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**MINUTES OF REGULAR MEETING**  
**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

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

**DATE: June 27, 2013**

**PLACE: Lyle Shields Meeting Room**  
**1776 East Washington Street**  
**Urbana, IL 61802**

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

**MEMBERS PRESENT:** Catherine Capel, Paul Palmgren, Tom Courson, Eric Thorsland, Roger Miller

**MEMBERS ABSENT :** Brad Passalacqua

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

**OTHERS PRESENT :** Kerry Gifford, Jeff Breen, John Sherwood, Jeff Oberman, Dale Stierwalt, Bradley Clemmons, David Kieffer, Karl Newman, Mike Wachstetter, Norman Wachstetter, David Stalter, Dennis Cummins, Roger Miller, Bud Parkhill

---

**1. Call to Order**

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

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

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

**3. Correspondence**

None

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

**4. Approval of Minutes**

None

**5. Continued Public Hearing**

None

**6. New Public Hearings**

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1 **Case 749-V-13** Petitioner **Sangamon Valley Public Water District with Kerry Gifford, General**  
2 **Manager** Request to authorize a County Board Variance from Subsection 13.2.1A.4 that requires  
3 **construction or use to comply with the SUBDIVISION regulations of a municipality when the**  
4 **requirement for annexation to the municipality is pursuant to or is a requirement for plat approval by**  
5 **that municipality, for a proposed expansion of a water treatment plant and related facilities that are**  
6 **owned and operated by a predominately rural water district in the AG-2 District.** Location: An  
7 **approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest**  
8 **Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the**  
9 **Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.**

10  
11 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
12 sign the witness register for that public hearing. He reminded the audience that when they sign the  
13 witness register they are signing an oath.

14  
15 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

16  
17 Mr. Kerry Gifford, General Manager for Sangamon Valley Public Water District, stated that he is before the  
18 Board with a request for a variance from the subdivision requirements. He said that the water district is in  
19 the process of working with planning regarding the plat. He said that they have not been successful with  
20 negotiations with the Village of Mahomet regarding the annexation issue.

21  
22 Mr. Thorsland called John Hall to testify.

23  
24 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated June 27, 2013, to  
25 the Board for review. He said that he is not sure if it was obvious to the Board members when they read the  
26 preliminary memorandum but the final version of the text amendment, Case 743-AT-13, that was  
27 recommended by the ZBA for approval to the County Board to fend off municipal protests was revised. He  
28 said that in the Summary of Evidence for Case item #6.: Regarding specific Zoning Ordinance requirements,  
29 749-V-13, Subsection 13.2.1A.4. includes three requirements that were added to the amendment. He said  
30 that staff was trying to get agreements from municipalities and the County Board still had to override a  
31 municipal protest, and it did, but staff added a requirement, item # 6.C.(1)(a), for a Plat of Subdivision to be  
32 submitted. He said that the Plat does not have to be a complete Plat because the only way that staff would  
33 know if it were complete would be to have the Village of Mahomet review it but this was a necessary  
34 addition to at least get one municipality to not protest the text amendment. He said that item # 6.C.(1)(b) is a  
35 requirement that there be a condition on the approval that approval of the variance does not confer or support  
36 violation of the technical platting requirements. He said that item #6.C.(1)(c) requires that the County  
37 provide notice to the relevant municipality of the public hearing and the final determination of the variance  
38 and copies of any related Zoning Use Permit or Zoning Compliance Certificates that are authorized. He said

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1 that this is so the municipality is kept informed. He said that staff did notify the Village of Mahomet about  
2 this public hearing and the new Supplemental Memorandum indicates staff's recommendations for proposed  
3 special conditions as follows:

4 **A. The approval of Case 749-V-13 shall not confer County Board approval or support**  
5 **for violation of the technical platting requirements of the Village of Mahomet**  
6 **subdivision ordinance.**

7 The above special condition is required to ensure the following:

8 **To ensure compliance with the *Zoning Ordinance* requirements.**  
9

10 **B. The Zoning Administrator shall provide notice to the Village of Mahomet of the final**  
11 **determination for Case 749-V-13 and copies of any related Zoning Use Permit or**  
12 **Zoning Compliance Certificate that are authorized.**

13 The above special condition is required to ensure the following:

14 **To ensure compliance with the *Zoning Ordinance* requirements.**  
15

16 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate until a plat**  
17 **of subdivision for the subject property has been received that meets the requirements of**  
18 **13.2.1A.4.(1)(a).**

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

20 **To ensure compliance with the *Zoning Ordinance* requirements.**  
21

22 Mr. Hall said that, as the Board often does, if the petitioner does not have something at the public hearing  
23 that can reasonably be put off and there is need to put it off the Board often approves cases with a special  
24 condition. He said that this is what staff would recommend regarding the plat of subdivision. He said that  
25 staff is not going to review the plat of subdivision for compliance with anything but the idea is that we are  
26 doing everything we can to encourage compliance with technical platting requirements.  
27

28 Mr. Hall stated that attached to the Supplemental Memorandum dated June 27, 2013, is an e-mail from Don  
29 Wauthier, dated June 27, 2013. Mr. Hall stated that Mr. Wauthier sent the e-mail to staff as a private citizen  
30 although everyone here knows that Don Wauthier is with Berns, Clancy and Associates who does work for  
31 the Village of Mahomet. Mr. Hall stated that he did not have a chance to discuss the e-mail with Mr.  
32 Wauthier but he did want to include the e-mail tonight for the Board's review and enter the e-mail as a  
33 Document of Record.  
34

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

37 Mr. Thorsland called Kerry Gifford to testify.  
38

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1 Mr. Kerry Gifford, General Manager for Sangamon Valley Public Water District, stated that SVPWD has  
2 been going through this process for quite some time but he would like to go through some key points to  
3 explain why they are requesting the variance and why they need to move forward immediately. He said that  
4 there is a health and safety issue because everyone deserves clean drinking water and proper fire protection.  
5 He said that the Illinois Environmental Protection Agency has issued an order of restricted status due to the  
6 lack of storage and capacity at the plant. He said that the restricted status will hurt the local economy and  
7 would essentially put a stop to all growth therefore no new subdivisions could connect to the system. He  
8 said that a very big motivator is obtaining the Governor's Clean Water Initiative. He said that the SVWPD  
9 has been approved for a 1.9% interest rate on a 20-year loan and this type of borrowing achievement will not  
10 be around for much longer. He said that SVPWD needs to get the shovel in the ground so that they can act  
11 upon the loan and secure the funds and it will save their customers thousands of dollars over the life of the  
12 loan.

13  
14 Mr. Gifford stated that the issue at hand is the annexation agreement which calls for the need for the  
15 variance. He said that the October 12<sup>th</sup> article from the *Mahomet Citizen*, which is attached to the June 20,  
16 2013, Preliminary Memorandum, includes the following text: "Annexation is the heart of the issue, Village  
17 Planner Bob Mahrt said that the Village's policies for growth occurring contiguous to its limits triggers  
18 automatic annexation of the site whether the zoning moves forward through County or Village channels."  
19 Mr. Gifford stated that this continues to be the issue today and the intentions of Mahomet is not what they  
20 say but what they do. He said that SVPWD and their attorney spoke with the Village of Mahomet during the  
21 Fall of 2012 and went through negotiations for an intergovernmental agreement. He said that during the  
22 Village of Mahomet's Board meeting the motion failed due to the lack of a second because they had no  
23 interest in an intergovernmental agreement. He said that after that meeting the Village of Mahomet decided  
24 to protest the requested text amendment by the County and the requested map amendment by SVPWD. He  
25 said that prior to the text amendment by the County he spoke to the Village of Mahomet Administrator and  
26 they discussed the possibility of sitting down to hash out the issues and from the SVPWD viewpoint they  
27 had no problems with it but when they asked that the Village of Mahomet remove their protest the Village  
28 Administrator indicated no. He said that there must be two parties working together to make the  
29 negotiations work and it will not occur when one party has a hammer over their head. Mr. Gifford stated  
30 that the Village of Mahomet has taken the approach that SVPWD is going to annex. He said that the school  
31 district, township, forest preserve, and other local entities have intergovernmental agreements with the  
32 Village of Mahomet but they refuse to have such an agreement with SVPWD. He said that SVPWD has a  
33 great loan rate and they have the project ready and they are ready to move as soon as possible and they are  
34 willing to do whatever they need to do to be compliant with the County. He said that he would appreciate  
35 the Board's support.

36  
37 Mr. Thorsland asked the Board if there were any questions for Mr. Gifford and there were none.  
38

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1 Mr. Thorsland asked if staff had any questions for Mr. Gifford.

2  
3 Mr. Hall stated that his understanding of evidence which was submitted at a previous hearing was that the  
4 underlying concern for the water district is that annexation to the Village of Mahomet could eventually lead  
5 to dissolution of the rural water district and it would merge with the Village of Mahomet's water department.  
6 He said that if this is true the Board should note this statement as an item of evidence.

7  
8 Mr. Gifford stated that there is a lot of potential for that occurring. He said if the water district is completely  
9 within the boundaries of the Village of Mahomet the water district does not have the right to own and  
10 operate and the Village of Mahomet could dissolve the water district. He said that Bob Mahrt has made this  
11 statement to him more than once and the same statement was made by Don Wauthier to him after the first  
12 ZBA meeting. Mr. Gifford stated that he would prefer that his attorney address this issue because it is a legal  
13 concern. He said that it is a major concern but there is even more concern over and above dissolving the  
14 district because the Village of Mahomet would also have control of the tanks and treatment plants and  
15 anything else the water district desired to do on the site.

16  
17 Mr. Hall stated that in Don Wauthier's e-mail he reviewed the statement by Mr. Mahrt in the *Mahomet*  
18 *Citizen* and reasserted in the e-mail that the Village of Mahomet has repeatedly said that annexation is not  
19 required. Mr. Hall reminded the Board that staff included the letter from the Village of Mahomet because he  
20 believed that the letter would actually affirmatively state that annexation would not be required but the letter  
21 does not state that. He said that the Village of Mahomet has an opportunity to go on the record to indicate  
22 that annexation would not be required and if they had, this variance would not be a valid case but they did  
23 not go on the record to state such. He said that as far as he is concerned, the County has no way of really  
24 verifying one way or the other and based on what Mr. Gifford has said about how critical this new treatment  
25 plant is for the residents of the water district, it is a very valid variance and getting at this underlying concern  
26 of the rural water district is key to this case.

