

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61802**

**DATE: October 16, 2014**

**PLACE: Lyle Shield's Meeting Room**

**1776 East Washington Street**

**Urbana, IL 61802**

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

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

**MEMBERS ABSENT :** Roger Miller, Eric Thorsland

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

**OTHERS PRESENT :** Herb Schildt, Clara Sedberry, Dale Sedberry, Justin Watterson, Brystal Deer, Steve Burdin, J. David Freese, Mackenzie Hillman, Rachel Simmons, Shelby Bohlen, John Jay

**1. Call to Order**

The meeting was called to order at 7:00 p.m.

Mr. Hall informed the Board that due to the absence of Mr. Thorsland the Board needs to appoint an acting Chair for tonight's meeting.

**Ms. Lee moved, seconded by Mr. Passalacqua to appoint Cathe Capel as acting Chair for tonight's meeting. The motion carried by voice vote.**

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

The roll was called and a quorum declared present with two members absent.

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

**3. Correspondence**

None

**4. Approval of Minutes (September 11, 2014 and September 25, 2014)**

Ms. Capel entertained a motion to approve the September 11, 2014, and September 25, 2014, minutes as

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1 submitted.

2

3 **Mr. Randol moved, seconded by Mr. Passalacqua to approve the September 11, 2014, and September**  
4 **25, 2014, minutes as submitted.**

5

6 Ms. Capel asked the Board if there were any corrections or additions to the minutes and there were none.

7

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

9

10 **5. Continued Public Hearing**

11

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

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1 **(Parts G, I, J, P, Q, R, S and W of the legal advertisement).**

2  
3 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
4 witness register for that public hearing. She reminded the audience that when they sign the witness register  
5 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time.  
6

7 Ms. Capel asked the petitioner if he would like to make a brief statement regarding the request.  
8

9 Mr. John Hall, Zoning Administrator, distributed an updated list of the Documents of Record for Case 769-  
10 AT-13 dated October 16, 2014, to the Board for review. He stated that he had no new information for the  
11 Board tonight and requested that Case 769-AT-13 be continued to the October 30, 2014, meeting.  
12

13 Ms. Capel entertained a motion to continue Case 769-AT-13 to the October 30, 2014, meeting.  
14

15 **Mr. Randol moved, seconded by Ms. Griest to continue Case 769-AT-13 to the October 30, 2014,**  
16 **meeting. The motion carried by voice vote.**  
17  
18

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

34 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
35 witness register for that public hearing. She reminded the audience that when they sign the witness register  
36 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time.  
37

38 Ms. Capel asked the petitioner if he would like to make a brief statement regarding the request.

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1  
2 Mr. John Hall, Zoning Administrator, stated that he had no new information regarding this case tonight and  
3 requested that Case 773-AT-13 be continued to the October 30, 2014, meeting.

4  
5 Ms. Capel entertained a motion to continue Case 773-AT-13 to the October 30, 2014, meeting.

6  
7 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 773-AT-13 to the October 30, 2014,**  
8 **meeting. The motion carried by voice vote.**

9  
10 **6. New Public Hearing**

11  
12 **Case 787-V-14 Petitioner: Village of Foosland Request to authorize the construction and use of a**  
13 **municipal storage building in the R-2 Single Family Residence Zoning District with a front yard of 10**  
14 **feet from the property line facing Park Street in lieu of the minimum 25 feet and a setback of 31 feet**  
15 **from the centerline of Park Street in lieu of the minimum 55 feet. Location: The North Half of Block 3**  
16 **of Lamar Foos addition to the town of Foosland in Section 17 of Brown Township, commonly known**  
17 **as the Village Park located between 3<sup>rd</sup> and 4<sup>th</sup> Streets and between Lamar and Park Streets in the**  
18 **Village of Foosland, Champaign County Illinois.**

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

28  
29 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
30 witness register for that public hearing. She reminded the audience that when they sign the witness register  
31 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time

32  
33 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

34  
35 Mr. Dale Sedberry, who resides at 200 Lamar, Foosland, stated that he had no new information to add to the  
36 case.

37  
38 Ms. Capel called John Hall to testify.

