27 of Champaign Township and commonly known as the
19 Windsor Road Christian Church located at 2501 West Windsor Road, Champaign.**
20

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

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

34 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.
35

36 Mr. John Peisker, who resides at 3407-3 Mill Creek Court, Champaign, stated that he is the Chairman of the
37 Elder Board for the Windsor Road Christian Church. He said that there are several other members of the
38 Board present tonight which could address any questions that the Board may have. He said that they are

5-29-14

1 proposing to construct an addition to the church making it a safe and pleasant gathering space with
2 additional classrooms. He said that the addition is primarily for their Family Life Ministry therefore it will
3 mainly be for children ranging from nursery school to primary school grades. He said that there will be
4 interior remodeling to the church which will not be affected by any expansion.

5
6 Mr. Peisker stated that the Elder Board members for the Windsor Road Christian Church are open to the
7 special conditions that are being imposed tonight by the Board and they understand that the City of
8 Champaign also has some requirements for them in terms of the entrance. He said that verbal confirmation
9 has been received from the City of Champaign indicating that they are fine with the way that the driveway is
10 being reoriented. He said that they are confident that the storm water issues are being accommodated by the
11 engineering plans that were drafted for the project and they understand that the planning staff at the City of
12 Champaign has no objections or comments on the proposed addition.

13
14 Mr. Peisker stated that the Windsor Road Christian Church did notify over 100 nearby neighbors inviting
15 them to an open house offering them the opportunity to learn about the proposed project. He said that the
16 open house was held in the morning prior to the work commute and in the evening after work to
17 accommodate the neighbors so that they could see what they were proposing to do to the facility. He said
18 that 5 or 6 of the neighbors did attend the open house and were thoroughly informed about the project.

19
20 Mr. Peisker stated that he would be happy to answer any questions that the Board or staff may have
21 regarding the requested special use permit. He noted that the architect and site engineer are present tonight
22 as well as other representatives from the church to address any questions or concerns.

23
24 Mr. Thorsland asked the Board if there were any questions for Mr. Peisker and there were none.

25
26 Mr. Thorsland asked if staff had any questions for Mr. Peisker.

27
28 Mr. John Hall, Zoning Administrator, asked Mr. Peisker if he had a chance to review the Supplemental
29 Memorandum dated May 29, 2014.

30
31 Mr. Peisker stated that he has not reviewed the Supplemental Memorandum.

32
33 Mr. Hall requested that he review the memorandum. He said that the memorandum includes the emails from
34 the City of Champaign's staff and he is sure that Mr. Peisker is aware that the City of Champaign requires a
35 driveway permit and that they believe that what the church is proposing is fine and it is just a matter of
36 permitting. He said that the City of Champaign's planning staff had only one comment and that was that
37 they would like to see the sidewalk along Windsor Road extended although they did not indicate when they
38 would like it extended. Mr. Hall suggested to the ZBA that they consider requiring the extension of the

5-29-14

1 sidewalk, as requested by the City of Champaign's planning staff, as a special condition at such time that
2 there is a sidewalk on the property immediately east of the subject property. He said that this is the first time
3 that the petitioner has heard about the requested extension of the sidewalk and the petitioner always has to
4 agree to any special conditions.

5
6 Mr. Peisker stated that they would be open to such a special condition and would comply if and when the
7 property to the east of the church is developed with a sidewalk.

8
9 Ms. Marilyn Lee asked Mr. Peisker if the ten additional classrooms will be used only for Sunday or is a
10 weekly pre-school or daycare planned.

11
12 Mr. Peisker stated that they do not have any plans for a daycare or any of that activity but as good stewards
13 of the community they would prefer to be able to use the building more than just on Sunday. He said that
14 throughout the week they offer the building facility for activities like conferences, neighborhood home
15 association meetings, groups of home school students, etc. He said that the church is not geared up for a
16 daycare facility.

17
18 Ms. Lee asked Mr. Peisker if the church is a not-for-profit corporation under the Illinois Statutes.

19
20 Mr. Peisker stated yes.

21
22 Mr. Passalacqua asked if the extra-curricular activities were considered in the traffic impact statement. He
23 said that the engineer stated that he did not feel that the addition would create a traffic impact. Mr.
24 Passalacqua stated that the location of the church is a very congested area with the Mettler Center, Cherry
25 Hills, and Robeson Crossing.

26
27 Mr. Peisker stated that the primary heavy impact is on Sunday morning when the Mettler Center is closed
28 and Robeson Crossing traffic is minimal. He said that he does not feel that there will be a big traffic change
29 in the traffic impact at this point because those types of uses are already occurring therefore he is not
30 anticipating anything new occurring during the week other than current activities.

31
32 Mr. Passalacqua asked Mr. Peisker if the reason for the proposed addition is due to increased attendance.

33
34 Mr. Peisker stated that the percentage of membership is actually down and they are only planning for growth
35 in the future. He said that the last addition was due to increased membership but that is not the case
36 currently.

37
38 Mr. Thorsland asked Mr. Peisker if he had an approximate number of new activities, such as the home

5-29-14

1 school groups and conferences, which would give a percentage of new daily trips to the church.

2
3 Mr. Peisker stated that when he was speaking about those activities he was not indicating that the home
4 school groups and conferences were going to be added but were activities that were currently happening. He
5 said that he is not aware of any new activities in the future which would add to the daily trips to the church at
6 this point.

7
8 Mr. Thorsland asked the Board if there were any questions for Mr. Peisker and there were none.

9
10 Mr. Thorsland asked if staff had any questions for Mr. Peisker and there were none.

11
12 Mr. Thorsland requested that Mr. John Hall, Zoning Administrator review the Supplemental Memorandum
13 dated May 29, 2014.

14
15 Mr. John Hall, Zoning Administrator, stated that the new Supplemental Memorandum dated May 29, 2014,
16 includes emails from the City of Champaign Planning Department staff and the City of Champaign Right of
17 Way Inspector. He said that the City of Champaign Planning Department staff raised a question about the
18 sidewalk and Mr. Jordan, the City of Champaign Right of Way Inspector, indicated that the proposed
19 driveway appears fine and it is just a matter of obtaining the permit at the time of construction. Mr. Hall
20 stated that there is a very detailed exterior lighting layout attached to the Supplemental Memorandum and
21 the lighting fixtures are proposed to be full cut-off with lamps of appropriate size.

22
23 Mr. Hall stated that in regards to storm water, in a previous permit the petitioner had constructed a detention
24 basin on the east side of the property and as happens with many of our cases staff did not have time to
25 complete a compliance inspection therefore there has been no certification that the volume of detention is the
26 volume of detention that was supposed to have been constructed. He said that he assumes that this issue can
27 be taken care of during this project. He said that the detention basin is indicated by the means of contours
28 and staff has not asked for documentation of as-built volume and there are some changes to another
29 detention basin on the northwest portion of the property. He said that there isn't a lot left to do in regards to
30 storm water but there is some work required therefore the proposed special condition was written as if
31 starting off from scratch but it isn't.

32
33 Mr. Hall stated that in regards to the landscaping plan for the screening of the parking area, in a previous
34 permit the petitioner installed most, if not all, of the screening and staff did not have the opportunity to verify
35 such with a compliance inspection therefore it is a proposed special condition and it may already exist but
36 some of the trees may have died and require replacement.

37
38 Mr. Passalacqua asked Mr. Hall if staff had received any complaints regarding the existing property runoff

5-29-14

1 from any of the neighbors.

2
3 Mr. Hall stated no. He said that staff has not received one call from any recipients of the many notices that
4 were mailed out for this case therefore it appears that the open house that was held answered everyone's
5 questions.

6
7 Mr. Hall stated that the Board needs to review the proposed special conditions, including a new special
8 condition regarding the sidewalk, and the Petitioner needs to indicate whether they agree to those conditions.
9 He noted that this case is ready for final action.

10
11 Mr. Thorsland called Scott Kunkel to testify.

12
13 Mr. Kunkel declined to testify at this time.

14
15 Mr. Thorsland called Mr. Jim Lopez to testify.

16
17 Mr. Lopez declined to testify at this time.

18
19 Mr. Thorsland called Mr. David Wilde to testify.

20
21 Mr. Wilde stated that he is the architect for the proposed addition and would be happy to answer any
22 questions that the Board or staff may have.

23
24 Mr. Thorsland asked the Board if there were any questions for Mr. Wilde and there were none.

25
26 Mr. Thorsland asked if staff had any questions for Mr. Wilde and there were none.

27
28 Mr. Thorsland called Mr. Jake Wolf to testify.

29
30 Mr. Wolf stated that he is the project engineer and would also be happy to answer any questions that the
31 Board or staff may have.

32
33 Mr. Thorsland asked the Board if there were any questions for Mr. Wolf.

34
35 Ms. Lee asked Mr. Wolf to indicate any impact that the proposed addition would have to the drainage on the
36 farmland that is located east of the subject property.

37
38 Mr. Wolf stated that at this time he does not believe that there will be any impact because no changes are

5-29-14

1 being made to the existing drainage. He said that during a previous project the storm water detention had
2 been added without the parking lot addition and all they are doing during this project is adding more parking
3 spaces which should not affect any of the existing drainage to the farmland to the east. He said that the
4 existing storm water detention is located in the southeast corner of the church property which is pretty close
5 to that farmland.