27  
28 Mr. Gifford submitted an e-mail that he sent to Mr. Hall as a Document of Record which indicates the  
29 relevant portions of the Village of Mahomet's Subdivision Ordinance. He said that the ordinance clearly  
30 states annexation or annexation agreement more than one time.

31  
32 Mr. Thorsland asked the Board if there were any questions for Mr. Gifford and there were none.

33  
34 Mr. Thorsland called Phillip Van Ness to testify.

35  
36 Mr. Phillip Van Ness, attorney for Sangamon Valley Public Water District, stated that there was a statement  
37 made previously regarding the difficulty from the County's perspective of knowing what is and is not  
38 required by the Village of Mahomet. He said that, it is his opinion, that there is no question that in at least

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1 three locations the Village of Mahomet requires not an annexation agreement but actual annexation once the  
2 property is contiguous to the Village of Mahomet. He said that if the Board reviews the map it is clear that  
3 his clients are already contiguous so the idea of an annexation agreement would be off the table from the get  
4 go.

5  
6 Mr. Van Ness distributed the minutes from the Village of Mahomet Board of Trustees Meeting on October  
7 23, 2012, to the Board for review and entered those minutes as a Document of Record. He said that two  
8 issues were raised during the meeting. The first issue was whether the Village of Mahomet would object to  
9 the original zoning request, which they did, but there was also a matter where Mr. Colravy, one of the  
10 members of the Village of Mahomet Board of Trustees, moved to direct staff to explore an  
11 intergovernmental agreement that would eliminate the requirement of annexation. Mr. Van Ness noted that  
12 Mr. Colravy's motion died for lack of a second. Mr. VanNess stated that not only have his clients been  
13 unable to constructively dialogue with these people but the Village of Mahomet's staff has been prohibited  
14 from even discussing the matter with his clients. Mr. VanNess stated that his clients have made the effort  
15 and they have failed and have been told no numerous times therefore the issue of annexation will be seen for  
16 what it is, which is a bit of a red herring at this point, and his client must simply move on. He said that this  
17 is a matter of public health and public safety and ultimately the economic health and well being of that  
18 portion of Champaign County. He said that restricted status by the IEPA is a cumbersome process to  
19 eliminate and relieve and during that process no additional hook-ups to the public water supply are allowed  
20 which will essentially choke off expansion of businesses, additions of subdivisions, any type of additional  
21 water usage ranging from a factory to a car washing business will be denied at the door. He said that this is a  
22 good time for his clients to move forward because they have the financing and conditions in place and they  
23 have need well established.

24  
25 Mr. Thorsland asked the Board if there were any questions for Mr. VanNess and there were none.

26  
27 Mr. Thorsland asked if staff had any questions for Mr. VanNess and there were none.

28  
29 Mr. Thorsland asked Mr. VanNess if there was a timeline on the restricted status or is it a usage issue.

30  
31 Mr. VanNess stated that the way that the restricted status works is that the EPA receives reports from time to  
32 time from each water district explaining the reserve capacity, the transport capacity, and the amount of  
33 demand on the system. He said that once a certain critical point is reached, the EPA reviews the water  
34 district's ability to deliver and over deliver and SVPWD is working very hard to meet that requirement but  
35 they are already numerically at issue. He said that if there were any indications at the EPA that the request  
36 was not going to be met he would suspect that the status would follow very quickly and the process for  
37 getting rid of it is a whole different ballgame. He said that while his clients are awaiting the opportunity to  
38 put the shovel in the ground, new homes, subdivisions, and businesses are being added to the area and at

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1 some point and time the rubber band is going to break. He said that he could not tell the Board that if one  
2 more house or one more gallon of demand will be the magic bullet but as an attorney who worked for the  
3 IEPA for nine years he can tell the Board that once it happens things become very ugly because all of the  
4 growth in a community is stopped.

5  
6 Mr. Thorsland asked the Board if there were any questions for Mr. VanNess and there were none.

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

9  
10 Mr. Thorsland asked Mr. Gifford if he had any additional testimony to add and Mr. Gifford indicated that he  
11 did not.

12  
13 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present  
14 testimony regarding this case and there was no one.

15  
16 Mr. Thorsland closed the witness register.

17  
18 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

19  
20 Mr. Thorsland read the proposed special conditions as follows:

- 21  
22 **A. The approval of Case 749-V-13 shall not confer County Board approval or support**  
23 **for violation of the technical platting requirements of the Village of Mahomet**  
24 **subdivision ordinance.**

25 The above special condition is required to ensure the following:

26 **To ensure compliance with the *Zoning Ordinance* requirements.**

- 27  
28 **B. The Zoning Administrator shall provide notice to the Village of Mahomet of the final**  
29 **determination for Case 749-V-13 and copies of any related Zoning Use Permit or**  
30 **Zoning Compliance Certificate that are authorized.**

31 The above special condition is required to ensure the following:

32 **To ensure compliance with the *Zoning Ordinance* requirements.**

- 33  
34 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate until a plat**  
35 **of subdivision for the subject property has been received that meets the requirements of**  
36 **13.2.1A.4.(1)(a).**

37 The above special condition is required to ensure the following:

38 **To ensure compliance with the *Zoning Ordinance* requirements.**

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1  
2 Mr. Thorsland asked Mr. Gifford and Mr. VanNess if they agreed to the proposed special conditions as read.

3  
4 Mr. Gifford and Mr. VanNess indicated that they agreed with the proposed special conditions as read.

5  
6 Mr. Thorsland entertained a motion to approve the special conditions as read.

7  
8 **Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions as read. The**  
9 **motion carried by voice vote.**

10  
11 He said that the following items should be added to the Documents of Record: 9. Letter from Kerry Gifford  
12 received June 4, 2013; and 10. Supplemental Memorandum dated June 27, 2013; and 11. E-mail from Don  
13 Wauthier dated June 27, 2013; and 12. Village of Mahomet Board of Trustees Minutes dated October 23,  
14 2013, submitted by Phil VanNess at the June 27, 2013, public hearing.

15  
16 Mr. Hall recommended that the following statement be added as a new items #7.D. and #9.D.: The  
17 Sangamon Valley Public Water District has previously stated that they do not want to annex to the Village of  
18 Mahomet for fear that annexation could lead to dissolution of the rural water district and merger with the  
19 Village of Mahomet Water Department. He said that he would like to amend item #7.C as follows: The  
20 existing water treatment plant must be expanded in order to provide needed water for the residents served by  
21 the Sangamon Valley Public Water District and is necessary to serve the public health, safety and well being  
22 of those residents.

23  
24 **Finding of Fact for Case 749-V-13:**

25  
26 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
27 749-V-13 held on June 27, 2013, the Zoning Board of Appeals of Champaign County finds that:

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

32  
33 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or  
34 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
35 same district because the public water district's property is contiguous with the Village of Mahomet's  
36 boundary.

37  
38 Mr. Thorsland stated that the proposed expansion is contiguous to the existing plant and is necessary to



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1 better serve the continued growth of the customer demand.

2

3 Mr. Hall stated that this is the first time that the County Board will approve a variance therefore this is  
4 actually a recommendation to the County Board. He suggested that Mr. Thorsland add to his  
5 recommendation for Finding #1 the following: the proposed expansion is necessary to serve the public  
6 health, safety and well being of the residents.

7

8 Mr. Thorsland agreed with Mr. Hall's suggestion.

9

10 Mr. Hall suggested that Ms. Capel indicate that the public water district is predominately rural.

11

12 Ms. Capel agreed.

13

14 Mr. Kass read the Board's findings as follows:

- 15 • The predominately rural public water district property is contiguous with the Village  
16 of Mahomet corporate limits.
- 17 • The predominately rural public water district expansion is contiguous to the existing  
18 plant.
- 19 • The proposed expansion is necessary for the public health, safety, and well-being of  
20 the residents of the predominately rural water district.

21

22 The Board agreed.

23

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

27

28 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the  
29 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
30 or construction because compliance with the Village of Mahomet subdivision regulations would result in  
31 annexation and could result in dissolution of the predominately rural water district.

32

33 Mr. Kass read the Board's finding as follows:

- 34 • Compliance with the Village of Mahomet subdivision regulations would result in  
35 annexation and could result in the dissolution of the predominately rural water  
36 district.

37

38 The Board agreed.

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

Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the appliance because it is a long term existing facility requiring updating because of population growth within the district. He said that Sangamon Valley Public Water District has attempted to comply with the Village of Mahomet’s Subdivision Regulations without annexation but failed.

Mr. Thorsland stated that Sangamon Valley Public Water District has shown intent to follow the Village of Mahomet’s technical requirements.

Mr. Kass read the Board’s findings as follows:

- It is a long term existing facility needing upgrades because of population growth within the district.
- Sangamon Valley Public Water District’s previous attempts to comply with the Village of Mahomet subdivision regulations without annexation have failed.
- Sangamon Valley Public Water District has shown the intent to follow the technical municipal platting requirements.

The Board agreed.

**4. The requested variance, subject to the proposed conditions, IS in harmony with the general purpose and intent of the Ordinance.**

Mr. Miller stated that the requested variance, subject to the proposed conditions, IS in harmony with the general purpose and intent of the Ordinance because the proposed expansion is contiguous with the existing facility and is well suited for municipal development and the proposed expansion will fill a need for a growing community.

Mr. Thorsland stated that the small area used by the proposed expansion will minimize the loss of existing farmland.

Mr. Hall stated that the Board could indicate that the proposed expansion is in conformance with the Area General Plan. He said that this was something that was established back in the special use and map amendment case previously but the petitioner revised the plan to specifically conform to the Area General Plan.

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Mr. Kass read the Board’s findings as follows:

- The proposed expansion is contiguous with the existing facility and is well suited for municipal development.
- The proposed expansion will fill a need for a growing community.
- The proposed expansion is in conformance with the Area General Plan.

The Board agreed.

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

Ms. Capel stated that the requested variance, subject to the proposed condition, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the proposed expansion directly improves the health, safety, and welfare of district residents.

Mr. Thorsland stated that we have received no comments or concerns from the fire protection district or the road commissioner.