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1  
 2 Mr. John Hall, Zoning Administrator, stated that he had no new information to review with the Board  
 3 tonight. He said that the Preliminary Memorandum dated October 9, 2014, includes two special conditions.  
 4 He said that the first special condition is regarding the State of Illinois accessibility requirement, which the  
 5 petitioner has graciously already gotten established with Doug Gamble, Accessibility Specialist with the  
 6 State of Illinois Capital Development Board, so that is very clear. He said that the second special condition  
 7 is regarding the State of Illinois Building Code requirements. He said that the proposed structure is a non-  
 8 residential building therefore the state building code requirements apply. He said that the special conditions  
 9 are also included in the Summary of Evidence.

10  
 11 Ms. Capel read the proposed special conditions as follows:  
 12

13 **A. Regarding State of Illinois accessibility requirements:**

- 14 **(1) Per the September 15, 2014, email from Douglas Gamble, Accessibility**  
 15 **Specialist with the State of Illinois Capital Development Board, provide**  
 16 **Accessible route from the accessible parking space north of the Community**  
 17 **Center to the new storage building. The route should be asphalt or concrete,**  
 18 **at least 36 inches wide, with a slope not to exceed 1:20 and a cross slope not**  
 19 **to exceed 1:50.**
- 20
- 21 **(2) If the total cost of the proposed storage building exceeds \$50,000, the Zoning**  
 22 **Administrator shall not approve a Zoning Use Permit for the proposed storage**  
 23 **facility without certification by an Illinois Licensed Architect or Illinois**  
 24 **Professional Engineer that the new building will comply with the Illinois**  
 25 **Accessibility Code and Illinois Environmental Barriers Act.**
- 26
- 27 **(3) The Zoning Administrator shall not authorize a Zoning Compliance**  
 28 **Certificate authorizing operation of the proposed storage facility until**  
 29 **the Zoning Administrator has verified that the warehouse storage facility**  
 30 **as constructed does in fact comply with the Illinois Accessibility Code and**  
 31 **Environmental Barriers Act.**

32  
 33 The special condition stated above is to ensure the following:  
 34 **That the proposed Special Use meets applicable state codes for handicap**  
 35 **Accessibility.**

36  
 37 Ms. Capel asked Mr. Sedberry if he agreed to Special Condition A.  
 38

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1 Mr. Sedberry stated that he agreed to Special Condition A.

2  
3 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**  
4 **authorizing occupancy of the proposed storage facility until the Zoning Administrator**  
5 **has received a certification of inspection from an Illinois Licensed Architect or other**  
6 **qualified inspector certifying that the new building complies with the following**  
7 **codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008**  
8 **or later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing**  
9 **Code.**

10  
11 The special condition stated above is required to ensure the following:  
12 **That the proposed structure is safe and built to current standards.**

13  
14 Ms. Capel asked Mr. Sedberry if he agreed to Special Condition B.

15  
16 Mr. Sedberry stated that he agreed to Special Condition B.

17  
18 Ms. Capel called Clara Sedberry to testify.

19  
20 Ms. Sedberry declined to testify.

21  
22 Ms. Capel called Dale Sedberry to testify.

23  
24 Mr. Sedberry declined to testify.

25  
26 Ms. Capel called Susan Chavarria to testify.

27  
28 Ms. Chavarria declined to testify.

29  
30 Ms. Capel called John Hall to testify.

31  
32 Mr. Hall stated that he was not sure if Mr. Sedberry was prepared for the special condition regarding  
33 building codes. He said that the building codes are not a County requirement therefore they cannot be  
34 waived.

35  
36 Mr. Sedberry stated that he will have Cleary Buildings provide a document regarding compliance with all  
37 required building codes.

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1 Mr. Hall stated that such a document would be good for the building. He said that he is not sure if Cleary  
2 Buildings will be prepared to make the same certification regarding the electrical. He said that the statement  
3 regarding the state building code certifies that the structure is built according to a code therefore Cleary will  
4 design and erect the shell of the building but if they are not completing the interior of the structure Mr.  
5 Sedberry would need to contact someone early during the process so that they can be involved.

6  
7 Ms. Capel closed the witness register.