6
7 Mr. Thorsland asked Mr. Wolf to indicate the number of parking spaces currently.
8

9 Mr. Wolf stated that the current total parking spaces that the church has requested is 350, which is what the
10 church currently has, therefore no additional parking spaces are being proposed just relocated.
11

12 Mr. Thorsland asked if the detention basin that has not been fully mapped out will handle the runoff.
13

14 Mr. Wolf stated that the detention basin that was built in 2011 accounted for additional parking spaces
15 although the parking spaces were never built.
16

17 Mr. Thorsland asked Mr. Wolf if he had reviewed the proposed special condition regarding storm water
18 which was included in the Preliminary Memorandum dated May 23, 2014.
19

20 Mr. Wolf stated no.
21

22 Mr. Thorsland asked the Board if there were any further questions for Mr. Wolf and there were none.
23

24 Mr. Thorsland asked if staff had any additional questions for Mr. Wolf and there were none.
25

26 Mr. Thorsland called Mr. Mike Simmons to testify.
27

28 Mr. Simmons declined to testify at this time.
29

30 Mr. Thorsland asked the Board if they had any questions that have not been answered.
31

32 Mr. Thorsland stated that the Board has heard that there is not going to be a big change in daily trips due to
33 the proposed addition to the church. He said that the Petitioner is aware that if the Board requests a traffic
34 impact study that they would have to pay for that study therefore does the Board feel that a traffic impact
35 study is necessary.
36

37 Mr. Passalacqua stated that he does not believe that the Petitioner should have to bear the cost of a traffic
38 impact study because the majority of their traffic is on Sunday and not during the week. He said that if the

5-29-14

1 Petitioner is not having a Monday-Friday school or a consistent amount of activities during the week then he
2 does not believe that the Petitioner should have to bear the cost of a traffic impact study and if they were
3 going to have to bear the cost then he would put some of the cost on Cherry Hills, The Mettler Center, The
4 Crossing, and anyone else along Windsor that contributes to the traffic issue.

5
6 Mr. Hall stated that if not having plans for a daily school is that important to the Board then perhaps the
7 Petitioner would accept a special condition of no daily school.

8
9 Mr. Passalacqua stated that if the Petitioner had indicated that they intended to fill the additional classrooms
10 every day then a traffic impact study would be necessary.

11
12 Mr. Hall stated that if he were the Petitioner and he was asked the question whether the classrooms would be
13 filled every day in the future he does not know if he could have answered the question tonight.

14
15 Mr. Passalacqua stated that a Monday-Friday school maybe in the plans for future.

16
17 Mr. Thorsland reminded the Petitioner that the site plan that is approved tonight should not only reflect
18 everything that may be planned currently or next week but should include a long range plan because any
19 change may impact whether or not they have to come back before the Board for another Special Use Permit.
20 He said that if the Petitioner has a dream or vision for the future then that dream or vision should be included
21 on the site plan or within this case narrative so that they will not have to return before the Board to request
22 permission to fulfill that dream or vision.

23
24 Ms. Lee stated that the vision does not have to be a school but could be a daycare center.

25
26 Mr. Thorsland stated that he is not leaning toward a traffic impact study at this time but, like a closet, once a
27 new space is built it will tend to fill up with something such as a program or with people which will create
28 more daily trips. He said that it is always better to include everything that the church may want to do in the
29 future so that there is a clear path when the time comes to move forward with those visions and dreams. He
30 asked if the Petitioner would be comfortable with the Board adding a condition of placing some sort of a cap
31 on the amount of traffic. He said that the Board could word the condition in many different ways such as if
32 more programs are added the Petitioner would have to come back before the Board and present a traffic
33 impact study.

34
35 Mr. Mike Simmons, Minister for Windsor Road Christian Church, and who resides at 1733 CR 500E,
36 Champaign, stated he can state with confidence that a daycare or school is not part the church's philosophy
37 in what they do as a church. He said that they do want to have a facility that is of service to the community
38 but running a program like a daycare or school is not something that they have ever done and he does not

5-29-14

1 believe that philosophically it is something that they would really promote. He said that when the proposed
2 plans were made for the changes that they are doing now the idea of a gymnasium came up briefly and the
3 Board decided that a gymnasium or such places were not needed because the church would not be used as a
4 place for kids to go to during the week to play. He said that the church does not even have a playground for
5 children in daycare. He said that the Elder Board agrees that a daycare or school is not part of the Church's
6 philosophy.

7
8 Mr. Thorsland asked Mr. Simmons if they would agree to a special condition indicating that any additional
9 programs would trigger a traffic impact study.

10
11 Mr. Simmons stated that he does not believe that the Church would be opposed to such a condition.
12

13 Mr. Thorsland asked the Board if there were any questions for Mr. Simmons and there were none.
14

15 Mr. Thorsland asked if staff had any questions for Mr. Simmons and there were none.
16

17 Ms. Griest stated that proposed special condition G already limits the authorized use as a church. She asked
18 Mr. Hall if proposed special condition G places some limitation on the Petitioner in general as far as opening
19 a school or daycare. She said that a school or daycare would be more of a commercial use for the building
20 rather than using the building for just the congregation.

21
22 Mr. Hall stated that it is a very gray scale and it is necessary to know at whatever point the other activity
23 would become the principal use. He said that given how much traffic and how much of this use is associated
24 with church functions on Sunday and throughout the week he could not imagine what it would take to
25 change that to something else but on the other hand this Board has approved other special use permits for
26 churches where there was a much larger non-church component than what is proposed in this case. He said
27 that while he thinks drafting a special condition about no organized school or daycare is a bit problematic it
28 seems to be important to the Board and he can work on it but it appears that some of the Board members
29 believe that it is a fruitless effort.
30

31 Ms. Griest stated that she is one of the Board members that believe that such a special condition is an
32 onerous effort put on to the staff and almost an unenforceable condition that adds a lot of bureaucracy to
33 something that the primary use is a church. She said that if the Petitioner expands to a level of a school it
34 will have a huge impact on the traffic pattern therefore the church will cease being the primary use and the
35 Petitioner will have to return to the Board. She said that she is comfortable with the proposed special
36 condition G indicating that the church is to be the primary use and she would advocate for not adding an
37 additional condition or a condition for a traffic study.
38

5-29-14

1 Mr. Passalacqua asked if something could be added to proposed special condition G indicating that if the
2 activities change in a manner that would impact daily trips.

4 Ms. Griest stated that such a condition would be unenforceable.

6 Mr. Thorsland stated that he agrees with Ms. Griest's point that it would put a burden on staff to decide that
7 they have added ten church related activities every week and as the Board knows it has to be complaint based
8 and staff does not find out about it until the telephone rings. He said that it would be difficult to place some
9 sort of numerical value on what would trigger starting a traffic study when we do not have a traffic study to
10 start with therefore the Board has no number to go by other than how many parking spaces the church has or
11 ask them to provide a table of activities per month. He said that if the Board desires to come up with
12 something then more information would be required from the Petitioner.

14 Mr. Passalacqua stated that his original comment was that a traffic impact study is not necessary because
15 most of their activity is on Sunday.

17 Mr. Randol agreed with Mr. Passalacqua and requested that the Board move forward.

19 Mr. Thorsland asked the Board if there were any additional questions for any of the witnesses and there were
20 none.

22 Mr. Thorsland asked the audience if anyone desired to cross examine any of the witnesses at this time and
23 there was no one.

25 Mr. Thorsland stated that the Board will now review the proposed special conditions with the Petitioner.

27 Mr. Thorsland read proposed special condition 12.A. as follows:

29 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**
30 **Stormwater Management Policy shall be submitted and approved as part of the Zoning**
31 **Use Permit application for construction and all required certifications shall be**
32 **submitted after construction prior to issuance of the Zoning Compliance Certificate.**
33 **The special condition stated above is required to ensure the following: That the drainage**
34 **improvements conform to the requirements of the Stormwater Management Policy.**

36 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition A. and Mr. Peisker
37 agreed.

5-29-14

1 Mr. Thorsland read proposed special condition 12.B. as follows:

2 **B. Certification from the County Health Department that the septic system on the subject
3 property has sufficient capacity for the existing building and proposed addition is a
4 requirement for approval of the Zoning Use Permit.**

5 The special condition stated above is required to ensure the following: **That the solid waste
6 system conforms to the requirements of the Zoning Ordinance and any applicable
7 health regulations.**

8 Mr. Thorsland asked the Board if there were any questions regarding the suitability of the septic system.

9 Mr. Passalacqua stated that testimony was received indicating that the Petitioner is not expecting rapid
10 growth therefore he cannot imagine that there will be a problem with the existing septic system.

11 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition B. and Mr. Peisker
12 agreed.

13 Mr. Thorsland read proposed special condition 12.C. as follows:

14 **C. The design for the proposed new entrance to the property must be approved by the
15 City of Champaign prior to approving the Zoning Use Permit. The entrance must also
16 be approved as constructed by the City of Champaign in order to extend a Zoning
17 Compliance Certificate.**

18 The special condition stated above is required to ensure the following: **That access and
19 safety concerns for travel on Windsor Road are considered according to applicable City
20 of Champaign engineering standards.**

21 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition C. and Mr. Peisker
22 agreed.

23 Mr. Thorsland read proposed special condition 12.D. as follows:

24 **D. A Landscaping Plan of the required Type A screen for the entire (existing and
25 proposed) parking area must be received and approved or a variance must be applied
26 for and approved by the Zoning Board of Appeals.**

27 The special condition stated above is required to ensure the following: **That the proposed
28 parking facilities conform to the requirements of the Zoning Ordinance.**

5-29-14

1 Ms. Griest asked Mr. Hall if Special Condition D. adequately covers the existing screen that requires repair.

2
3 Mr. Hall stated yes.