Mr. Kass read the Board’s findings as follows:

- The proposed expansion improves the health, safety, and welfare of district residents.
- We have received no comments or concerns from the fire protection district or the relevant highway authority.

The Board agreed.

**6. The requested variance, subject to the proposed conditions, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. Thorsland stated that the requested variance, subject to the proposed conditions, IS the minimum variation that will make possible the reasonable use of the land/structure.

The Board agreed.

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

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**A. The approval of Case 749-V-13 shall not confer County Board approval or support for violation of the technical platting requirements of the Village of Mahomet subdivision ordinance.**

The above special condition is required to ensure the following:  
**To ensure compliance with the *Zoning Ordinance* requirements.**

**B. The Zoning Administrator shall provide notice to the Village of Mahomet of the final determination for Case 749-V-13 and copies of any related Zoning Use Permit or Zoning Compliance Certificate that are authorized.**

The above special condition is required to ensure the following:  
**To ensure compliance with the *Zoning Ordinance* requirements.**

**C. The Zoning Administrator shall not issue a Zoning Compliance Certificate until a plat of subdivision for the subject property has been received that meets the requirements of 13.2.1A.4.(1)(a).**

The above special condition is required to ensure the following:  
**To ensure compliance with the *Zoning Ordinance* requirements.**

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

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

Mr. Thorsland entertained a motion to move to the final determination for Case 749-V-13.

**Ms. Capel moved, seconded by Mr. Palmgren to move the final determination for Case 749-V-13. The motion carried by voice vote.**

Mr. Thorsland informed the petitioner that one Board member is absent and one Board seat is vacant therefore it is at his discretion to either continue Case 749-V-13 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioner that four affirmative votes are required for approval.

Mr. Gifford requested that the present Board move to the final determination for Case 749-V-13.

**Final Determination for Case 749-V-13:**

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1  
 2 **Ms. Capel moved, seconded by Mr. Palmgren that the Champaign County Zoning Board of Appeals**  
 3 **finds that, based upon the application, testimony, and other evidence received in this case, that the**  
 4 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**  
 5 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of appeals of**  
 6 **Champaign County determines that the Variance requested by the petitioner, Sangamon Valley**  
 7 **Public Water District, in Case 749-V-13 to authorize a County Board Variance from Subsection**  
 8 **13.2.1A.4. that requires construction or use to comply with the subdivision regulations of a**  
 9 **municipality when the requirement for annexation to that municipality is pursuant to or is a**  
 10 **requirement for plat approval by that municipality, for a proposed expansion of a water treatment**  
 11 **plant and related facilities that are owned and operated by a predominately rural water district in the**  
 12 **AG-2 District should be GRANTED WITH CONDITONS by the County Board.**

13  
 14 **Subject to the following special conditions:**

- 15  
 16 **A. The approval of Case 749-V-13 shall not confer County Board approval or**  
 17 **support for violation of the technical platting requirements of the Village of**  
 18 **Mahomet subdivision ordinance.**  
 19 The above special condition is required to ensure the following:  
 20 **To ensure compliance with the *Zoning Ordinance* requirements.**  
 21  
 22 **B. The Zoning Administrator shall provide notice to the Village of Mahomet of the**  
 23 **final determination for Case 749-V-13 and copies of any related Zoning Use**  
 24 **Permit or Zoning Compliance Certificate that are authorized.**  
 25 The above special condition is required to ensure the following:  
 26 **To ensure compliance with the *Zoning Ordinance* requirements.**  
 27  
 28 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate until**  
 29 **a plat of subdivision for the subject property has been received that meets the**  
 30 **requirements of 13.2.1A.4.(1)(a).**  
 31 The above special condition is required to ensure the following:  
 32 **To ensure compliance with the *Zoning Ordinance* requirements.**  
 33

34 Mr. Thorsland requested a roll call vote.

35  
 36 The roll was called:

37  
 38 **Courson-yes                      Miller-yes                      Palmgren-yes**

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1	<b>Passalacqua-absent</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>
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2  
3 Mr. Hall informed the petitioner that the case will be on the July 19<sup>th</sup> full County Board agenda.  
4  
5

6 **Case 752-S-13** Petitioner: **Premier Cooperative Incorporated** with board members **Art Farley, Joseph**  
7 **Kuntz, Bill Stierwalt, Kim Jolley, Kenneth Heiser, Stephen Hettinger, Roger Miller, Pat Feeney, Jim**  
8 **Kleiss, Douglas Hansens, John G. Murray, Dwight Huffstutler, Maury Busboom,** and corporate  
9 **officers Roger Miller, Jeff Breen and James Deters. Request to authorize the following as a Special**  
10 **Use in the I-1 Light Industry Zoning District: Part A. Authorize multiple principal uses and**  
11 **buildings on the same lot for bulk fuel storage, fertilizer sales and storage, and grain elevator**  
12 **operations and storage. Part B. Authorize bulk fuel storage as “Gasoline and Volatile Oils Storage of**  
13 **greater than 80,000 gallons but no more than 175,000 gallon capacity in the Aggregate” as a special**  
14 **use. Part C. Authorize the replacement of an existing nonconforming grain elevator that is 120 feet in**  
15 **height. Part D. Authorize the construction and use of four grain storage bins of the following height**  
16 **110 feet, 118 feet, 122 feet, and 127 feet. Part E. Authorize the construction and use of two grain**  
17 **dryers that are 120 feet in height. Part F. Authorize the construction and use of a grain elevator with**  
18 **two receiving legs that are 185 feet in height, a wet grain leg that is 185 feet in height and a dry grain**  
19 **leg that is 185 feet in height. Location: A 57.98 acre tract of land located in the Northeast Quarter of**  
20 **the Northwest Quarter of Section 34 of Tolono Township and in the North One-Half of the Northeast**  
21 **Quarter of Section 34 of Tolono Township and commonly known as the United Prairie Fertilizer sales**  
22 **and storage facility and the Premier Cooperative grain elevator at 949 CR 700N, Tolono.**  
23

24 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
25 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
26 of hands for those who would like to cross examine and each person will be called upon. He requested that  
27 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
28 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
29 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
30 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
31 from cross examination.  
32

33 Mr. Roger Miller, Champaign County Zoning Board of Appeals member, stated that he must abstain from  
34 this case because he is listed as a petitioner.  
35

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

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1  
2 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

3  
4 Mr. Roger Miller, who resides at 804 E. Boone, Tolono, stated that he is the General Manager for Premier  
5 Cooperative which is a farmer owned cooperative located primarily in Champaign County. He said that  
6 Premier Cooperative does have facilities in Piatt, Ford and Vermillion Counties. He said that the Board of  
7 Directors has asked management to secure the proper permits to get started on the proposed project. He said  
8 that Jeff Breen, Regional Operations Manager for Premier Cooperative, is present tonight to address the  
9 Board and discuss the grain assets and explain why Premier desires to expand it. He said that David Kieffer,  
10 Petroleum Manager for Premier Cooperative, is also present tonight to briefly discuss the needs for the  
11 petroleum expansion. Mr. Miller stated that other expert witnesses are present such as: Dennis Cummins,  
12 Civil Engineer with Foth Infrastructure and Environmental, who designed the site and drainage plan for the  
13 expansion; Karl Newman, Senior Environmental Project Manager with Geo-Con Professional Services, who  
14 is preparing the Spill Prevention Control and Counter Measures Plan for the fuel bulk storage facility; and  
15 two representatives from Seneca who is the winning bidder for the construction of the bulk fuel plant. Mr.  
16 Miller stated that also present tonight is Jeff Oberman who is the Construction Sales Representative for  
17 Seneca.

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

20  
21 Mr. Thorsland called Andrew Kass to testify.

22  
23 Mr. Andrew Kass, Champaign County Planning and Zoning Associate Planner, distributed a Supplemental  
24 Memorandum with attachments dated June 27, 2013, to the Board for review. He said that staff received a  
25 lot of new information over the past few days therefore the Summary of Evidence has been updated and  
26 those updates are indicated in Attachment A. Mr. Kass reviewed Attachment A. with the Board. He said  
27 that the following revision and additions to Items 5.A. and 5.C. are as follows: Replace references to June 3,  
28 2013, with June 27, 2013. He said that the following revisions and additions to Item 5.B. are as follows: B.  
29 The site plan received June 27, 2013, indicates the following proposed bulk fuel storage buildings and  
30 structures: (1) A 105' x 60' fuel mixing and storage building with an 8,400 gallon diesel exhaust fluid  
31 (DEF) storage tank located inside of it; and (2) Three 24,000 gallon fuel tanks and 3 future storage tanks;  
32 and (3) One 10,000 gallon underground soybean oil storage tank. He said that new Item 7.F. should read as  
33 following: A letter signed by Jeff Holt, President, Tolono Village Board, was received on June 27, 2013,  
34 and is summarized as follows: (1) The Village of Tolono has passed a resolution encouraging the approval of  
35 Premier Cooperative's request in Case 752-S.13; and (2) The proposed development in the County will  
36 relieve pressure to increase activity at the elevator in Tolono and will also reduce truck traffic in the Village;  
37 and (3) The Village of Tolono expects to benefit from the economic activity of the fuel storage and  
38 distribution facility; and (4) The Village of Tolono Planning Commission has reviewed Premier

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1 Cooperative's proposal and finds it compatible with the long range plan and the subdivision ordinance. He  
2 said that new Item #8.C.(6) is as follows: In an email from Jeff Breen, Operations Manager, Premier  
3 Cooperative, Inc., dated June 21, 2013, Mr. Breen indicates that loads (deliveries) to the proposed bulk fuel  
4 storage facility will average 4 loads per week for the year with each load being 7,000 gallons. In the spring  
5 and fall it may be more than 4. He said that new Item #8.C.(7) is as follows: In an email from Jeff Breen,  
6 Operations Manager, Premier Cooperative, Inc., dated June 21, 2013, Mr. Breen indicates that loads going  
7 out of the proposed bulk fuel storage facility will average 5 loads per week for the year with each load being  
8 4,500 gallons. In the spring and fall it may be more than 5.