8  
9 Mr. Passalacqua asked Mr. Hall if, for the minutes, the Board needs to mention the minor pre-existing  
10 nonconformity.

11  
12 Mr. Hall stated that Mr. Passalacqua's concern is adequately addressed in the Summary of Evidence  
13 although the Board could add the following statement to the last sentence in item #5.B(3): "and the ZBA  
14 agreed at the October 16, 2014, public hearing."

15  
16 Ms. Capel entertained a motion to approve the special conditions.

17  
18 **Ms. Griest moved, seconded by Mr. Randol to approve the special conditions. The motion carried by**  
19 **voice vote.**

20  
21 **Findings of Fact for Case 787-V-14:**

22  
23 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
24 787-V-14 held on October 16, 2014, the Zoning Board of Appeals of Champaign County finds that:

- 25  
26 **1. Special conditions and circumstances DO exist which are peculiar to the land or**  
27 **structure involved, which are not applicable to other similarly situated land and**  
28 **structures elsewhere in the same district.**

29  
30 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or  
31 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
32 same district because the building will be located in an existing park with many mature trees.

- 33  
34 **2. Practical difficulties or hardships created by carrying out the strict letter of the**  
35 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**  
36 **the land or structure or construction.**

37  
38 Ms. Griest stated that practical difficulties or hardships created by carrying out the strict letter of the

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1 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
2 or construction. She cited Summary of Evidence item #8.B.(1) as follows: “Without the proposed variance,  
3 the Village would need to cut down more trees in its park in order to construct the storage building.”  
4  
5

6 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**  
7 **result from actions of the applicant.**  
8

9 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO  
10 NOT result from actions of the applicant because the trees, power line, and buried phone line exist without  
11 regard to the petitioner.  
12

13 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in**  
14 **harmony with the general purpose and intent of the Ordinance.**  
15

16 Ms. Griest stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in  
17 harmony with the general purpose and intent of the Ordinance because it is unlikely that Park Street will be  
18 widened or require right of way for utilities.  
19

20 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT**  
21 **be injurious to the neighborhood or otherwise detrimental to the public health, safety,**  
22 **or welfare.**  
23

24 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL  
25 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare  
26 because there is no effect.  
27

28 **6. The requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS,**  
29 **IS the minimum variation that will make possible the reasonable use of the**  
30 **land/structure.**  
31

32 Ms. Griest stated that the requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS, IS  
33 the minimum variation that will make possible the reasonable use of the land/structure.  
34

35 **7. The special conditions imposed herein are required for the particular purposes**  
36 **described below:**

37 **A. Regarding State of Illinois accessibility requirements:**

- 38 **(1) Per the September 15, 2014, email from Douglas Gamble, Accessibility**

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1 Specialist with the State of Illinois Capital Development Board, provide  
 2 Accessible route from the accessible parking space north of the Community  
 3 Center to the new storage building. The route should be asphalt or concrete,  
 4 at least 36 inches wide, with a slope not to exceed 1:20 and a cross slope not  
 5 to exceed 1:50.  
 6

7 (2) If the total cost of the proposed storage building exceeds \$50,000, the Zoning  
 8 Administrator shall not approve a Zoning Use Permit for the proposed storage  
 9 facility without certification by an Illinois Licensed Architect or Illinois  
 10 Professional Engineer that the new building will comply with the Illinois  
 11 Accessibility Code and Illinois Environmental Barriers Act.  
 12

13 (3) The Zoning Administrator shall not authorize a Zoning Compliance  
 14 Certificate authorizing operation of the proposed storage facility until  
 15 the Zoning Administrator has verified that the warehouse storage facility  
 16 as constructed does in fact comply with the Illinois Accessibility Code and  
 17 Environmental Barriers Act.  
 18

19 The special condition stated above is to ensure the following:  
 20 That the proposed Special Use meets applicable state codes for handicap  
 21 Accessibility.  
 22

23 B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate  
 24 authorizing occupancy of the proposed storage facility until the Zoning Administrator  
 25 has received a certification of inspection from an Illinois Licensed Architect or other  
 26 qualified inspector certifying that the new building complies with the following  
 27 codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008  
 28 or later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing  
 29 Code.  
 30

31 The special condition stated above is required to ensure the following:  
 32 That the proposed structure is safe and built to current standards.  
 33

34 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of  
 35 Fact as amended.  
 36

37 Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record  
 38 and Findings of Fact as amended. The motion carried by voice vote.