4
5 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition D. and Mr. Peisker
6 agreed.

7
8 Mr. Thorsland read proposed special condition 12.E. as follows:

9
10 **E. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner
11 has demonstrated that any new or proposed exterior lighting on the subject property
12 will comply with the lighting requirements of Section 6.1.2.**

13
14 The special condition stated above is required to ensure the following: **That any proposed
15 exterior lighting is in compliance with the Zoning Ordinance.**

16
17 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition E. and Mr. Peisker
18 agreed.

19
20 Mr. Thorsland read proposed special condition 12.F. as follows:

21
22 **F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the
23 proposed church until the petitioner has demonstrated that the proposed Special Use
24 complies with the Illinois Accessibility Code.**

25
26 The special condition stated above is necessary to ensure the following: **That the proposed
27 Special Use meets applicable state requirements for accessibility.**

28
29 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition F. and Mr. Peisker
30 agreed.

31
32 Mr. Thorsland read proposed special condition 12.G. as follows:

33
34 **G. The only principal use authorized by Case #776-S-14 is a church.**
35 The special condition stated above is necessary to ensure the following: **That the petitioner
36 and future landowners understand the requirements of the Zoning Ordinance.**

37
38 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition G. and Mr. Peisker
39 agreed.

5-29-14

1
2 Mr. Hall asked Ms. Chavarria to read new proposed Special Condition H.
3

4 Ms. Chavarria read proposed Special Condition H. as follows:
5

6 **H. The Petitioner shall construct a sidewalk along the length of the property on Windsor**
7 **Road when there is a sidewalk constructed on the property to the east.**
8 The special condition stated above is necessary to ensure the following: **That the petitioner**
9 **provides for safe pedestrian circulation.**

10
11 Mr. Thorsland asked the Petitioner if they agreed with proposed Special Condition H. and Mr. Peisker
12 agreed.
13

14 Mr. Thorsland entertained a motion to approve the special conditions as read.
15

16 **Mr. Passalacqua moved, seconded by Ms. Griest to approve the special conditions as read. The**
17 **motion carried by voice vote.**

18
19 Mr. Thorsland asked staff if there were any new Documents of Record.
20

21 Mr. Hall stated that new item #6 should read as follows: Supplemental Memorandum dated May 29, 2014,
22 with attachments; and item #7: Site photographs distributed at the May 29, 2014, public hearing.
23

24 **Findings of Fact for Case 776-S-14:**
25

26 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
27 776-S-14 held on May 29, 2014, the Zoning Board of Appeals of Champaign County finds that:
28

29 **1. The requested Special Use Permit IS necessary for the public convenience at this**
30 **location.**

31
32 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
33 location because the church serves members in this neighborhood. She said that the Special Use Permit is
34 appropriate in terms of the Ordinance and the property is large enough to accommodate expansion.
35

36 Ms. Griest stated that the location is suitable to hold events for the local community and it can be made
37 available for nearby residents of the area. She said that the church has been on the subject property since
38 1976.

1
2 Ms. Chavarria read the Boards findings as follows:

- 3 • The church serves members in this neighborhood
4 • Special Use Permit is appropriate in terms of the Ordinance
5 • The property is large enough to accommodate expansion
6 • They have community, non-church events in their facility; the facility is appropriate for
7 community events and can be made available to residents in the area
8 • The Church has been on the subject property since 1976

9
10 The Board agreed with the findings as read.

- 11
12 2. The requested Special Use Permit, subject to the special conditions imposed herein, is
13 so designed, located and proposed to be operated so that it WILL NOT be injurious to
14 the district in which it shall be located or otherwise detrimental to the public health,
15 safety and welfare because:
16 a. The street has ADEQUATE traffic capacity and the entrance location has
17 ADEQUATE visibility.

18
19 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
20 visibility.

- 21
22 b. Emergency services availability is ADEQUATE.

23
24 Ms. Griest stated that emergency services availability is ADEQUATE.

- 25
26 c. The Special Use WILL be compatible with adjacent uses.

27
28 Mr. Passalacqua stated that the Special Use is already and WILL be compatible with adjacent uses.

- 29
30 d. Surface and subsurface drainage will be ADEQUATE.

31
32 Ms. Capel stated that surface and subsurface drainage will be ADEQUATE when they comply with the
33 Stormwater Management Policy.

- 34
35 e. Public safety will be ADEQUATE.

36
37 Mr. Thorsland stated that public safety will be ADEQUATE pending compliance with Special Condition B.

1 **f. The provisions for parking will be ADEQUATE.**

2
3 Mr. Passalacqua stated that the provisions for parking will be ADEQUATE.

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

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

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

15
16 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,
17 DOES preserve the essential character of the DISTRICT in which it is located because:
18 a. The Special Use will be designed to CONFORM to all relevant County
19 ordinances.**

20
21 Ms. Griest stated that the Special Use will be designed to CONFORM to all relevant County ordinances.

22
23 **b. The Special Use WILL be compatible with adjacent uses.**

24
25 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

26
27 **c. Public safety will be ADEQUATE.**

28
29 Ms. Griest stated that public safety will be ADEQUATE.

30
31 Ms. Griest stated that the requested Special Use Permit, subject to the special conditions imposed herein,
32 DOES preserve the essential character of the DISTRICT in which it is located.

33
34 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS
35 in harmony with the general purpose and intent of the Ordinance because:**

36
37 **a. The Special Use is authorized in the District.
38 b. The requested Special Use Permit IS necessary for the public convenience at this**

1 **location.**

2
3 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
4 location.

5
6 **c. The requested Special Use Permit, subject to the special conditions imposed**
7 **herein, is so designed, located, and proposed to be operated so that it WILL**
8 **NOT be injurious to the district in which it shall be located or otherwise**
9 **detrimental to the public health, safety, and welfare.**

10
11 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, is
12 so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it
13 shall be located or otherwise detrimental to the public health, safety, and welfare.

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

18
19 Mr. Randol stated that the requested Special Use Permit, subject to the special conditions imposed herein,
20 DOES preserve the essential character of the DISTRICT in which it is located.

21
22 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
23 IS in harmony with the general purpose and intent of the Ordinance.

24
25 **5. The requested Special Use IS an existing nonconforming use and the requested Special**
26 **Use Permit WILL make the existing use more compatible with its surroundings.**

27
28 Mr. Thorsland stated that the requested Special Use IS an existing nonconforming use and the requested
29 Special Use Permit WILL make the existing use more compatible with its surroundings.

30
31 **6. The special conditions imposed herein are required to ensure compliance with the**
32 **criteria for special use permits and for the particular purposes described below:**

33
34 **A. A complete Storm water Drainage Plan that conforms to the requirements of the**
35 **Storm water Management Policy shall be submitted and approved as part of the**
36 **Zoning Use Permit application for construction and all required certifications**
37 **shall be submitted after construction prior to issuance of the Zoning**
38 **Compliance Certificate.**

1 The special condition stated above is required to ensure the following: **That the**
2 **drainage improvements conform to the requirements of the Storm water**
3 **Management Policy.**

4
5 **B. Certification from the County Health Department that the septic system on the**
6 **subject property has sufficient capacity for the existing building and proposed**
7 **addition is a requirement for approval of the Zoning Use Permit.**

8 The special condition stated above is required to ensure the following: **That the**
9 **solid waste system conforms to the requirements of the Zoning Ordinance and**
10 **any applicable health regulations.**

11
12 **C. The design for the proposed new entrance to the property must be approved by**
13 **the City of Champaign prior to approving the Zoning Use Permit. The entrance**
14 **must also be approved as constructed by the City of Champaign in order to**
15 **extend a Zoning Compliance Certificate.**

16 The special condition stated above is required to ensure the following: **That access**
17 **and safety concerns for travel on Windsor Road are considered according to**
18 **applicable City of Champaign engineering standards.**

19
20 **D. A Landscaping Plan of the required Type A screen for the entire (existing and**
21 **proposed) parking area must be received and approved or a variance must be**
22 **applied for and approved by the Zoning Board of Appeals.**

23 The special condition stated above is required to ensure the following: **That the**
24 **proposed parking facilities conform to the requirements of the Zoning**
25 **Ordinance.**

26
27 **E. The Zoning Administrator shall not authorize a Zoning Use Permit until the**
28 **petitioner has demonstrated that any new or proposed exterior lighting on the**
29 **subject property will comply with the lighting requirements of Section 6.1.2.**
30 The special condition stated above is required to ensure the following: **That any**
31 **proposed exterior lighting is in compliance with the Zoning Ordinance.**

32
33 **F. The Zoning Administrator shall not issue a Zoning Compliance Certificate for**
34 **the proposed church until the petitioner has demonstrated that the proposed**
35 **Special Use complies with the Illinois Accessibility Code.**

36 The special condition stated above is necessary to ensure the following: **That the**
37 **proposed Special Use meets applicable state requirements for accessibility.**

- 1 **G. The only principal use authorized by Case #776-S-14 is a church.**
2 The special condition stated above is necessary to ensure the following: **That the**
3 **petitioner and future landowners understand the requirements of the Zoning**
4 **Ordinance.**
- 5 **H. The Petitioner shall construct a sidewalk along the length of the property on**
6 **Windsor Road when there is a sidewalk constructed on the property to the east.**
7 The special condition stated above is necessary to ensure the following: **That the**
8 **petitioner provides for safe pedestrian circulation.**