9  
10 Mr. Kass continued to review Attachment A. with the Board. He said that new Item #8.C.(8) is as follows:  
11 A letter signed by Bradley Clemmons, Road Commissioner, Tolono Township, received on June 27, 2013,  
12 indicates that Tolono Township and Premier Cooperative are working on a road use agreement in regards to  
13 the bulk fuel facility and the upgrades to the elevator. He said that the following text should be added to  
14 Item #9.B.4.(b): A State Permit showing conformance to the *Illinois Gasoline Storage Act* (430 ILCS  
15 15/0.01 et.set.) shall be presented to the Zoning Administrator prior to issuance of a County Zoning Use  
16 Permit. *i.* The petitioner has applied for an Above Ground Non-Dispensing (Bulk) Storage Tank permit  
17 and an Installation of Underground Storage Tank Permit through the Office of the State Fire Marshal; and *ii.*  
18 A letter signed by Catherine L. Stashak, Office of the State Fire Marshal, Division of Technical Services,  
19 indicates that the proposed installation of the above ground storage tanks appears to conform to Title 41  
20 Illinois Administrative Code Part 160 "*Storage, Transportation, Sale and Use of Gasoline and Volatile Oils:*  
21 *Rule and Regulations Relating to General Storage*"; and *iii.* A copy of the approved permit application for  
22 the above ground storage tanks from the Office of the State Fire Marshal was received on June 26, 2013; and  
23 *iv.* The Office of the State Fire Marshal has not made a determination regarding if the proposed underground  
24 storage tank will require a permit because the storage of soy oil is not regulated. He said that new Item  
25 #9.C.(3) should read as follows: A preliminary stormwater management plan and report prepared by Foth  
26 Infrastructure and Environment, LLC, for the subject property was received on June 27, 2013, and is  
27 summarized as follows: (1) Stormwater detention was added to the site between 2003 and 2007 to manage  
28 runoff from improvements. The existing detention basin is approximately 2.5 acre-feet of storage and also  
29 serves as the containment area for three large fertilizer tanks; and (2) The proposed detention basin will be  
30 located on the west side of the property and will intercept sheet flow and pipe flow from the development.  
31 The basin is proposed to have a bottom elevation of 703 feet and by a dry bottom basin. The proposed basin  
32 is calculated to yield a reduction of 15.1 cfs of undetained runoff during a 50-year event; and (3) The  
33 maximum elevation of the basin for the 49-year event is 704.3 feet and the required storage is 33,980 cubic  
34 feet. The detention basin will provide 60,980 cubic feet of storage below 705.00 feet. Overflow of the  
35 detention basin will occur at 704.2 feet via a 30 feet wide depression in the west bank of the basin; and (4)  
36 The detention basin is proposed to be dewatered by a 6 inch diameter underdrain which is to be connected to  
37 an existing 8 inch diameter field tile that flows to the west. It is not anticipated that this tile is capable of  
38 receiving runoff at a measurable rate during a storm event, but is able to slowly dewater the basin afterward.



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1  
2 Mr. Thorsland asked the Board if there were any questions for Mr. Kass and there were none.

3  
4 Mr. Thorsland asked Mr. Miller if he had any questions or comments for the Board.

5  
6 Mr. Miller stated that he did not have any questions for comments for the Board at this time.

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

9  
10 Mr. Thorsland called David Kieffer to testify.

11  
12 Mr. David Kieffer, Petroleum Manager for Premier Cooperative, stated that they are not requesting anything  
13 out of the ordinary and are requesting something that already exists in Champaign County such as with Illini  
14 F.S. and other competitors. He said that with their increase in footprint, due to their merger and formation in  
15 2009, they would like to be able to provide fuel to their customers located in the southern portion of  
16 Champaign County. He said that currently their bulk plant is located in Elliott, Illinois which is in Ford  
17 County and their customers in the southern portion of Champaign County are being serviced from that plant  
18 therefore they have trucks on the road constantly. He said that they feel that if they could strategically place  
19 a bulk plant in the southern half of their draw area they could minimize road time for their truck traffic. He  
20 said that they see a need for an infrastructure for fuel. He said that as a whole in the Midwest sector the  
21 infrastructure for oil and petroleum is very old and within the last six months two oil pipelines have closed in  
22 Illinois. He said that they used to pull fuel from the Peoria terminal but that is no longer available and the  
23 closest terminal to draw from is located near Cape Girardeau, Missouri. He said that as those two terminals  
24 close, the Cape Girardeau terminal will hit portions around St. Louis and the Peoria terminal will hit  
25 Champaign and therefore there will be more demand seen out of the proposed terminal. He said that in order  
26 to secure fuel storage for our area they must be able to have the second bulk plant to give them additional  
27 storage capacity. He said that during the past spring there were five days where they were put on allocations  
28 where they could not actually pull fuel from the Champaign terminal therefore if they had farmers who  
29 required fuel they would be forced to wait. He said that Premier Cooperative is requesting to expand their  
30 storage capabilities so that they can have a little bit of leeway during the spring and fall so that there is fuel  
31 there and if allocations occur they can pull fuel from western Illinois and have fuel to serve their customers.

32  
33 Mr. Thorsland asked the Board if there were any questions for Mr. Kiefer and there were none.

34  
35 Mr. Thorsland asked if staff had any questions for Mr. Kiefer and there were none.

36  
37 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kiefer and there was no one.

38

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1 Mr. Thorsland called Jeff Breen to testify.

2

3 Mr. Jeff Breen, Regional Operations Manager for Premier Cooperative, stated that he will be speaking about  
4 the elevator expansion. He said that the Premier Cooperative Apex is flat storage and is located between  
5 Sadorus and Tolono. He said that they are limited for expansion because they cannot build any more in  
6 Tolono or Sadorus therefore they see the proposed expansion as a win/win situation where they could  
7 increase their storage capacity, grain handling capacity, efficiency for labor as well as pull trucks and trains  
8 from Tolono and Sadorus. He said that on a three year average in the fall, 483 truckloads of corn and beans  
9 are hauled out of Tolono and Sadorus and after fall, 1,345 truckloads of grain are transported from Sadorus  
10 and Tolono to Apex for loading onto the rail cars. He said that the expansion will help their customers by  
11 being able to take their deliveries in a timely manner and it will also help the Villages of Tolono and  
12 Sadorus.

13

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

15

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

17

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

19

20 Mr. Thorsland called John Sherwood to testify.

21

22 Mr. John Sherwood, General Contractor of Seneca and Project Manager for the bulk fuel plant, said that he  
23 is present tonight to answer any technical questions from the Board.

24

25 Mr. Hall asked Mr. Sherwood if the fuel facility has received all of the required permits.

26

27 Mr. Sherwood stated yes, and he has copies of those permits with him tonight. He said that they have above  
28 ground tanks and the underground tank is not regulated because it will store a soy product and not a  
29 petroleum product.

30

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

32

33 Mr. Thorsland asked if staff had any further questions for Mr. Sherwood and there were none.

34

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

36

37 Mr. Thorsland called Karl Newman to testify.

38

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1 Mr. Karl Newman, who resides at 1821 Robert Drive, Champaign, stated that his part of the project was to  
2 prepare a Spill Prevention Control and Counter Measures Plan. He said that the bulk storage facility tanks  
3 are regulated by the State Fire Marshal. He said that Spill Prevention Control and Counter Measures Plan is  
4 a federal regulation and comes out of the Clean Water Act in that when you meet a certain threshold in the  
5 volume of storage of petroleum products in a bulk storage facility, you must have a plan in place to prevent  
6 spillage from those tanks and if you do have a catastrophic event how do you control and clean up the spill.  
7 He said that his company has been hired to prepare a Spill Prevention Control and Counter Measures Plan  
8 for Premier Cooperative once their facility has been constructed and put into operation. He said that the  
9 Spill Prevention Control and Counter Measures Plan is a procedural document that details the construction  
10 layout of the facility, chain of command for maintaining the facility in the event of a spill or catastrophic  
11 event, local Emergency Management Agency contacts, requirements for training personnel, requirements for  
12 secondary containment and that it is sufficient to contain the oils that are stored in the bulk storage  
13 containers. He said that he will be preparing this plan for Premier Cooperative's use and they will be  
14 maintaining and implementing the plan at the facility.

15

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

17

18 Mr. Thorsland asked if staff had any questions for Mr. Newman.

19

20 Mr. Hall asked Mr. Newman if the federal requirements were ongoing and will require that a current plan is  
21 always in place.

22

23 Mr. Newman stated yes. He said that Spill Prevention Control and Counter Measures Plan is required to be  
24 in place within six months of starting the facility and to have the plan at all times when the plant is in  
25 operation. He said that they are required to do a five year recertification of the Spill Prevention Control and  
26 Counter Measures Plan or if they make a significant change to the facility. He said that currently they plan  
27 to install three vertical tanks for their secondary containment with room for the addition of three future tanks  
28 and if one year from now Premier decides to add the tanks they would need to revise the Spill Prevention  
29 Control and Counter Measures Plan. He said that the Spill Prevention Control and Counter Measures Plan is  
30 a living and breathing document that requires monthly and annual inspections and the Plan will be in place  
31 during the lifetime of the facility with a minimum that it is recertified every five years.

32

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

34

35 Mr. Thorsland asked if staff had any further questions for Mr. Newman and there were none.

36

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

38

6/27/13

1 Mr. Thorsland called Dennis Cummins to testify.

2

3 Mr. Dennis Cummins, Engineer for Foth Infrastructure and Environment, stated that his company is  
4 responsible for maintaining the site plan and the stormwater detention plan. He said that as part of this  
5 project his company will be providing a stormwater management in accordance with the Champaign County  
6 Stormwater Management Policy.

7

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

9

10 Mr. Thorsland asked if staff had any questions for Mr. Cummins.

11

12 Mr. Hall stated that included in the new information for tonight is Mr. Cummins' stormwater analysis. He  
13 said that he has not had a chance to send the analysis to our engineer. He asked Mr. Cummins if his material  
14 indicates that there may already be all the detention that is required.

15

16 Mr. Cummins stated that his company will do an analysis of that and some discussion amongst their team  
17 about whether or not they desire to continue using the existing basin for stormwater management or whether  
18 they want to try to divert most of the stormwater to another basin so that the existing basin can operate  
19 correctly.

20

21 Mr. Hall stated that staff has proposed a special condition for stormwater management.

22

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

24

25 Mr. Thorsland asked the audience if anyone desired to sign to the witness register to present testimony for  
26 Case 752-S-13 and there was no one.