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Ms. Capel entertained a motion to move to the Final Determination for Case 787-V-14.

**Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 787-V-14. The motion carried by voice vote.**

Mr. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to either continue Case 787-V-14 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Sedberry requested that the present Board move to the Final Determination.

**Final Determination for Case 787-V-14:**

**Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Variance requested in Case 787-V-14 is hereby GRANTED WITH CONDITIONS to the petitioner Village of Foosland to authorize the following variances in the R-2 Single Family Residence Zoning District:**

**Authorize the construction and use of a municipal storage building in the R-2 Single Family Residence Zoning District with a front yard of 10 feet from the property line facing Park Street in lieu of the minimum 25 feet and a setback of 31 feet from the centerline of Park Street in lieu of the minimum 55 feet.**

**Subject to the following conditions:**

- A. Regarding State of Illinois accessibility requirements:**
  - (1) Per the September 15, 2014, email from Douglas Gamble, Accessibility Specialist with the State of Illinois Capital Development Board, provide Accessible route from the accessible parking space north of the Community Center to the new storage building. The route should be asphalt or concrete, at least 36 inches wide, with a slope not to exceed 1:20 and a cross slope not to exceed 1:50.**
  - (2) If the total cost of the proposed storage building exceeds \$50,000, the Zoning Administrator shall not approve a Zoning Use Permit for the proposed storage**

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1 facility without certification by an Illinois Licensed Architect or Illinois  
2 Professional Engineer that the new building will comply with the Illinois  
3 Accessibility Code and Illinois Environmental Barriers Act.

- 4
- 5 (3) The Zoning Administrator shall not authorize a Zoning Compliance
- 6 Certificate authorizing operation of the proposed storage facility until
- 7 the Zoning Administrator has verified that the warehouse storage facility
- 8 as constructed does in fact comply with the Illinois Accessibility Code and
- 9 Environmental Barriers Act.

10

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

12 **That the proposed Special Use meets applicable state codes for handicap**

13 **Accessibility.**

- 14
- 15 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
- 16 **authorizing occupancy of the proposed storage facility until the Zoning Administrator**
- 17 **has received a certification of inspection from an Illinois Licensed Architect or other**
- 18 **qualified inspector certifying that the new building complies with the following**
- 19 **codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008**
- 20 **or later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing**
- 21 **Code.**

22

23 The special condition stated above is required to ensure the following:

24 **That the proposed structure is safe and built to current standards.**

25

26 Ms. Capel requested a roll call vote:

27

28 Lee-yes	Miller-absent	Passalacqua-yes
29 Randol-yes	Thorsland-absent	Griest-yes
30 Capel-yes		

31

32 Mr. Hall informed the petitioners that they have received an approval for their request and staff will be in

33 touch soon regarding permitting.

34

35 **Case 790-V-14 Petitioner: Mary Freese and Dave Freese, Agent Request to authorize the following in**

36 **the AG-1 District: Part A. The creation and use of a lot that is 3.968 acres in area on best prime**

37 **farmland in lieu of the maximum allowed three acres on best prime farmland required by Footnote 13**

38 **in Section 5.3; and Part B. The rebuilding, if necessary, of a nonconforming dwelling with a setback of**

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1 **54.5 feet in lieu of the minimum required setback of 55 feet and a front yard of 14.5 feet in lieu of the**  
2 **minimum required 25 feet required by Section 5.3. Location: A proposed 3.968 acre tract in Mahomet**  
3 **Township in the South Half of the South Half of the South Half of Section 28 of Township 20N, Range**  
4 **7 East of the Third Principal Meridian and commonly known as the farmstead located at 250 CR**  
5 **1900N, Seymour.**  
6

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

16 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
17 witness register for that public hearing. She reminded the audience that when they sign the witness register  
18 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time.  
19