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

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

14 Mr. Thorsland entertained a motion to move to a final determination for Case 776-S-14.

15 **Mr. Passalacqua moved, seconded by Ms. Lee to move to a final determination for Case 776-S-14. The**
16 **motion carried by voice vote.**

17 Mr. Thorsland informed the petitioners that one Board member was absent therefore it is at their discretion
18 to either continue Case 776-S-14 until a full Board is present or request that the present Board move forward
19 to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

20 Mr. Simmons requested that the present Board move to the Final Determination.

21 **Final Determination for Case 776-S-14:**

22 **Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**
23 **Appeals finds that, based upon the application, testimony, and other evidence received in this case, the**
24 **requirements for Section 9.1.11B. for approval HAVE been met, and pursuant to the authority**
25 **granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special**
26 **Use requested in Case 776-S-14 is hereby GRANTED WITH SPECIAL CONDITIONS to the**
27 **applicants Windsor Road Christian Church, to authorize the following as a Special Use in the AG-2**
28 **District:**

29 **Authorize the expansion and use of an existing, nonconforming church in the AG-2**
30 **Agricultural Zoning District consisting of additional classrooms, worship areas and**

1 recreational space with no change in existing facility use, subject to the following special
2 conditions:

- 3 A. A complete Storm water Drainage Plan that conforms to the requirements of the
4 Storm water Management Policy shall be submitted and approved as part of the
5 Zoning Use Permit application for construction and all required certifications
6 shall be submitted after construction prior to issuance of the Zoning
7 Compliance Certificate.
8 The special condition stated above is required to ensure the following: **That the**
9 **drainage improvements conform to the requirements of the Storm water**
10 **Management Policy.**
- 11 B. Certification from the County Health Department that the septic system on the
12 subject property has sufficient capacity for the existing building and proposed
13 addition is a requirement for approval of the Zoning Use Permit.
14 The special condition stated above is required to ensure the following: **That the**
15 **solid waste system conforms to the requirements of the Zoning Ordinance and**
16 **any applicable health regulations.**
- 17 C. The design for the proposed new entrance to the property must be approved by
18 the City of Champaign prior to approving the Zoning Use Permit. The entrance
19 must also be approved as constructed by the City of Champaign in order to
20 extend a Zoning Compliance Certificate.
21 The special condition stated above is required to ensure the following: **That access**
22 **and safety concerns for travel on Windsor Road are considered according to**
23 **applicable City of Champaign engineering standards.**
- 24 D. A Landscaping Plan of the required Type A screen for the entire (existing and
25 proposed) parking area must be received and approved or a variance must be
26 applied for and approved by the Zoning Board of Appeals.
27 The special condition stated above is required to ensure the following: **That the**
28 **proposed parking facilities conform to the requirements of the Zoning**
29 **Ordinance.**
- 30 E. The Zoning Administrator shall not authorize a Zoning Use Permit until the
31 petitioner has demonstrated that any new or proposed exterior lighting on the
32 subject property will comply with the lighting requirements of Section 6.1.2.
33 The special condition stated above is required to ensure the following: **That any**

proposed exterior lighting is in compliance with the Zoning Ordinance.

- F.** The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed church until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.
The special condition stated above is necessary to ensure the following: **That the proposed Special Use meets applicable state requirements for accessibility.**
 - G.** The only principal use authorized by Case #776-S-14 is a church.
The special condition stated above is necessary to ensure the following: **That the petitioner and future landowners understand the requirements of the Zoning Ordinance.**
 - H.** The Petitioner shall construct a sidewalk along the length of the property on Windsor Road when there is a sidewalk constructed on the property to the east.
The special condition stated above is necessary to ensure the following: **That the petitioner provides for safe pedestrian circulation.**

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

Capel-yes **Griest**-yes **Lee**-yes
Miller-absent **Passalacqua**-yes **Randol**-yes
Thorsland-yes

Mr. Hall informed the petitioners that they have received an approval for their requested Special Use Permit. He stated that staff will send out the appropriate paperwork as soon as possible but in the mean time they should feel free to proceed.

Mr. Thorsland stated that the Board will take a five minute recess.

**The Board recessed at 7:55 p.m.
The Board resumed at 8:00 p.m.**

5. Continued Public Hearing

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the

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

19
20 Mr. Thorsland stated that the Petitioner has requested that Case 685-AT-11 be continued.

21
22 Mr. John Hall, Zoning Administrator, stated that the 100-day limit for continuance is August 28, 2014, and
23 he requests, as the Petitioner, that Case 685-AT-11 be continued to that date.

24
25 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the August 28, 2014, public hearing.

26
27 **Ms. Griest moved, seconded by Mr. Randol to continue Case 685-AT-11 to the August 28, 2014, public**
28 **hearing. The motion carried by voice vote.**

29
30 **Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
31 **Ordinance by amending the Champaign County Storm Water Management Policy by changing the**
32 **name to the Storm Water Management and Erosion Control Ordinance and amending the reference**
33 **in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control**
34 **Ordinance as described in the legal advertisement which can be summarized as follows:** I. Revise
35 **existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to**
36 **have authority to prevent pollution of any stream or body of water. (Part A of the legal**
37 **advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be**
38 **new Section 2 and add purpose statements related to preventing soil erosion and preventing water**

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

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

25
26 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

27
28 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated May 29, 2014,
29 and a revised draft of the Stormwater Management and Erosion Control Ordinance dated May 29, 2014, to
30 the Board for review. He said that the revised draft of this Ordinance does not include the changes that are
31 going to be made to the technical appendices but those changes are intended to be made in the future. He
32 said that he does not expect this draft to be the last version although he does believe that it is very close to
33 being the last revised version.

34
35 Mr. Hall stated that the Supplemental Memorandum dated May 29, 2014, summarizes the revisions. He said
36 that if we had to group these changes into large groups they would be the bulleted items on page 2 of the
37 memorandum and Mr. Levy has been able to address almost all of the comments that have been received
38 thus far during the public hearings for this case. He said that Board members will recall that a memorandum

5-29-14

1 was mailed on May 1st that had the comments from Berns, Clancy and Associates and most of those
2 comments are addressed in this version but not all. He said that by the next meeting staff will have a
3 compilation of all of the comments that have been received and all of the changes that have been made.

4

5 Mr. Hall stated that Berns, Clancy and Associates recommended adding several storm water technical terms.

6

7 Mr. Andrew Levy noted that the only technical terms that were added are those that already existed in the
8 Ordinance and the content was verified to make sure that the definitions matched the intended term but the
9 ones that were in the Ordinance are now defined terms.

10

11 Mr. Hall stated that staff will consider the definitions that are not in the Ordinance to see if they need to be
12 added but staff have done the things that are in there already. He said that the definition of final stabilization
13 was added which is a critical term and he predicts that in the future a common thing that people will ask
14 from staff is a statement of final stabilization so that they can document that their property has achieved final
15 stabilization. He said that this will be important for projects that don't have to comply with ILR10 because
16 when they can prove that they have achieved final stabilization any disturbance that they do after that would
17 be considered separate. He said that staff has not added any specific provision of this but he is assuming that
18 this will be a consistent request.

19

20 Mr. Hall stated that staff clarified applicability and by stating clarified he means that staff greatly simplified
21 it. He said that in Section 4 the Board may recall in the beginning how staff tried to define applicability and
22 it was logical when staff started but it got illogical therefore staff took another look at it to make it simpler.
23 He said that staff was relying on exemptions but now we talk about all sections of the Ordinance that apply
24 to the MS4 Jurisdictional Area and all of the sections that apply outside of the MS4 Jurisdictional Area. He
25 said that at the beginning of Applicability staff has added new information about applicability of ILR10. He
26 said that he recalled that at the last public hearing it was clear that the Ordinance didn't actually provide
27 clear guidance to a citizen when they may have to worry about ILR10 or not. He said that what has been
28 added in Section 4.1.A. may not amount to a lot but it is all that we have to work with about ILR10
29 requirements and those requirements apply both in the MS4 area and outside. He said that ILR10 is
30 discussed a lot in the Land Disturbance and Erosion Control Permits section but previously we did not have
31 a lot of information for folks living outside of the MS4 area therefore staff has tried to add that here. He said
32 that another thing that has been added under Applicability is guidance regarding the conversion of farmland
33 in compliance with ILR10. He said that staff received new information at the last public hearing on this case
34 regarding USEPA's determination about the conversion of farmland and he tried to verify that information
35 but was unsuccessful but he did find that other counties in Illinois had addressed it. He said that staff added
36 Section 4.1.A.3 as follows: When a lot is converted from agricultural use to other land use, the land shall be
37 vegetated with an appropriate protective land cover prior to any application for a Zoning Use Permit or else
38 the land shall be considered to be in a state of land disturbance and appropriate erosion and sedimentation

5-29-14

1 controls provided as necessary unless documentation from the Illinois Environmental Protection Agency or
2 the US Environmental Protection Agency indicates otherwise. He said that if someone is converting
3 farmland to nonagricultural use and it doesn't have an appropriate vegetative cover it is considered to be in a
4 state of land disturbance. He said that staff will continue to attempt to make this sound like plain English
5 but this is staff's understanding to date. He said that staff did find that Kankakee County has something like
6 this in their Ordinance and is a little less informative.