27

28 Mr. Thorsland closed the witness register.

29

30 Mr. Thorsland requested that Mr. Karl Newman return to the witness microphone.

31

32 Mr. Thorsland asked Mr. Newman to repeat the name of the document that his company is preparing for this  
33 project.

34

35 Mr. Newman stated that the document is a Spill Prevention Control and Counter Measures Plan. He said  
36 that it is a federal regulation and Premier is required to comply with that regulation and it is based on their  
37 threshold value for storage which is 1,320 gallons. He said that any facility that has petroleum bulk storage  
38 for oil, once they get to the 1,320 gallon storage capacity the facility is required to have a Spill Prevention

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1 Control and Counter Measures Plan.

2

3 Mr. Kass asked Mr. Newman who has oversight.

4

5 Mr. Newman stated that there is a regional administrator with the USEPA in Chicago.

6

7 Mr. Hall asked Mr. Newman if he is a private consultant.

8

9 Mr. Newman stated that he is employed by Geo-Con Professional Services, LLC.

10

11 Mr. Hall asked Mr. Newman if the Clean Water Act is the source of authority for the federal regulation.

12

13 Mr. Newman stated yes. He said that the Spill Prevention Control and Counter Measures Plan program is a  
14 result of the Clean Water Act.

15

16 Mr. Hall stated that Board members may want to consider the following as an item of evidence: Karl  
17 Newman with Geo-Con Professional Services, LLC. testified at the June 27, 2013, public hearing that a Spill  
18 Prevention Control and Counter Measures Plan would be required for the facility by the Clean Water Act.  
19 He said that the new evidence would be inserted as new item #8.I. in the Summary of Evidence and  
20 renumbering the existing items.

21

22 The Board agreed.

23

24 Mr. Thorsland read the proposed special conditions as follows:

25 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**  
26 **Stormwater Management Policy shall be submitted and approved as part of the**  
27 **Zoning Use Permit application and all required certifications shall be submitted after**  
28 **construction prior to issuance of the Zoning Compliance Certificate.**

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

30 **That the drainage improvements conform to the requirements of the Stormwater**  
31 **Management Policy.**

32

33 Mr. Thorsland asked Mr. Miller if he agreed to special condition A.

34

35 Mr. Miller indicated that he agreed to special condition A.

36

37 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**  
38 **authorizing occupancy of the proposed bulk fuel storage facility until the Zoning**

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1           **Administrator has received a certification of inspection from an Illinois Licensed**  
2           **Architect or other qualified inspector certifying that the new building complies with the**  
3           **following codes: (A) The 2006 or later edition of the International Building Code; (B)**  
4           **The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois**  
5           **Plumbing Code.**

6           The special conditions stated above are required to ensure the following:

7           **That the proposed structure is safe and in conformance with Public Act 96-704.**

8  
9           Mr. Thorsland asked Mr. Miller if he agreed to special condition B.

10  
11          Mr. Miller indicated that he agreed to special condition B.

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

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

17           **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**

18  
19          Mr. Thorsland asked Mr. Miller if he agreed to special condition C.

20  
21          Mr. Miller indicated that he agreed to special condition C.

22  
23          Mr. Hall indicated that proposed special condition D. is not required because the petitioner has already  
24          proved compliance with the Illinois State Fire Marshal.

25  
26          Mr. Thorsland entertained a motion to approve the proposed special conditions as read.

27  
28          **Mr. Palmgren moved, seconded by Mr. Courson to approve the proposed special conditions as read.**  
29          **The motion carried by voice vote.**

30  
31          Mr. Thorsland asked staff if there were any new Documents of Record.

32  
33          Mr. Kass stated that a new item #11 should indicate the following: Supplemental Memorandum for Case  
34          752-S-13, dated June 27, 2013, with attachments.

35  
36          **Finding of Fact for Case 752-S-13:**

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

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1 752-S-13 held on June 27, 2013, the Zoning Board of Appeals of Champaign County finds that:

- 2  
3 **1. The requested Special Use Permit IS necessary for the public convenience at this**  
4 **location.**

5  
6 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this  
7 location because it will increase Premier Cooperative's ability to accept and store grain and serve farmers  
8 with fuel while decreasing truck traffic in Sadorus and Tolono and rural roads.

9  
10 Mr. Palmgren stated that this is an existing facility that will be improved within the current footprint.

11  
12 Mr. Thorsland stated he was also thinking that this will provide a more efficient handling of both crop and  
13 bulk fuel and reduce traffic. He said that he agrees with Ms. Capel's statement.

14  
15 Mr. Kass read the Board's findings as follow:

- 16 • It will increase Premier's ability to store grain and to service farmers with fuel while  
17 decreasing truck traffic in both Tolono and Sadorus and on the rural roads.  
18 • It is an existing facility that will be improved within the current footprint.

19  
20 The Board agreed.

- 21  
22 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**  
23 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**  
24 **the district in which it shall be located or otherwise detrimental to the public health,**  
25 **safety and welfare.**

- 26  
27 **a. The street has ADEQUATE traffic capacity and the entrance location has**  
28 **ADEQUATE visibility.**

29  
30 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE  
31 visibility.

- 32  
33 **b. Emergency services availability is ADEQUATE.**

34  
35 Mr. Palmgren stated that emergency services availability is ADEQUATE.

- 36  
37 **c. The Special Use WILL be compatible with adjacent uses.**  
38

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

2

3

**d. Surface and subsurface drainage will be ADEQUATE.**

4

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

6

7 Mr. Thorsland stated that the petitioner will submit a full stormwater management plan that will conform to  
8 the Champaign County Stormwater Management Policy.

9

10 Mr. Kass read the Board's finding as follows:

11

- 12 • The petitioner will submit a complete stormwater management plan that will be in  
13 compliance with the Stormwater Management Policy.

14

15 The Board agreed.

16

17

**e. Public safety will be ADEQUATE.**

18

19 Mr. Palmgren stated that public safety will be ADEQUATE.

20

21 Mr. Thorsland stated that public safety will be improved because of the reduction in truck traffic.

22

23 Ms. Capel stated that the bulk fuel storage facility has received approval from the State Fire Marshal and the  
24 bulk fuel storage facility will have a Spill Prevention Control Plan in place.

25

26 Mr. Kass read the Board's findings as follows:

27

- 28 • It will be improved because of the reduction in truck traffic
- 29 • The bulk fuel storage facility has received approval from the State Fire Marshal, and  
30 the bulk fuel storage facility will have a SPCP Plan in place.

31

32 The Board agreed.

33

34

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

35

36 Mr. Thorsland stated that the provisions for parking will be ADEQUATE.

37

38 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,



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1 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in  
2 which it shall be located or otherwise detrimental to the public health, safety and welfare.

3  
4 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,  
5 DOES conform to the applicable regulations and standards of the DISTRICT in which  
6 it is located.**

7  
8 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,  
9 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

10  
11 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,  
12 DOES preserve the essential character of the DISTRICT in which it is located.**

13  
14 **a. The Special Use will be designed to CONFORM to all relevant County  
15 ordinances and codes.**

16  
17 Mr. Courson stated that the Special Use will be designed to CONFORM to all relevant County ordinances  
18 and codes.

19  
20 **b. The Special Use WILL be compatible with adjacent uses.**

21  
22 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

23  
24 **c. Public safety will be ADEQUATE.**

25  
26 Mr. Courson stated that public safety will be ADEQUATE.

27  
28 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,  
29 DOES preserve the essential character of the DISTRICT in which it is located.

30  
31 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS  
32 in harmony with the general purposed and intent of the Ordinance.**

33  
34 **a. The Special Use is authorized in the District.**

35 **b. The requested Special Use Permit IS necessary for the public convenience at this  
36 location.**

37  
38 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this

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1 location.

- 2
- 3 **c. The requested Special Use Permit, subject to the special conditions imposed**
- 4 **herein, is so designed, located, and proposed to be operated so that it WILL**
- 5 **NOT be injurious to the district in which it shall be located or otherwise**
- 6 **detrimental to the public health, safety, and welfare.**
- 7

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

- 11
- 12 **d. The requested Special Use Permit, subject to the special conditions imposed**
- 13 **herein, DOES preserve the essential character of the DISTRICT in which it is**
- 14 **located.**
- 15

16 Mr. Palmgren stated that 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.

18

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

- 21
- 22 **5. The requested Special Use IS an existing nonconforming use and the requested Special**
- 23 **Use Permit WILL make the existing use more compatible with its surroundings.**
- 24

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

- 27
- 28 **6. The special conditions imposed herein are required to ensure compliance with the**
- 29 **criteria for Special Use Permits and for the particular purposed described below:**
- 30

- 31 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**
- 32 **Stormwater Management Policy shall be submitted and approved as part of the**
- 33 **Zoning Use Permit application and all required certifications shall be submitted**
- 34 **after construction prior to issuance of the Zoning Compliance Certificate.**
- 35 The special condition stated above is required to ensure the following:
- 36 **That the drainage improvements conform to the requirements of the**
- 37 **Stormwater Management Policy.**
- 38

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

8           The special conditions stated above are required to ensure the following:

9           **That the proposed structure is safe and in conformance with Public Act 96-704.**

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

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

15           **That any proposed exterior lighting is in compliance with the Zoning**  
 16           **Ordinance.**

17  
 18           Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings  
 19           of Fact as amended.

20  
 21           **Ms. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents of**  
 22           **Record and Findings of Fact as amended. The motion carried by voice vote.**

23  
 24           Mr. Thorsland entertained a motion to move to the Final Determination for Case 752-S-13.

25  
 26           **Mr. Palmgren moved, seconded by Mr. Courson to move to the Final Determination for 752-S-13.**  
 27           **The motion carried by voice vote.**

28  
 29           Mr. Thorsland informed the petitioner that one Board member is absent and one Board seat is vacant  
 30           therefore it is at his discretion to either continue Case 752-S-13 until a full Board is present or request that  
 31           the present Board move forward to the Final Determination. He informed the petitioner that four affirmative  
 32           votes are required for approval.

33  
 34           Mr. Miller requested that the present Board move to the final determination for Case 752-S-13.