20 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.  
21

22 Mr. David Freese, who resides at 1301 Shellbark Ct, Washington, stated that the subject property is a family  
23 farm that his parents purchased in 1971. He said that his father retired from farming over eight years ago  
24 and has been cash renting the property during that time. He said that last November, due to health reasons,  
25 his parents moved into a nursing home therefore the house has been empty for the last eight or nine months.  
26 He said that he and his parents do not want the house sitting empty because he lives near Peoria and it is a  
27 long drive to get to the property to perform maintenance. He said that the house and all of the outbuildings  
28 are for sale and they currently have a buyer who is interested in purchasing the property. He said that in  
29 order to encompass all of the outbuildings the property must be larger than the allowed maximum of three  
30 acres on best prime farmland. He said that in order to create a logical sized property which will encompass  
31 all of the structures a 4.4 acre lot was proposed which will also allow 15 feet along the property for  
32 maintenance. He said that the buyer is currently engaged in farming and is planning to potentially have  
33 livestock therefore the property will continue its agricultural use. Mr. Freese stated that because the property  
34 is within one and one-half miles of Mahomet he was required to subdivide with Mahomet. He said that  
35 Mahomet requires a 40 feet half right of way which will place the house 14.5 feet from the property line  
36 therefore requiring the second variance request. He said that it is anticipated that the new owner will want to  
37 construct a garage addition to the home and with the approval of the variance they will not be required to  
38 have the new addition set back over ten feet from the front of the house.

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Ms. Capel asked staff if there were any questions for Mr. Freese.

Mr. Hall asked Mr. Freese if he expects the buyer to build an addition which is in line with the existing home.

Mr. Freese stated that the buyer has not mentioned such a request but Mr. Freese is anticipating that the first thing that the buyer will want to do is add on a two-car garage which is in line with the existing home.

Mr. Hall stated that the variance is for whatever is shown on the approved site plan and at this point it is the house as it sits. He said that if Mr. Freese would like to amend the site plan the Board may be willing to approve, however many feet a two-car garage might be, otherwise the buyer would have to come back for a new variance when he is ready to build the addition. Mr. Hall stated that the decision to allow such a revision is entirely up to the Board and if they are agreeable Mr. Freese could make that change tonight.

Mr. Freese stated that he would like to keep the process moving along and get the deal closed therefore, if the Board is agreeable, he would like to amend the site plan tonight.

Mr. Hall asked Mr. Freese if he knows what the dimension of a two-car garage would be. He said that if the Board is willing they could provide for a two-car garage addition and if anything more than a two-car garage is desired then the buyer would need to come back before the Board for a new variance. He said that if the addition is a two-car garage that exceeds what anyone would normally think what a two-car garage should be then that wouldn't be a problem.

Mr. Freese stated that he would be fine with that.

Mr. Passalacqua asked Mr. Freese if the home currently has an attached one-car garage.

Mr. Freese stated yes.

Mr. Passalacqua stated that the property also has outbuildings.

Mr. Freese stated yes.

Mr. Passalacqua asked Mr. Hall if the Board should indicate an estimated dimension of 15' x 24' for the addition.

Mr. Hall stated that he would not recommend inserting dimensions.