7
8 Mr. Passalacqua stated that this has no regard to the size of the parcel.
9

10 Mr. Hall stated that staff did not get into size although it is critical if it amounts to one acre or more. He said
11 that the risk when something like this is added is that the County may be getting ahead of the IEPA and staff
12 does not want to require things that the IEPA does not require. He said that staff was told that if someone
13 sends a Notice of Intent to the IEPA and the IEPA believes that it is not required the IEPA will let that
14 applicant know therefore we never want to be in front of the IEPA with these regulations and we always
15 want to provide for their determination that it doesn't apply.

16
17 Mr. Thorsland stated that Section 4.1.B. defines Section 4.1.A.3. in regards to size.
18

19 Mr. Hall stated that technically it does but it could be made more clear in Section 4.1.A. 3. He said that it
20 may save future lot purchasers a headache if we would reduce our minimum lot size from one acre to
21 perhaps 9/10th of an acre so that if they just had the minimum lot size they would never be disturbing an acre.
22 He said that he believes if the Board is going to make it a change like this it would be worthwhile but the
23 change has to be made small enough that we are still meeting all of those other requirements for lot size in
24 regards to an active septic system or replacement septic system, area for adequate buildings, etc. He said that
25 it is a known fact that most people do not limit themselves to just one acre but in the future, if what we have
26 been told how the IEPA operates is true, there might be a big incentive to limit lot size to something less
27 than one acre in which case less best prime farmland would be used or less wooded areas would be used. He
28 said that if someone wants to deal with the ILR10 complications they could still go with an eight acre lot and
29 disturb as much as they want.

30
31 Mr. Thorsland asked if such a change would be a separate case.
32

33 Mr. Hall stated yes.
34

35 Mr. Thorsland stated that the Board has had cases in the past where what was implied by the tax map to be
36 one acre but was technically not one acre therefore needed a variance to replace their home or build an
37 accessory structure.
38

5-29-14

1 Mr. Hall stated that the rules that are in place at the time were for certain reasons.

2
3 Mr. Thorsland stated that a change like that would prevent in the future someone who believed that they
4 were completely compliant in having a one acre minimum and trying to do something like that, that they
5 were actually okay and did not need a variance. He said that changing the minimum could take some of the
6 variance cases away.

7
8 Ms. Lee stated that in discussing changing agriculture land and reviewing the definition of agriculture, many
9 times a farmer may have been growing their crop next to the drainage ditch and they put in a certain area of
10 grass to protect the drainage ditch. She said that according to the definition the farmer is not growing any
11 crop from an agricultural point of view therefore technically even though agriculture is exempted this
12 practice of planting grass to protect the drainage ditch may not be accepted.

13
14 Mr. Hall stated that this is a good instance where that portion of the land that gets converted already has an
15 appropriate vegetative cover, the grass filter strip, so he believes that it would be compliant.

16
17 Ms. Lee stated that it makes sense but someone may argue that even though it has a vegetative cover it was
18 converted from agriculture use and is not exempt.

19
20 Mr. Hall stated that Section 4.1.A.3. states that when it is converted from agricultural use to other land use it
21 has to have appropriate vegetative cover and a grass filter strip is the most appropriate and there will always
22 be people that will argue.

23
24 Ms. Lee stated that Section 4.2, General Exemptions, does not include an exemption for drainage districts.
25 She said that it includes other units of government and it talks about public street and railroad right-of-ways
26 but it does not discuss drainage right-of-ways and it should be included.

27
28 Mr. Hall stated that a blanket exemption was not given to drainage districts. He said that the drainage
29 districts operate under the rules of IDNR in terms of the statewide permits and those are exempted. He said
30 that if exempting drainage districts is something that the Board wants to include in Section 4.2 then it can be
31 added but he would bet that it would be very controversial.

32
33 Ms. Lee asked if there could be any references to the fact that as long as the drainage districts comply with
34 the statewide permits they are exempt.

35
36 Mr. Hall stated that this reference is already in the Ordinance under Section 4.2.E. He said that Section
37 4.2.E. reads as follows: Land disturbance pursuant to a statewide or regional permit administered by the
38 Illinois Department of Natural Resources Office of Water Resources (IDNR/OWR) and provided that

5-29-14

1 information sufficient to document compliance with the relevant statewide or regional permit is submitted to
2 the Zoning Administrator at least one week prior to the start of land disturbance. This exemption is only
3 applicable to that portion of construction or land disturbance that is eligible for the statewide or regional
4 permit.

5
6 Mr. Thorsland stated that Section 4.2.F. indicates that any land disturbance that is done by or for either the
7 unit of government that has maintenance authority or the street right-of-way.

8
9 Ms. Griest stated that Section 4.2.F. does not state or the street right-of-way but states of the street right-of-
10 way. She said that typically the drainage district does not maintain streets.

11
12 Mr. Thorsland stated that in addressing Ms. Lee's concerns text could be added to Section 4.2.F.

13
14 Ms. Griest suggested that staff review the drainage law first before the Board tampers with this and if staff
15 feels that there is some appropriate text that could be added they could propose it but she does not believe
16 that this concern fits in Section 4.2.F. She said that there is an expert in the audience who could enlighten
17 the Board about drainage districts and whether or not they always need to get an OWR permit from IDNR.
18

19 Mr. Thorsland called Don Wauthier to testify.

20
21 Mr. Don Wauthier, Engineer with Berns, Clancy and Associates stated that he serves as the Volunteer
22 Technical Advisor for the Illinois Association of Drainage Districts therefore he believes he could answer
23 any question that the Board may have regarding drainage districts.

24
25 Ms. Griest asked Mr. Wauthier if a drainage district is required to obtain an IDNR/OWR permit when they
26 are performing any kind of maintenance.

27
28 Mr. Wauthier stated yes and no. He said that in many cases a drainage district is not always required to
29 obtain a permit. He said that there are statewide permits that are issued and as long as they fall under the
30 statewide permit requirement they do not have to make an application and can proceed as long as they follow
31 the statewide guidelines. He said that in many cases they do not need a permit to do general maintenance
32 work from the Office of Water Resources. He said that the Office of Water Resources, by state law, their
33 jurisdiction on regulating construction activities only occurs once the watershed exceeds ten square miles in
34 an agricultural area and one square mile in an urban area. He said that if a drainage district is out in a rural
35 area and they are in the upper nine square miles of the watershed there is no permit requirements at all
36 because the Office of Water Resources does not have any regulatory authority.

37
38 Ms. Griest stated that Section 4.2.E. would not give the drainage districts an exemption under the way that

5-29-14

1 the section is written.

2
3 Mr. Wauthier stated that they will be disturbing more than one acre of ground so they will have to apply for
4 and obtain an ILR10 from the IEPA even though they don't have to get an Office of Water Resource
5 Construction Permit.

6
7 Mr. Hall stated that he knew that if they comply with all of the IDNR/OWR conditions they do not have to
8 have a permit but doesn't that really amount to the same thing as having a permit.

9
10 Mr. Wauthier stated that you automatically have a permit.

11
12 Mr. Hall asked Mr. Wauthier, that in the first instance, stating that it is exempt pursuant to a statewide
13 permit, does Section 4.2.E. need to be clarified more and in the second instance he hadn't thought of when
14 there is a less than a ten square mile watershed in a rural area and he does not know what to do about it. He
15 said that as long as they are compliant with ILR10 they should be okay.

16
17 Mr. Wauthier stated if there is more than one acre of land disturbance an ILR10 is required. He said that an
18 interesting element that is coming in to play is that the Army Corps of Engineers has published a new
19 nationwide permit that is changing the regulations for drainage district maintenance activities and making
20 those requirements stringent and whether or not those are going to be passed or not is unknown therefore it
21 will be another six or eight months before they are enacted.

22
23 Mr. Hall asked Mr. Wauthier that when a drainage district meets the conditions of an IDNR statewide permit
24 does the IDNR still make them apply for a joint application with the Army Corps of Engineers.

25
26 Mr. Wauthier stated no, and right now the nationwide permits with the Army Corps of Engineers sync up
27 very closely with statewide permits so that for the most part if you qualify for an IDNR statewide permit you
28 will also qualify for a nationwide Army Corps of Engineers permit. He said that the Army Corps of
29 Engineers requires you to send in a letter but you do not have to do the application process you only send in
30 the letter and tell them what you are doing but that may not be the case in a few months.

31
32 Mr. Randol stated that he believes that the drainage districts are under enough scrutiny without the County
33 trying to tell them what to do.

34
35 Mr. Hall asked Mr. Randol to clarify his statement in relation to this Ordinance. He asked Mr. Randol if he
36 would like to see a blanket exemption for drainage districts.

37
38 Mr. Randol stated that the Board does not deal with drainage districts in telling them what they can and

5-29-14

1 cannot do and the Army Corp of Engineers and IDNR/OWR are agencies that are already enforcing their
2 activities therefore why should we add another layer as to what the drainage districts can or cannot do.

3
4 Mr. Thorsland asked Mr. Randol if he believes that the language in Section 4.2.E. is adequate.