35  
 36           **Final Determination for Case 752-S-13:**

37  
 38           **Mr. Courson moved, seconded by Mr. Palmgren 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, the  
2 requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted  
3 by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special Use  
4 requested in Case 752-S-13 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicant to  
5 Premier Cooperative, Inc. to authorize the following:

6 Part A. Authorize multiple principal uses and buildings on the same lot for bulk fuel  
7 storage and sales, fertilizer sales and storage, and grain elevator operations and  
8 grain storage.

9 Part B. Authorize bulk fuel storage with accessory sales as “Gasoline and Volatile Oils  
10 Storage of greater than 80,000 gallons but no more than 175,000 gallon capacity  
11 in the Aggregate” as a special use.

12 Part C. Authorize the replacement of an existing nonconforming grain elevator that is  
13 120 feet in height.

14 Part D. Authorize the construction and use of four grain storage bins of the following  
15 heights, 110 feet, 118 feet, 122 feet , and 127 feet.

16 Part E. Authorize the construction and use of two grain dryers that are 120 feet in  
17 height.

18 Part F. Authorize the construction and use of a grain elevator with two receiving legs  
19 that are 185 feet in height, a wet grain leg that is 185 feet in height and a dry  
20 grain leg that is 185 feet in height.

21  
22 Subject to the following special conditions:

23 A. A complete Stormwater Drainage Plan that conforms to the requirements of the  
24 Stormwater Management Policy shall be submitted and approved as part of the  
25 Zoning Use Permit application and all required certifications shall be submitted  
26 after construction prior to issuance of the Zoning Compliance Certificate.

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

28 That the drainage improvements conform to the requirements of the  
29 Stormwater Management Policy.

30  
31 B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate  
32 authorizing occupancy of the proposed bulk fuel storage facility until the  
33 Zoning Administrator has received a certification of inspection from an Illinois  
34 Licensed Architect or other qualified inspector certifying that the new building  
35 complies with the following codes: (A) The 2006 or later edition of the  
36 International Building Code; (B) The 2008 or later edition of the National  
37 Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.

38 The special conditions stated above are required to ensure the following:

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1 **That the proposed structure is safe and in conformance with Public Act 96-704.**

2  
3 **C. The Zoning Administrator shall not authorize a Zoning Use Permit until the**  
4 **petitioner has demonstrated that any new or proposed exterior lighting on the**  
5 **subject property will comply with the lighting requirements of Section 6.1.2.**

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

7 **That any proposed exterior lighting is in compliance with the Zoning**  
8 **Ordinance.**

9

10 Mr. Thorsland requested a roll call vote.

11

12 The roll was called.

13

14 **Capel-yes**

**Courson-yes**

**Miller-yes**

15 **Palmgren-yes**

**Passalacqua-absent**

**Thorsland-yes**

16

17 Mr. Hall informed the petitioners that they have received an approval for Case 752-S-13. He stated that  
18 staff will mail out the appropriate information as soon as possible and if they have any questions they  
19 should call the office.

20

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

22

23 **The Board recessed at 8:45 p.m.**

24 **The Board resumed at 8:52 p.m.**

25

26 **Case 753-V-13 Petitioner: Wachstetter Farms, Inc, with owners Norman Wachstetter and Mike**  
27 **Wachstetter. Request to authorize the following in the I-1 Light Industry Zoning District: Part A.**  
28 **Variance for a front setback from Second Street of 32 feet in lieu of the minimum required 75 feet for**  
29 **a proposed grain bin. Part B. Variance for a front setback from Ferguson Street of 28 feet in lieu of**  
30 **the minimum required 55 feet for an existing nonconforming building. Location: Lots 1, 2, 3, 4, 5, 6**  
31 **and B of Block 3 of the Original Town of Fooseland in the Southeast Quarter of Section 17 of Brown**  
32 **Township and commonly known as the Wachstetter grain elevator at 200 Main Street, Fooseland.**

33

34 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
35 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
36 of hands for those who would like to cross examine and each person will be called upon. He requested that  
37 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
38 those who desire to cross examine are not required to sign the witness register but are requested to clearly

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1 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
2 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
3 from cross examination.

4  
5 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
6 sign the witness register for that public hearing. He reminded the audience that when they sign the  
7 witness register they are signing an oath.

8  
9 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

10  
11 Mr. Norman Wachstetter, who resides at 3429 CR 100E, Foosland, stated that he would like to request the  
12 approval for construction of a grain bin. He said that they have removed six grain bins with a storage  
13 capacity of 160,000 bushels to make room for the new grain bin which has the storage capacity of 500,000  
14 bushels. He said that the two flat buildings will remain although no grain will be stored in them. He said  
15 that with the new structure they will be increasing their storage capacity by approximately 250,000 bushels.

16  
17 Mr. Thorsland called John Hall to testify.

18  
19 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated June 27, 2013, for the  
20 Board's review. He said that the new memorandum includes a letter from Dale Sedberry, Village President,  
21 Village of Foosland. Mr. Hall stated that the memorandum also includes a new item #11.F which reads as  
22 follows: In a letter received June 27, 2013, from Dale Sedberry, Village President, Village of Foosland, Mr.  
23 Sedberry indicated that at the Village Board meeting on June 10, 2013, a motion was made to authorize Dale  
24 Sedberry to continue with the vacating of five feet of right-of-way on the west side of Second Street next to  
25 the Wachstetter's property pending a final decision by the Champaign County Zoning Board of Appeals. He  
26 said that Part B. of the variance that was included in the agenda is not needed because that structure is  
27 located in the B-5, Central Business Zoning District and there is no minimum setback in that district  
28 therefore only Part A. and Part C., as indicated on the agenda, of the variance are required.

29  
30 Mr. Thorsland asked the Board if there were any questions for Mr. Wachstetter.

31  
32 Mr. Roger Miller, ZBA Board member, asked if any of the six structures which were removed were located  
33 in the setback.

34  
35 Mr. Wachstetter stated that the buildings would not have complied with the County's current setback  
36 requirements.

37  
38 Mr. Palmgren stated that one of the photographs indicates a railroad crossing. He asked Mr. Wachstetter if

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1 the railroad crossing experiences much traffic.

2

3 Mr. Wachstetter stated that the photograph is indicating the railroad crossing on CR 3350N. He said that  
4 there would be some truck traffic on the road but generally there are more cars traveling that road than  
5 trucks.

6

7 Mr. Palmgren asked Mr. Wachstetter if the road makes a turn after crossing the tracks.

8

9 Mr. Wachstetter stated that the road runs straight west but there is another road once you cross the tracks that  
10 turns and runs parallel with the railroad tracks for about 500 feet and then turns back north.

11

12 Mr. Thorsland asked the Board if there were any additional questions for Mr. Wachstetter and there were  
13 none.

14

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

16

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

18

19 Mr. Thorsland called David Stalter to testify.

20

21 Mr. David Stalter, Brown Township Highway Commissioner, stated that water from a sump pump from the  
22 Wachstetter Elevator is being pumped onto Second Street and Ferguson Street and flows to CR 100E to the  
23 south. He said that a wider bend onto these right-of-ways would appear to escalate the problem.

24

25 Mr. Thorsland asked Mr. Stalter if he would like to see the petitioner direct the water differently.

26

27 Mr. Stalter stated that something needs to be done now or the problem will just escalate into a bigger  
28 problem. He said that presently there is sand and gravel on the right hand lane. He said that the street is  
29 located in the Village of Foosland and therefore it is not an issue for his township but it is his observation  
30 that there is a problem.

31

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

33

34 Mr. Miller asked Mr. Stalter if he was aware of an existing tile that could be accessed to alleviate some of  
35 the surface water.

36

37 Mr. Stalter stated that the water problem could be corrected easily because there are storm drains on the  
38 north side of Ferguson Street. He said that the drains are located on the Village of Foosland's property

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1 therefore he cannot correct the issue. He said that he has addressed the issue with the Village of Foosland  
2 with no progress.

3  
4 Mr. Miller stated that it appears the Mr. Stalter is not opposed to the proposed project but he is voicing his  
5 concern regarding the surface water.

6  
7 Mr. Stalter stated yes.

8  
9 Mr. Miller stated that the petitioner has removed six grain bins and is proposing to construct one large grain  
10 bin therefore the surface drainage should not be any greater.

11  
12 Mr. Thorsland asked the Board if there were any further questions for Mr. Stalter and there were none.

13  
14 Mr. Thorsland asked if staff had any questions for Mr. Stalter.

15  
16 Mr. Hall asked Mr. Stalter if he knows where the sump pump is located and what it is serving.

17  
18 Mr. Miller stated that the sump pump is probably draining a grain pit.

19  
20 Mr. Stalter stated that the sump pump services one existing grain bin although he does not know if there will  
21 be a sump pump servicing the new grain bin.

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

25  
26 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Stalter and there was no one.

27  
28 Mr. Thorsland called Mr. Norman Wachstetter to the witness microphone.

29  
30 Mr. Thorsland requested that Mr. Wachstetter address Mr. Stalter's concerns regarding the existing sump  
31 pump and whether or not there will be an additional sump pump to service the new bin.

32  
33 Mr. Wachstetter stated that the sump pump is located in the grain pit and it has existed for years. He said  
34 that the sump pump discharge previously dumped onto the ground but they have installed a pipe to take the  
35 discharge away from the grain bin. He said that prior to installing the pipe they asked the Village of Foosland  
36 and the previous Brown Township Highway Commissioner if they could hook into the storm system and  
37 they did not receive approval from either entity. He said that since they did not receive approval they ran the  
38 pipe along the side of the bins and it outlets on top of the ground, just as it has in the past. He said that there



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1 will not be any additional sump pumps installed. He said that by removing the six bins they have removed  
2 more square footage of roof area than what they will be adding therefore the actual condensed runoff should  
3 be less.

4  
5 Mr. Thorsland asked Mr. Wachstetter if the new bin will be further from the road than the previous  
6 structures.

7  
8 Mr. Wachstetter stated no. He said that the new bin will be in the footprint of four of the previous bins but  
9 by going larger in diameter they will be closer to the road. He said that they have removed the LP tank that  
10 was closer to the road than what the new bin will be and the LP tank will be in a different location.

11  
12 Mr. Hall asked Mr. Wachstetter if, since Second Street is maintained by the County Highway Department, is  
13 there any chance that there may be something that the County Engineer could allow connection to.