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1  
2 Mr. Passalacqua stated that if amending the site plan will simplify things and sweeten the deal for the sale  
3 then he doesn't see a problem. He said that this is one of those cases where he is ready to approve it now.  
4  
5 Mr. Hall stated that the approved site plan can indicate in dashed lines a future two-car garage addition on  
6 the east side of the existing home.  
7  
8 Mr. Passalacqua stated that the buyer will still need to obtain a Zoning Use Permit if they do indeed desire to  
9 construct a two-car garage.  
10  
11 Mr. Freese stated that they were concerned about the required 40 feet right of way by the Village of  
12 Mahomet which makes the house only 15 feet from the property line.  
13  
14 Ms. Capel asked the Board if there were any additional questions for Mr. Freese and there were none.  
15  
16 Ms. Capel asked if staff had any additional questions for Mr. Freese and there were none.  
17  
18 Ms. Capel asked the audience if anyone desired to cross examine Mr. Freese and there was no one.  
19  
20 Ms. Capel called Susan Chavarria to testify.  
21  
22 Ms. Chavarria, Associate Planner, distributed Attachment A, Annotated Site Plan dated October 16, 2014,  
23 and photographs of the subject property to the Board for review. She said that Attachment A is regarding  
24 best prime farmland and illustrates that within the black hashed area the owner is seeking to add a minimum  
25 amount of best prime farmland. She said that Attachment A. will be added to the Documents of Record  
26 under item #2.A. She said that the photographs will be listed as Attachment F. and will be added under  
27 Documents of Record item #2.B. She said that an email was received by staff on October 7, 2014, and will  
28 be mentioned on page 9 of the Summary of Evidence under item #11.E. and also listed as Document of  
29 Record item #3. She said that the email indicated that Mr. Steve Meyers, Farm Manager with Busey Ag  
30 Services, representing Foster Family Limited Partnership, called today to let staff know that he and his  
31 clients have no issues with the requested variance by their adjacent landowner Mary Freese.  
32  
33 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding  
34 this case and there was no one.  
35  
36 Ms. Capel closed the witness register.  
37  
38 Ms. Capel read the proposed special condition as follows:

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**A. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the petitioner has received subdivision approval from the Village of Mahomet.**

The special condition stated above is required to ensure the following:  
**That the proposed lot expansion is in compliance with the Village of Mahomet subdivision regulations.**

Ms. Capel asked Mr. Freese if he agreed to Special Condition A.

Mr. Freese stated that he agreed to Special Condition A.

Ms. Capel entertained a motion to approve the special condition as read.

**Ms. Griest moved, seconded by Ms. Lee to approve Special Condition A. as read. The motion carried by voice vote.**

Mr. Hall noted that a new item #4 should be added to the Documents of Record indicating the following: Amended Site Plan at the October 16, 2014, public hearing with a two-car garage addition.

Mr. Passalacqua stated that such language indicates that the Board is approving construction now. He asked if perhaps the word “future” should be inserted.

Mr. Hall stated that new item #4 could read as follows: Amended Site Plan at the October 16, 2014, public hearing with a future two-car garage addition.

**Findings of Fact for Case 790-V-14:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 790-V-14 held on October 16, 2014, the Zoning Board of Appeals of Champaign County finds that:

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

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

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1 same district. She requested that the Board copy the text from Summary of Evidence items #7.B(2) and (3)  
2 as follows: The house and all outbuildings were constructed prior to the adoption of the Zoning Ordinance  
3 on October 10, 1973; and the proposed lot contains an existing homestead, outbuildings and lawn.  
4

5 **2. Practical difficulties or hardships created by carrying out the strict letter of the**  
6 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**  
7 **the land or structure or construction.**  
8

9 Ms. Griest stated that practical difficulties or hardships created by carrying out the strict letter of the  
10 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
11 or construction. Ms. Griest requested that the Board copy the text from Summary of Evidence items #8.B  
12 and C. as follows: Regarding Part A of the variance, the amount of additional best prime farmland converted  
13 in the creation of the lot has been minimized consistent with simple lines of tillage and providing 15 feet  
14 side and rear yards to ensure ease of maneuvering farm machinery; and Regarding Part B of the variance, the  
15 existing dwelling and outbuildings were constructed prior to adoption of the Zoning Ordinance in October  
16 10, 1973.  
17

18 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**  
19 **result from actions of the applicant.**  
20

21 Mr. Passalacqua stated that the special conditions, circumstances, hardships or practical difficulties DO NOT  
22 result from actions of the applicant because the special conditions, circumstances, hardships or practical  
23 difficulties are pre-existing conditions.  
24

25 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in**  
26 **harmony with the general purpose and intent of the Ordinance.**  
27

28 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in  
29 harmony with the general purpose and intent of the Ordinance because it provides for the sale of the property  
30 with minimal hardship.  
31

32 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT**  
33 **be injurious to the neighborhood or otherwise detrimental to the public health, safety,**  
34 **or welfare.**  
35

36 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL  
37 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare  
38 because the property is unchanged.

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- 6. **The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Ms. Griest stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.