5
6 Mr. Randol stated that he believes that Section 4.2.E. is adequate.
7

8 Ms. Griest asked Mr. Randol if Section 4.2.E. is adequate enough to give the drainage districts a blanket
9 exemption.
10

11 Mr. Randol stated yes. He said that the drainage district is already governed by other units of government.
12

13 Mr. Hall stated that the only possible change that he could see is based on Mr. Wauthier's comments and
14 clarify when there is no IDNR statewide permit applicable then they would be expected to comply with
15 ILR10, which is the State's expectation.
16

17 Ms. Griest asked Mr. Hall if the County has a regulatory responsibility to govern and permit drainage
18 districts and if not then revise Section 4.2.A. and include drainage district along with agriculture.
19

20 Mr. Hall stated that outside of the MS4 area the County has no obligation but the Ordinance has to be written
21 so that it is clear as to what rules are being adopted. He said that the intent was not to add any new
22 regulations but to exempt them under the current regulations and we have just been told that there is some
23 drainage district activity out there that this does not exempt. He said that his only concern about doing a
24 blanket exemption is that he knows some people who would not support that at the County Board.
25

26 Ms. Lee asked Mr. Hall to indicate on what grounds the County Board would not support a blanket
27 exemption for drainage districts.
28

29 Mr. Hall stated that there is probably no issue with the drainage districts which are in a watershed that is less
30 than 10 square miles because those are almost always going to be intermittent flowing ditches therefore the
31 problems that we could run into may not be a big as he fears. He said that anyone who has lived in
32 Champaign County for very long knows that there are different opinions about drainage ditch maintenance.
33

34 Mr. Thorsland stated that the Board should remember that they are the Zoning Board of Appeals and the
35 Board sends their recommendations to the County Board therefore we should not worry about what they will
36 or will not take because the County Board has never had any fear in sending back recommendations that they
37 do not agree with. He said that the ZBA needs to be comfortable with their recommendations first and
38 whether or not we add this exemption or not is up to this Board at this time and then if the County Board

5-29-14

1 does not agree they can remove it or send it back to the ZBA.

2 Mr. Passalacqua asked Mr. Hall how staff is going to police or reprimand the drainage district.

3 Mr. Hall stated that citizens expect staff to investigate when a complaint is received regarding the rural area.

4
5 Mr. Passalacqua stated that this would be complaint driven like everything else is. He said that there are so
6 much criteria that the drainage districts have to abide by already he does not think that it behooves the ZBA
7 to put another layer on someone who is already well regulated.

8 Mr. Thorsland asked the Board if they were comfortable with the language in Section 4.2.E. or do we want
9 to clarify it based on Mr. Wauthier's testimony or take the full leap and exempt drainage districts.

10 Mr. Passalacqua asked Mr. Hall if he is apprehensive of just placing a blanket exemption on drainage
11 districts.

12 Mr. Hall stated that if we added the enhancement of watersheds which are less than 10 square miles ILR10
13 compliance would be a requirement and the County Board could chose to agree or not. He said that if the
14 County Board chooses not to require ILR10 compliance then his view is that in those watersheds which are
15 less than 10 acres and the only existing State requirement is ILR10 compliance then the County Board would
16 have decided that they will not require it and will be able to address it.

17 Mr. Passalacqua stated that he is in favor of saying that compliance is required from the State as opposed to
18 saying that we have nothing to do with it.

19 Mr. Wauthier stated that it isn't just drainage districts but all the other units of local government. He said
20 that a school district could decide to build a new school that is outside a city or village's jurisdiction. He
21 said that an exemption could be given to units of government that still have to comply with the ILR10 but
22 don't have to meet the County's.

23 Mr. Passalacqua asked Mr. Wauthier if that would push the complaints off onto the State instead of the
24 County's Department of Planning and Zoning.

25 Mr. Hall stated that he would be concerned about giving a blanket exemption to all local units of
26 government. He said that in street and railroad right-of-ways the area is so limited that they should be able
27 to do what they need to do. He said that we have fought long and hard to establish our jurisdiction for
28 schools and they are largely exempt but not completely and he does not understand why they would not
29 comply with ILR10 but on the other hand if the County Board does not want to worry about it outside of the

5-29-14

1 MS4 then that settles that. He said that being able to assess what a blanket exemption might mean concerns
2 him greatly.

3
4 Ms. Capel stated that all of this will apply to outside of the MS4 but the blanket exemptions will not apply
5 within the MS4.

6
7 Mr. Hall stated that the general exemptions in Section 4.2. apply inside and outside the MS4.

8
9 Ms. Capel stated that if a blanket exemption were provided for the school districts it would also apply inside
10 or outside the MS4 as well.

11
12 Mr. Hall stated that school districts cannot be exempted from the ILR10 because it is a State requirement and
13 there is no need for us to add anything on top of that for sure but it is up to the County Board as to whether
14 or not they want to document that is in compliance. He said that we are never proposing to take over
15 compliance away from what the IEPA does.

16
17 Ms. Capel stated that this would be adding another level of local compliance. She said that they would have
18 to supply copies of what they submitted at the State level.

19
20 Mr. Hall stated that outside of the MS4 it is up to the County Board. He said that we do need to address
21 these small watersheds to make sure that we are not leaving gaps in what we are proposing.

22
23 Mr. Thorsland asked staff to work with Mr. Levy to come up with language regarding this issue based upon
24 the testimony from Mr. Wauthier.

25
26 Mr. Hall stated that regarding clarification of exemptions in Section 4.3, Storm Water Drainage Plan
27 Exemptions and Section 4.4, LDEC Permit Exemptions, there were previous comments that the exemptions
28 were confusing therefore he hopes that the revised version will make more sense and staff is always open to
29 suggestions.

30
31 Mr. Hall stated that in regards to clarification of Authorizations and Project Termination (Sections 5.2 and
32 5.3) additional detail has been added to both. He said that the previous version was not real clear in regards
33 to ILR10 approvals and how that coincides with County approvals outside of the MS4 area so we nailed
34 those down and if the County Board chooses not to do that those things that would not be required. He said
35 that all of the revised material is double underlined so that it is highlighted. He said that previously there
36 was a requirement for no erosion or sedimentation on to adjacent properties and he still likes that but he has
37 had enough people tell him that it is crazy therefore it has been revised from "no" to "minimize" but the
38 intent is the same.

1
2 Mr. Hall stated that there were several comments received regarding Section 8.3, Hierarchy of Best
3 Management Practices, indicating that we had establishing native vegetation above things that seemed more
4 important therefore it was revised. He said that we want to preserve the existing natural streams, channels
5 and drainage ways as much as practicable.

6
7 Mr. Hall stated that some detail was added to Section 12, Minor and Major LDEC Permits, to specify things
8 about ILR10 compliance so that someone in that area, a homeowner wanting to build a new home, would
9 have better guidance on what to expect when they come in to apply for a permit.

10
11 Mr. Hall stated that Mr. Levy has made a lot of other minor changes based on comments and staff wanted to
12 get the revised draft Ordinance to the Board tonight even though we know there will be other changes. He
13 said that there were so many questions in our mind at the end of the last public hearing that staff thought they
14 owed it to the Board to try and resolve some of those questions. He said that more questions and comments
15 have been received tonight therefore there is more detail to add and staff will do that.

16
17 Mr. Hall noted that staff has started a Preliminary Finding of Fact but staff if not going to share it with the
18 Board until staff has more confidence of the document and not distribute ten different versions of evidence.

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

21
22 Mr. Hall stated that staff made it clear in Case 773-AT-14 that staff is completely confident that ILR10
23 compliance outside of the MS4 is completely optional for the County Board. He said that normally we do
24 not like to show the County Board as many options as we have in this case but we have never had an
25 amendment that is as complicated as this case and he thinks that the options that we have are reasonable and
26 this Board should only recommend the options that it is comfortable with. Mr. Hall stated that staff is not
27 out there trying to think up new options but some of these things seem so significant and we know that the
28 County Board would like to have a degree of freedom to deal with these issues so we do have these options.
29 He said that the options are discussed in the memorandum and the options are reviewed. He said that it may
30 be very confusing but the changes related to these options are really very small and are documented in the
31 memorandum. He said that staff believes that it would be a good idea to go into the draft Ordinance and add
32 some kind of notation so that when you are reading a phrase that is optional there would be a footnote to
33 make it clear. He said that the draft that is in front of the Board tonight does not have that kind of notation
34 and if the Board does not believe that it is necessary staff will not add it.

35
36 Ms. Capel stated that the options that Mr. Hall are discussing are all based on whether the Board is going to
37 require compliance outside of the MS4 or not.

5-29-14

1 Mr. Hall stated that Ms. Capel's statement is one option but when staff was at ELUC they were thinking that
2 it wasn't optional but we realized after ELUC that staff did not do a very good job of specifying what it
3 meant. He said that the only option that ELUC was aware were the optional minimum requirements that
4 apply to all properties, such as, minimize erosion and sedimentation, take care of your construction trash,
5 don't get mud on the road, etc. He said that ELUC wanted those as options but when it comes back to them
6 it doesn't mean that they will be approved. He said that we have two options, the option of ILR10
7 compliance outside of the MS4 area and Case 773-AT-14, Option to Require Permits for Grading and
8 Demolition outside of MS4 Jurisdiction which doesn't change anything in Case 769-AT-13 and is a separate
9 case but it should be considered during review of Case 769-AT-13.