14  
15 Mr. Wachstetter stated that it is possible although he does not know whether this is in the County Engineer's  
16 jurisdiction or not. He said that he does not know who has jurisdiction of the stormwater. He said that when  
17 he asked the Village of Foosland they indicated that they could not give him permission to hook into it.

18  
19 Mr. Thorsland asked Mr. Wachstetter if he discussed this matter with Mr. Stalter.

20  
21 Mr. Wachstetter stated that he has spoken with the township highway commissioner and could not receive  
22 permission to hook into the stormwater system.

23  
24 Mr. Thorsland asked Mr. Wachstetter if he and Mr. Stalter could come up with a solution regarding the  
25 existing issue with the surface discharge from the existing sump pump. He asked Mr. Wachstetter if there  
26 was a timeframe for approval because perhaps an answer could be received from the Champaign County  
27 Engineer regarding the possibility of alleviating this problem by using a County drain.

28  
29 Mr. Wachstetter stated that he would like to start the new bin immediately for use this fall. He said that  
30 everything is scheduled therefore if he received approval from this Board the construction can start.

31  
32 Mr. Miller asked Mr. Wachstetter if the footings were poured.

33  
34 Mr. Wachstetter stated that the footings have not been poured.

35  
36 Mr. Miller asked Mr. Wachstetter if he could estimate the volume of water that is discharged from the  
37 existing sump pump.

38

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1 Mr. Wachstetter stated that the sump pump has a 1-1/2" line that has an automatic function to empty the pit.  
2 He said that the pit is a very dry pit therefore to an extreme the sump pump may run once per day. He said  
3 that during a rainy season the sump pump could run more than once a day but on average less than once per  
4 day.

5  
6 Mr. Miller asked Mr. Wachstetter if the sump pump discharges subsurface water and not rain water.

7  
8 Mr. Wachstetter stated that the sump pump does not discharge rain water only subsurface water that seeps  
9 through the pit walls.

10  
11 Mr. Thorsland asked Mr. Wachstetter if the washout that is getting on the road is from his property.

12  
13 Mr. Wachstetter stated that the gravel that is on the road is the gravel from the parking lot and not the sump  
14 pump. He said that the sump pump discharges clean water that runs out onto the grass and then to the edge  
15 of the road.

16  
17 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Wachstetter and there  
18 were none.

19  
20 Mr. Thorsland called Mr. David Stalter to the witness microphone.

21  
22 Mr. Stalter stated that through the township he serves the Wachstetters and they have not discussed placing  
23 the pipe in the drain. He said that approximately one year ago he approached Mr. Norman Wachstetter and  
24 indicated that the pipe should be connected to the storm drain but he did not deny him access to a road tile.  
25 He said that he is not present tonight to begin a dispute but to only indicate his concerns.

26  
27 Mr. Thorsland asked Mr. Stalter if there was a road tile located in his jurisdiction that Mr. Wachstetter could  
28 connect the pipe to.

29  
30 Mr. Stalter stated that if there was a road tile available for Mr. Wachstetter he would allow him to hook in to  
31 it but his jurisdiction is basically one-half block away from the subject property. He said that Ferguson  
32 Street is one-half block away from Brown Township but water is going down the street and not under the  
33 street and it is a problem that could probably be solved very easily.

34  
35 Mr. Miller stated that Mr. Wachstetter stated that he spoke to the township highway commissioner and was  
36 denied access therefore perhaps it was the previous township road commissioner and not Mr. Stalter.

37  
38 Mr. Wachstetter stated that Mr. Miller is correct.

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1  
2 Mr. Stalter stated that he has been with the township for five years. He said that he became the Brown  
3 Township Highway Commissioner when the previous commissioner passed away. He said that the previous  
4 highway commissioner did not mention this concern although he is willing to work with Mr. Wachstetter  
5 regarding this matter.

6  
7 Mr. Miller stated that the water issue is only relevant to some people.

8  
9 Mr. Stalter stated that there is an elderly woman that lives on Ferguson Street that receives water from the  
10 sump pump in her yard.

11  
12 Mr. Miller stated that this is a pre-existing condition and the new bin will not make the condition worse.

13  
14 Mr. Stalter stated that we do not know how the new bin will affect the drainage issue.

15  
16 Mr. Thorsland stated that the sump pump in the existing pit is not part of the application tonight. He said  
17 that the issue at the Board tonight is the new bin and the variances for that bin. He said that if there is an  
18 existing problem which is posing concerns then those concerns should be resolved outside of this public  
19 hearing. He said that the impervious area for the new bin appears to be less than before and it appears that  
20 the water is from the ground and not rain water. He said that perhaps the petitioner should speak with the  
21 County Engineer regarding this issue and how to resolve it.

22  
23 Mr. Wachstetter stated that when they were planning their expansion and prior to installing the pipe he  
24 wanted to hook in to the stormwater system therefore he spoke to the previous road commissioner and the  
25 Village of Foosland. He said that he wanted to drain the pit by gravity and they could have done that if they  
26 were allowed to hook in to the existing storm system but he was denied access therefore he stayed with the  
27 existing sump pump. He said that this is an issue that they tried to get done.

28  
29 Mr. Miller asked Mr. Wachstetter if he would connect to a road tile if the Brown Township Highway  
30 Commissioner found one that was available.

31  
32 Mr. Wachstetter stated absolutely. He said that there is a storm drain next to the elderly woman's yard that  
33 Mr. Stalter discussed and if he could hook into that drain he would but he has never been able to receive  
34 permission to do so.

35  
36 Mr. Hall stated that this is a very unusual case because this use is agriculture and the only part of the  
37 Ordinance that applies to agriculture is the setback. He said that the Board works very hard to resolve  
38 problems like this when they come up but given that the elevator is agricultural, it is a farmer owned

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1 elevator, and the only thing that comes under the Zoning Ordinance’s jurisdiction is the setback. He said  
2 that he hopes that the water issue can be corrected but frankly it is not directly related to the amount of  
3 impervious area and is not directly related to the bin that is at issue in the variance. He said that this use is  
4 agriculture so the existing water issue is not something that this Board can do anything about.

5  
6 Mr. Thorsland stated that no special conditions are proposed. He said that a new item #6 should be added to  
7 the Documents of Record as follows: Supplemental Memorandum dated June 27, 2013, with attachments.

8  
9 **Finding of Fact for Case 753-V-13:**

10  
11 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
12 753-V-13 held on June 27, 2013, the Zoning Board of Appeals of Champaign County finds that:

- 13  
14 **1. Special conditions and circumstances DO exist which are peculiar to the land or**  
15 **structure involved, which are not applicable to other similarly situated land and**  
16 **structures elsewhere in the same district.**

17  
18 Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or  
19 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
20 same district because the irregular shape of the parcel crosses the railroad tracks and minimizes the setbacks  
21 that are available for the construction of a grain storage facility of this size.

22  
23 Mr. Palmgren stated that this is an existing facility that was constructed prior to the adoption of the Zoning  
24 Ordinance.

25  
26 Mr. Hall read the Board’s findings as follows:

- 27  
28 • The irregular shape of the parcel created by the railroad tracks and the road,  
29 minimizes the setback available for a storage facility of this size.  
30 • This is an existing facility constructed prior to zoning.

31  
32 The Board agreed.

- 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 Mr. Palmgren 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 because without the variance the strangely shaped lot will be limited in use other than what it  
3 was originally created for.

4  
5 Ms. Capel stated that the buildable area for a standard grain storage bin is extremely limited on the lot.

6  
7 Mr. Thorsland stated that no additional land is available for expansion at this location.

8  
9 Mr. Hall read the Board's findings as follows:

- 10  
11 • Without the variance this strangely shaped lot would be very limited in any use other  
12 than what it was originally created for.  
13 • The buildable area for a standard grain bin is very limited on this strangely shaped  
14 lot.  
15 • There is no land available for expansion at this location.

16  
17 The Board agreed.

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

21  
22 Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
23 result from actions of the applicant because the existing storage pre-dates the adoption of zoning in 1973.

24  
25 Mr. Hall read the Board's finding as follows:

- 26  
27 • The existing storage pre-dated 1973.

28  
29 The Board agreed.

30  
31 **4. The requested variance IS in harmony with the general purpose and intent of the**  
32 **Ordinance.**

33  
34 Mr. Palmgren stated that the requested variance IS in harmony with the general purpose and intent of the  
35 Ordinance because the petitioner removed older bins and is proposing to replace them with an updated more  
36 efficient bin.

37  
38 Mr. Hall read the Board's finding as follows:

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1  
2  
3  
4  
5  
6  
7  
8  
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10  
11  
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- The petitioner removed 4 older bins and proposes to replace them with a more efficient bin.

The Board agreed.

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

Mr. Miller stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the proposed new construction will have less square footage of impervious area which will create less runoff. He said that the new bin will not be any closer to the road than the previous structures.

Mr. Thorsland stated that the proposed new storage bin will allow for safer handling and storage of grain.

Mr. Hall read the Board’s findings as follows:

- The proposed new construction will have less square footage of impervious area which will reduce the runoff.
- The proposed new bin will not be any closer to the road than the previous structures.
- The proposed new bin will for safer handling and storage of grain.

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

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

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

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

Mr. Thorsland entertained a motion to move to the Final Determination for Case 753-V-13.

**Ms. Capel moved, seconded by Mr. Palmgren to move to the Final Determination for Case 753-V-13.**

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

2  
3 Mr. Thorsland informed the petitioner that one Board member is absent and one Board seat is vacant  
4 therefore it is at his discretion to either continue Case 753-V-13 until a full Board is present or request that  
5 the present Board move forward to the Final Determination. He informed the petitioner that four affirmative  
6 votes are required for approval.

7  
8 Mr. Wachstetter requested that the present Board move to the final determination for Case 753-V-13.

9  
10 **Final Determination for Case 753-V-13:**

11  
12 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**  
13 **finds that, based upon the application, testimony, and other evidence received in this case, that the**  
14 **requirements for approval in Section 9.1.9.C HAVE been met and pursuant to the authority granted**  
15 **by Section 9.1.6B. of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**  
16 **Champaign County determines that the Variance requested in Case 753-V-13 is hereby GRANTED to**  
17 **the petitioner Wachstetter Farms, Inc. to authorize the following in the I-1 Light Industry Zoning**  
18 **District:**

- 19 **Part A. Variance for a front setback from Second Street of 32 feet in lieu of**
- 20 **the minimum required 75 feet for a proposed grain bin.**
- 21 **Part B. Variance for a front setback from Ferguson Street of 28 feet in lieu of**
- 22 **the minimum required 55 feet for an existing nonconforming building.**

23  
24 Mr. Thorsland requested a roll call vote.