- 7. **The special conditions imposed herein are required for the particular purposes described below:**

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the petitioner has received subdivision approval from the Village of Mahomet.**

The special condition stated above is required to ensure the following:  
**That the proposed lot expansion is in compliance with the Village of Mahomet subdivision regulations.**

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended.

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

Ms. Capel entertained a motion to move to the Final Determination for Case 790-V-14.

**Mr. Passalacqua moved, seconded by Ms. Lee to move to the Final Determination for Case 790-V-14. The motion carried by voice vote.**

Mr. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to either continue Case 790-V-14 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Freese requested that the present Board move to the Final Determination.

**Final Determination for Case 790-V-14:**

**Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**

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1 Appeals finds that, based upon the application, testimony, and other evidence received in this case,  
 2 that the requirements for approval in Section 9.1.9.C HAVE been met, pursuant to the authority  
 3 granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals  
 4 of Champaign County determines that the Variance requested in Case 790-V-14 is hereby GRANTED  
 5 WITH CONDITIONS to the petitioners Mary Freese and David Freese, Agent, to authorize the  
 6 following:

7 Part A. The creation and use of a lot that is 3.968 acres in area on best prime farmland  
 8 in lieu of the maximum allowed three acres on best prime farmland required by  
 9 Footnote 13 in Section 5.3; and

10  
 11 Part B. The rebuilding, if necessary, of nonconforming dwelling with a setback of 54.5  
 12 feet in lieu of the minimum required setback of 55 feet and a front yard of 14.5 feet in  
 13 lieu of the minimum required 25 feet required by Section 5.3.

14  
 15 **SUBJECT TO THE FOLLOWING CONDITION:**

16  
 17 A. The Zoning Administrator shall not authorize a Zoning Use Permit Application  
 18 or issue a Zoning Compliance Certificate on the subject property until the  
 19 petitioner has received subdivision approval from the Village of Mahomet.

20  
 21 The special condition stated above is required to ensure the following:  
 22 That the proposed lot expansion is in compliance with the Village of Mahomet  
 23 subdivision regulations.

24  
 25 Ms. Capel requested a roll call vote.

26  
 27 Lee-yes Miller-absent Passalacqua-yes  
 28 Randol-yes Thorsland-absent Griest-yes  
 29 Capel-yes

30  
 31 Mr. Hall informed the petitioner that he has received an approval of his request. He said that staff will mail  
 32 out the appropriate paperwork as soon as possible. He noted that if Mr. Freese had any questions he should  
 33 feel free to call the office.

34  
 35 **7. Staff Report**

36  
 37 None

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1 **8. Other Business**

2 **A. Review of Docket**

3  
4 Mr. Hall distributed an updated docket dated October 16, 2014, to the Board for review. He said that it  
5 appears that after the October 30<sup>th</sup> meeting the Board will not be very busy although there will be other cases  
6 submitted. He said that considering there is only one meeting scheduled for November and December it is a  
7 good thing that the docket is not as full.

8  
9 Ms. Lee asked Mr. Hall when the January, 2015 meeting will be held.

10  
11 Mr. Hall stated that the date of the January, 2015 meeting is unknown until the new County Board  
12 establishes and approves their 2015 meeting calendar. He said that generally staff prepares the new ZBA  
13 calendar in late December.

14  
15 Mr. Passalacqua asked Mr. Hall if staff has completed the compliance inspection for the roofing company.

16  
17 Mr. Hall stated no, although staff has received and approved the Change of Use Permit. He said that staff  
18 wanted to give the applicant the required time between the permit and the inspection.

19  
20 **9. Audience Participation with respect to matters other than cases pending before the Board**

21  
22 None

23  
24 **10. Adjournment**

25  
26 Ms. Capel entertained a motion to adjourn the meeting.

27  
28 **Ms. Lee moved, seconded by Ms. Griest to adjourn the meeting. The motion carried by voice vote.**

29  
30 The meeting adjourned at 7:47 p.m.

31  
32 Respectfully submitted

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37 Secretary of Zoning Board of Appeals  
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ZBA

*AS APPROVED NOVEMBER 13, 2014*

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