10
11 Ms. Lee stated that in one of the written materials Mr. Levy indicated that soil is a pollutant. She said that
12 the soil itself is not a pollutant it is only the movement of the soils which make it a pollutant.
13

14 Mr. Hall stated that this Ordinance only discusses soil as a pollutant when it gets washed into a drainage
15 ditch.
16

17 Mr. Levy stated that indicating soil as a pollutant may have been an over simplification just to get across the
18 point that when you think of soil the term pollutant does not normally come to mind. He said that when soil
19 is included in storm water the USEPA defines that soil as a pollutant.
20

21 Mr. Thorsland called Mr. Herb Schildt to testify.
22

23 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that the definition of grading reads as
24 follows: Excavation or fill or any combination thereof. He said that one thing that has come up is the
25 concept of private roads and we need to be very careful with this definition. He said that a private road is
26 typically maintained with gravel when potholes occur and a grade box is used behind a tractor to smooth out
27 the ruts. He said that he does think that it would be appropriate under any circumstance to require a permit
28 to drag their road to smooth out the ruts but the definition does not clearly exempt such a practice. He said
29 that Case 773-AT-14 hinges on these definitions and since the definition of grading occurs during Case 769-
30 AT-13 he thought that it would be appropriate to raise this concern. He said that there are probably some
31 other specialized cases where someone could call the office indicating that grading was occurring and no
32 permit was obtained.
33

34 Mr. Schildt stated that Section 6.4.E. discusses that no construction or land disturbance pursuant to
35 construction shall occur within 50 feet of the top of the bank of a drainage ditch or stream or within 30 feet
36 of the centerline of a drainage swale that is indicated as an intermittent stream on a USGS 7.5 Minute
37 Quadrangle Map. He stated that it is his understanding that drainage districts already have easement or right-
38 of-way rights and perhaps Mr. Wauthier could provide clarification.

5-29-14

1
2 Mr. Hall stated that he appreciates the mentioning of grading of a driveway because this Ordinance is
3 materially different than the Zoning Ordinance and it is another Ordinance which discusses land disturbance
4 and if a common type of land disturbance has been considered and has not been exempted then it applies.
5 He said that someone would have to be doing one-half mile of private road to disturb one acre so if you have
6 a driveway that is one-half mile long perhaps it could be maintained in a cycle where you do one-half at one
7 time. He said that it is unlikely that people will complain about the maintenance of a driveway therefore it is
8 unlikely that it will even be brought to staff's attention. He said that perhaps an exemption for driveways is
9 necessary.

10
11 Mr. Schildt stated that near his home there is a long private road and it has side roads that run off it. He said
12 that perhaps one of the neighbors decided that he was going to maintain the entire private road it is possible
13 that it could exceed one acre if it were made 20 feet wide and a few passes for grading were made. He said
14 that to be honest he does not like the concept of grading permits and he does not like laws which make
15 people "criminals" for doing normal activity on their property. He said that he understands staff's concept
16 but it should be made specific.

17
18 Mr. Hall stated that he is certain that people have the legal right to continue access to their home therefore he
19 does not know what regulating driveway maintenance would accomplish. He said that perhaps driveway
20 maintenance merits an exemption.

21
22 Ms. Lee stated that there are rural driveways with grass in the middle and many times those rural driveways
23 have to be maintained by removing the grass so that it does not scrape the bottom of vehicles. She said that
24 in this situation vegetation is being disturbed.

25
26 Mr. Thorsland asked the audience if anyone else desired to sign the witness register at this time and there
27 was no one.

28
29 Mr. Thorsland asked the Board if they had any further questions regarding Case 769-AT-13 at this time and
30 there were none.

31
32 Mr. Thorsland closed the witness register.

33
34 Mr. Thorsland entertained a motion for continuance of Case 769-AT-13.

35
36 Mr. Hall recommended that Case 769-AT-13 be continued to the next public hearing which is June 12, 2014.

37
38 **Ms. Lee moved, seconded by Mr. Randol to continue Case 769-AT-13 to the June 12, 2014, public**

1 hearing. The motion carried by voice vote.

2

3 **6. New Public Hearings**

4

5 Case 773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County Storm
6 Water Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by
7 adding the following: A. Add a requirement for a Grading and Demolition Permit for any grading or
8 demolition that disturbs one acre or more of land or for any grading or demolition that is part of a
9 larger common plan of development in which one acre or more of land disturbance will occur, and
10 that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;
11 and C. Add required information to be provided in the application for a Grading and Demolition
12 Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or
13 Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General
14 Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a
15 Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations
16 enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.
17 Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other
18 requirements related to Grading and Demolition Permits.

19

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

24

25 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

26

27 Mr. John Hall, Zoning Administrator, stated that the Preliminary Memorandum dated May 23, 2014, clarifies
28 that staff believes that there is value that could be achieved by adding this to the Ordinance. He said that he
29 wants to propose it so that when he is asked later by citizens why the County Board doesn't worry about this
30 he can reply that staff gave them the opportunity and they decided not to. He said that complaints regarding
31 changes in drainage, mud being tracked onto the roads, and mud washing onto adjacent properties are really
32 one of our more common complaints in the rural area and the ETJ area. He said that he does not want the
33 Board to think that adding this little bit of change will give us a tremendous tool that we can go out and stop
34 all of those things from happening because it won't although we might be able to make some of those
35 situations better. He said that drainage is the kind of thing where people will always be changing drainage at
36 a scale that we cannot hope to do anything about but this will at least give us the opportunity to step in to a
37 situation and try to minimize damage or stop the bad activity that is going on. He said that the Grading and
38 Demolition Permit is separate from the ILR10 compliance because they are two different things and the

5-29-14

1 County Board can do one without doing the other and obviously if you are trying to prevent water pollution
2 requiring permits for grading and demolition that involve one acre or more of land disturbance it makes a lot
3 of sense which is why he would like to present it as a option to the County Board.

4
5 Mr. Passalacqua asked Mr. Hall if the State of Illinois has any jurisdiction for some of these complaints such
6 as a construction site that puts mud on the road. He asked if mud on the road is a violation of the Illinois
7 EPA.

8
9 Mr. Hall stated that a construction site can track mud onto the road but they are supposed to clean it up at the
10 end of the day.

11
12 Mr. Passalacqua asked if some of the complaints that staff receive are forwarded to the state level for
13 enforcement because we don't have an ordinance for now.

14
15 Mr. Hall stated that when he becomes aware of such an issue and the disturbance is for an acre or more he
16 notifies the state inspector.

17
18 Mr. Passalacqua stated that most of the complaints that staff receives are for less than one acre of
19 disturbance. He said that he understands that there are complaints about these kinds of things and they are
20 not currently addressed by an ordinance but are they governed by the IEPA.

21
22 Mr. Hall stated that if it is one acre or more the state is the only agency that has any rules that apply. He said
23 that Grading and Demolition Permit, as proposed, is only necessary if there is one acre or more however the
24 minimum requirements in Case 769-AT-13 apply to all acreages. He said that Case 769-AT-13 requirements
25 will be the only means for doing anything for small disturbances and the one acre or more is for the larger
26 stuff.

27
28 Mr. Thorsland stated that the minutes for the March 14, 2014, public hearing indicated testimony from Mr.
29 Rob Parker. Mr. Thorsland stated that Mr. Parker discussed a property, approximately one acre in size, near
30 his that was having a new home constructed upon it and that it was receiving a lot of fill dirt. He said that if
31 it rained mud would be all over the road therefore if someone called staff about the mud on the road and the
32 property was over one acre in size, staff could call IEPA but if it were less than one acre the township
33 highway commissioner would be called. Mr. Thorsland asked Mr. Hall if the body of the Ordinance is based
34 on complaints regarding this kind of problem.

35
36 Mr. Hall stated yes.

37
38 Mr. Thorsland asked Mr. Hall if we have a rainy harvest season and farmers are pulling their trucks and

5-29-14

1 wagons out of the field and leaving mud on the road.

2
3 Mr. Hall stated that this would be considered agriculture and the township highway commissioner would be
4 notified.

5
6 Mr. Randol asked Mr. Hall what applies if someone does not disturb more than one acre of their land but
7 does affect the water flow for adjacent properties consisting of more than one acre combined.

8
9 Mr. Hall stated that the optional minimum requirements would provide a little leverage in an instance like
10 that because that person has obviously obstructed drainage, even though in his mind he hasn't, and it would
11 be easy to prove. He said that staff has cases sitting at the State's Attorney's Office now which are much
12 more serious than this and they have never been taken to court therefore something like this will probably
13 never be taken to court but that does not mean that staff does not try to get something done in the office.

14
15 Mr. Randol asked what if someone causes the drainage to flood someone's home.

16
17 Mr. Hall stated that hopefully that would go to court if it is not corrected.

18
19 Mr. Randol stated that the Ordinance would at least add minimal clout.

20
21 Mr. Hall stated that hopefully if staff is called early enough we can discourage things like that happening in
22 the future.

23
24 Ms. Griest asked if he had any statistical information on how many complaints have been received which
25 involve a construction permit that required ILR10 compliance and complaints that would not would have
26 required ILR10 compliance so that the Board could compare the impact of the grading. She said that she
27 believes that grading and demolition fall into two different categories because the grading may not include
28 construction or demolition but demolition isn't going to include construction necessarily. She asked Mr.
29 Hall if his permitting data indicates how many of the new permits will be taken out of the queue which
30 would not be taken out by Case 769-AT-13 anyway.

31
32 Mr. Hall stated that it is not a great number but as he recalls filling about 9 acres of land to a depth of 12 feet
33 of fill, carefully selected so that it is outside of the mapped floodplain did not fall under any regulations
34 because it was just fill. He said that it turns out that there was a Storm Water Prevention Plan in place and a
35 copy was submitted to staff and that was the end of that. He said that in another instance there was filling of
36 a drainageway to a depth of close to 20 feet of fill in a drainageway that affected a neighbor's land and in
37 terms of area it amounted to a couple of acres. He said that they were filling the drainageway with a culvert
38 at the bottom so at least drainage was not completely blocked and it was not related to any other construction

5-29-14

1 and it was agriculture related therefore staff could not have done anything about it anyway. He said that in
2 another instance a person was and still is grading a three acre lot in the floodplain and mulching it heavily to
3 great depths, which is good because that protects the soil, but there is mud being tracked onto the road and
4 there was bad access to the road. He said that this instance actually ended up being in the MS4 area so the
5 IEPA got involved and there is now no mud being tracked onto the road. He said that the fill is outside of
6 the floodplain and the soil is heavily mulched so there is no erosion. He said that the neighbors are still
7 wondering what is going on because no home has been built but at least their concerns about drainage and
8 mulch blocking the visibility triangle have been corrected. He said that if we would have a permit process in
9 place staff may have known about it in the beginning which would have prevented the mud from being
10 tracked onto the road and staff could have answered the calls that were received in the very beginning. He
11 said that the complainant was amazed that these types of changes could be done without requiring any type
12 of permit which is why staff is proposing this.

13
14 Ms. Griest asked if we are more concerned about it in the floodplain than in the general area. She said that if
15 the County Board were not in favor of something like this they might lean more to it if it is applied to
16 floodplain areas.

17
18 Mr. Hall stated that the County's Special Flood Hazard Areas Ordinance regulates filling and grading in the
19 floodplain therefore we already have a lot of authority on that which is why in each of those instances the
20 line of grading matched the line of the mapped flood hazard area therefore they knew what they were doing
21 to be within the law.

22
23 Ms. Griest asked if we will be proposing an Ordinance that is going to affect a very limited number of
24 Champaign County residents but put the burden on a larger number that are not causing a problem whereas
25 most of those issues will come in under Case 769-AT-13.

26
27 Mr. Hall stated that the greatest amount of earth moving and reshaping has never been related to construction
28 and has been just filling the property in case someone wants to use it someday. He said that if it is out of the
29 mapped floodplain it is completely exempt from all of our regulations unless the County Board adopts a
30 grading permit. He said that the filling of the drainageway was agriculture so it was exempt. He said that
31 something like creating a new building site is exempt from our regulations and will be exempt from Case
32 769-AT-13 unless there is a requirement for a grading permit. He said that he has never encountered
33 demolition but now that he knows that demolition can lead to the need for an ILR10 permit it is something
34 that he is sensitive to and once we start regulating demolition you better be regulating compliance with
35 asbestos removal. He said that these are all things that neighbors will call about therefore it is something
36 that he wants to give the County Board an option to do or not.

37
38 Ms. Marilyn Lee asked if any of Case 773-AT-14 is required by the IEPA or is this going completely beyond

5-29-14

1 what is required by IEPA.

2
3 Mr. Hall stated that we are going beyond what is required although we do have to regulate grading and
4 demolition in the MS4 area but we do not have to do it outside of the MS4 area. He said that regulating
5 grading and demolition outside the MS4 area is completely optional which is just like ensuring compliance
6 with ILR10.

7
8 Mr. Thorsland asked Mr. Hall if the County Board were to adopt Case 773-AT-14 most people would make
9 staff aware ahead of time that there was a plan therefore would this reduce or increase staff work load.

10
11 Mr. Hall stated that if they are going to grade one acre or more they would have to submit a grading
12 application. He said that we are not setting any standards for grading but we are requesting that they tell us
13 what they are going to do. He said that if the County Board adopts the optional minimum requirements staff
14 would make people aware that they cannot track on to the road or at least clean it up and minimize erosion
15 and sedimentation. He said that he does not believe that the rules are burdensome rules and if the County
16 Board adopts the requirement to require compliance with ILR10 then that will add costs to those kinds of
17 developments and it will be in the order of \$5,000 minimum per instance. He said that this is not
18 burdensome unless the County Board wants to require compliance with ILR10 and then it will be a
19 significant change and there is no doubt about it.

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

22
23 Mr. Hall stated that staff wrote the grading and demolition thing and that it occurred to us that we have a
24 model there for general exemptions. He said that if Case 774-AT-14 is adopted the grading and demolition
25 permitting exemptions will be a little bit different but staff has not had a chance to update that information.

26
27 Mr. Levy stated that the numbering may also change and in Section #5.2.A.3 we want to reiterate that we
28 want the applicant to include the extent and nature of all proposed land disturbance which will be the critical
29 piece of information that they will be providing to the Zoning Administrator. He said that these changes will
30 be consistent with Case 769-AT-13.

31
32 Mr. Hall stated that in regards to this case staff hasn't shown the Board what this looks like integrated into
33 the text for Case 769-AT-13 and staff can do that if the Board desires but it is pretty self contained.

34
35 Mr. Thorsland asked the Board if there were any further questions for Mr. Hall or Mr. Levy and there were
36 none.

37
38 Mr. Thorsland called Mr. Herb Schildt to testify.

5-29-14

1 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that Mr. Hall's comment on page 2 of the
2 Preliminary Memorandum dated May 23, 2014, indicates that the following: The benefit is slight but
3 complaints about drainage changes are common enough that the County Board should consider requiring
4 Grading and Demolition Permits even if it does not require ILR10 compliance outside of the MS4
5 Jurisdictional Area. Mr. Schildt stated that he believes Mr. Hall is correct with this statement. He said that
6 Mr. Hall indicated that from time to time staff receives complaints regarding grading although it is Mr.
7 Schildt's understanding that if someone harms your personal property you have recourse by law. He said
8 that he may be mistaken but he believes it is true that if someone willfully harms your property it is a
9 criminal act and if someone inadvertently harms your property you have civil recourse therefore he does not
10 believe that neighbors are without recourse. He said that it seems that we are going to place a great burden
11 on a vast number of people who are innocent with nearly zero impact on the person who maybe sort of fast
12 and loose with things and he does not like laws like that. He said that he does not like laws which punish
13 everybody because somebody once in awhile does not do the right thing. Mr. Schildt stated that he does not
14 like the concept of implementing Grading and Demolition Permits and should this go forward spending a
15 great amount of time on the definition of "Grading" is important and careful thought and input from many
16 others who maybe in the business who do all sorts of things that may be considered grading would be very
17 important. He said that it is his hope that this does not go forward and he hopes that the case is withdrawn.
18 He said that it seems that we could go through a lot of time and effort for something that he feels is not right
19 for Champaign County. He thanked the Board and staff for the opportunity to voice his comments regarding
20 this case.

22
23 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt and there were none.
24

25 Mr. Thorsland asked if staff had any questions for Mr. Schildt and there none.
26

27 Mr. Thorsland requested a continuance date from staff.
28

29 Mr. Hall stated that it would make sense to continue Case 773-AT-14 to the June 12, 2014, public hearing.
30

31 Mr. Thorsland entertained a motion to continue Case 773-AT-14 to the June 12, 2014, public hearing.
32

33 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 773-AT-14 to the June 12, 2014,
34 public hearing. The motion carried by voice vote.**

35
36 **7. Staff Report**
37

38 Mr. Hall stated that he would have given the Board a heads up about our new part-time staff person except

5-29-14

1 this happened relatively recently and it has been a while since the Board has met. He said that Susan
2 Chavarria will be working part-time in our office and he does plan to advertise for an Associate Planner at
3 the end of this year and he intends to have the position re-evaluated in the mean time. He said that he
4 believes that the County needs to get as much experience for the Associate Planner position as it can afford
5 therefore having Ms. Chavarria on board to staff the position at least part-time while he is getting position
6 re-evaluated was a great opportunity. He noted that the arrangement with Ms. Chavarria is not intended to
7 last past this fiscal year. He said that he will keep the Board updated regarding the search for the new
8 Associate Planner.

9
10 Mr. Hall stated that a new intern started in the office on May 19th and she has been helping Ms. Hitt, Zoning
11 Officer, with enforcement. He said that there has already been an improvement in enforcement which is not
12 due to any lack of performance on Ms. Hitt's part but we do have another person who has time to work all
13 week on enforcement and that makes a great difference. He said that he hopes that the intern will be able to
14 achieve some planning experience but the condition of the hiring was that for the summer the intern would
15 be working mainly on enforcement and so far it has been working out great.

16
17 Ms. Lee requested status on the property owned by Mr. Harshbarger.

18
19 Mr. Hall stated that the subject garage was shortened by 7-1/2 feet and is in compliance. He said that it is his
20 understanding that the property has also been sold.

21
22 **8. Other Business**
23 **A. Review of Docket**

24
25 Mr. Hall stated that the docket is self-explanatory and he has no new updates for the Board.

26
27 **9. Audience Participation with respect to matters other than cases pending before the Board**

28
29 None

30
31 **10. Adjournment**

32
33 Mr. Thorsland entertained a motion to adjourn the meeting.

34
35 **Ms. Griest moved, seconded by Mr. Randol to adjourn the meeting. The motion carried by voice vote.**

36
37 The meeting adjourned at 9:27 p.m.

ZBA

AS APPROVED JUNE 26, 2014

5-29-14

1

2 Respectfully submitted

3

4

5

6

7

8

9 Secretary of Zoning Board of Appeals

10

11

12

13

14

15

16

17