25  
26 The roll was called:

27	28 <b>Courson-yes</b>	28 <b>Miller-yes</b>	28 <b>Palmgren-yes</b>
29	29 <b>Passalacqua-absent</b>	29 <b>Capel-yes</b>	29 <b>Thorsland-yes</b>

30  
31 Mr. Hall informed the petitioner that he has received an approval for his request. He said that staff will send  
32 out the appropriate paperwork as soon as possible. He noted that the petitioner should call the office with  
33 any questions.

34  
35 **Case 757-AT-13 Petitioner: Champaign County Zoning Administrator Request to amend the**  
36 **Champaign County Zoning Ordinance as follows: Part A. Adopt and updated Flood Insurance**  
37 **Study with an effective date of October 2, 2013. Part B. Adopt updated Digital Flood Insurance Rate**  
38 **Maps (DFIRM) for Champaign County, Illinois with an effective date of October 2, 2013. The new**

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1 maps can be viewed at [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org) Part C. Adopt a new Special Flood Hazard Area  
2 Ordinance based on the minimum requirements of the National Flood Insurance Program (NFIP) and  
3 the State of Illinois.

4  
5  
6 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
7 sign the witness register for that public hearing. He reminded the audience that when they sign the  
8 witness register they are signing an oath.

9  
10 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

11  
12 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated June 27, 2013, for the  
13 Board's review. He said that he knew that this case would occur sometime this year but he did not know  
14 until mid-April that the County had to have the new Ordinance adopted by mid-September therefore it is  
15 necessarily rushed. He said that the public has already had the chance to view the maps that FEMA wants  
16 adopted therefore there is really no discretion with them. He said that the Flood Insurance Study has all of  
17 the documents that have been used and it is a valid study. He said that the he did not know until the middle  
18 of April that the County was required to adopt a new Ordinance and the last time that FEMA directed the  
19 County to adopt a new Ordinance was when the Department of Planning and Zoning was in between Zoning  
20 Directors and the Ordinance was adopted in a rush. He said that the model ordinance is a bare minimum  
21 ordinance and can't be very well tailored to any one jurisdiction because it is a model ordinance for every  
22 jurisdiction in the State of Illinois and it is not written very well. He said that the new memorandum  
23 proposes changes to Sections 5 and 7 and the Office of Water Resources has already approved these changes  
24 and the changes make the Ordinance seem like it is actually written more for Champaign County in talking  
25 about a Floodplain Development Permit, which is what we call permits in the floodplain and not  
26 development permits, and it actually describes the process whether someone needs a Floodplain  
27 Development Permit. He said that Section 7 is much improved because even the existing Section 7 in the  
28 current Ordinance literally has some sections that we cannot make heads or tails about therefore those  
29 sections have been corrected in the new version. He said that the new memorandum includes things that he  
30 proposes to be added and those things are double underlined and again the Office of Water Resources has  
31 already reviewed and approved those things.

32  
33 Mr. Hall stated that most of what this text amendment is about is making sure that we understand what the  
34 Ordinance does and that it does what we want it to do and what FEMA requires it to do and that it makes  
35 sense.

36  
37 Mr. Hall stated that the current Special Flood Hazard Areas Ordinance was adopted in 2003 and he became  
38 the Zoning Administrator in 2006. He said that prior to 2004 he did not get involved in floodplain reviews



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1 and the first time that he was asked to approve a Floodplain Development Permit he read that part of the  
2 Ordinance, as amended on June 23, 2005, on page 8 that indicates the following: the lowest floor and all  
3 electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located  
4 at or above the flood protection elevation. Mr. Hall stated that he could not remember staff having ever done  
5 anything about that and Ms. Hitt, Zoning Officer, who was actually approving such permits during the time  
6 when there was a turnover with Zoning Administrators, did not remember doing so either. He said that  
7 finally when he started working on the new Ordinance Ms. Hitt found a FEMA document that staff had not  
8 reviewed previously and he included excerpts of that document with tonight's memorandum. He said that  
9 the excerpt is titled, "Protecting Building Utilities from Flood Damage," and on the cover is an air  
10 conditioning condenser surrounded by floodwater and you know exactly what they are talking about but the  
11 County has never required an air conditioner condenser to be above the flood protection elevation yet the  
12 Ordinance has always required it. He said that we have never really made an issue whether there were ducts  
13 in the crawlspace but the model ordinance said that you couldn't have anything below the flood protection  
14 elevation but he has talked to the Office of Water Resources and they indicated that it is really the base flood  
15 elevation. He said that we are going to have to get better as to how we enforce the Flood Hazard Ordinance  
16 but the Office of Water Resources indicated that not many other jurisdictions worry about those things either  
17 which is why sometimes propane tanks get carried away in floodwaters and propane tanks are supposed to be  
18 elevated or anchored and Champaign County has never done that. He said that staff has done a good job  
19 with crawlspace requirements and it takes a lot of time to explain those requirements to people and helping  
20 them figure out all of the elevations and how they should line up. He said that one thing that staff has always  
21 wanted is a handout with an example drawing to show someone how to do that therefore another attachment  
22 to tonight's memorandum are pages from a technical bulletin from FEMA titled, "Crawlspace Construction."  
23 He said that these are technical illustrations from a FEMA technical bulletin but they do not tell anyone  
24 everything that they need to know and he figured that there are at least 12 other items of information that  
25 need to be put on an example cross section so that a citizen would have the specific guidance that they need  
26 to determine how their crawlspace should be constructed in accordance with our Special Flood Hazard Areas  
27 Ordinance. He said that he would like to get this handout developed as part of this text amendment because  
28 he has learned that if you don't do these things as part of a text amendment you will never have time to do  
29 them once the text amendment is in place.

30  
31 Mr. Hall stated that Attachment C. is a draft handout and it isn't even half way finished but citizens do need  
32 a handout that simply reviews the technical requirements for a Floodplain Development Permit. He said that  
33 he has included the checklists that FEMA has in their manual regarding Protecting Building Support Utility  
34 Systems from Flood Damage. He said that the checklists are not very useful for him because they discuss  
35 things like components, units, elements, etc. and you need to read the entire manual to understand what they  
36 mean. He said that citizens need a checklist that is simple such as, any outdoor central air conditioning unit  
37 or outdoor heat exchanger unit must be installed at or above the flood protection elevation; and no HVAC  
38 duct shall be located below the flood protection elevation; and any air intake or exhaust for the furnace must

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1 be located at or above the flood protection elevation; and if the source of heat is propane (1) the propane  
2 storage must either be installed at or above the flood protection elevation or securely anchored to resist  
3 flotation and located downstream of the building; and (2) the fuel piping leaving the tank and entering the  
4 building must be protected from flood waters; and if the source of heat is natural gas (1) the gas meter must  
5 be located at or above the flood protection elevation if possible and (2) the gas line into the building must be  
6 protected from flood waters; and will the electric service enter the building by overhead electrical lines or by  
7 underground electrical lines? If underground electrical lines are to be used they must be protected from  
8 flood waters where they enter the building; and the electric meter must be above the flood protection  
9 elevation, if possible, and located on the downstream (relative to the direction of flow of flood waters) side  
10 of the building; and no electrical circuit shall be located below the flood protection elevation unless there is  
11 no other option. Any circuit below the flood protection elevation must have proper electrical wiring for a  
12 wet location and the circuit must be protected by a ground fault circuit interrupter; and if the source of  
13 potable water is an onsite water well, the water well should be located at or above the flood protection  
14 elevation if possible and if not, the well must not allow intrusion of flood waters; and any exterior hose bibs  
15 must be located above the flood protection elevation or installed with backflow preventers to prevent  
16 contamination by flood waters.

17  
18 Mr. Hall stated that staff has a couple of handouts to make but more importantly we want to make sure that  
19 the Ordinance makes sense. He said that when the Board reads revised Section 7 they will see that he talks  
20 about anything outside of the crawlspace including all HVAC and utility meters on the property and fuel  
21 storage tanks. He said that originally he had hoped to have a full draft Ordinance for the Board to review  
22 tonight but all he has been able to do is revise Sections 5 and 7 so that they make sense and it does what it is  
23 supposed to do. He said that when Case 757-AT-13 comes back to the ZBA the Board will have a full draft  
24 Ordinance.

25  
26 Mr. Hall stated that he has a full set of flood maps for the Board's review tonight and the new flood maps  
27 makes most sense when they are compared to the existing flood maps. He said that the existing flood maps  
28 only show the roads, section lines, outlines of the perennial streams and the floodplain at a scale of 1" =  
29 2,000 feet and somehow you are supposed to be able to know on a one acre tract out in the middle of a  
30 square mile where a 30' x 50' house is going to be located. He said that at a scale of 1" = 2000 feet a 30' x  
31 50' house is really not bigger than the point of the lead on your pencil. He said that the new maps have an  
32 aerial background so anything that exists can be seen and the office has received some calls from people who  
33 have provided elevations in the past to prove that their home is out of the floodplain yet the new and  
34 improved flood maps still indicate them in the floodplain. He said that if someone has provided such  
35 information the data is still accurate but there are some inaccuracies in the new flood maps. He said that  
36 staff does not have base flood elevations for the Kaskaskia River so the shape of the floodplain along the  
37 Kaskaskia is very smooth and continuous but the shape of the floodplain along the Embarrass River, where  
38 we have a base flood elevation, is very jagged and it reflects the fact that they have base flood elevations and

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1 digital topography therefore it is as accurate as it can be but it is not perfect. He said that the new maps are a  
2 big improvement and they are easier to use. He said that on the old maps when staff is working within one  
3 and one-half miles of a municipality when the floodplain goes into where the municipality was when the  
4 maps were printed in 1984 there is nothing and staff has to refer to the municipal maps. He said that  
5 FEMA's digital map is one file and the floodplain can be traced from the unincorporated area into the  
6 municipality which will be easier than jumping from one map to another. He said that the public had the  
7 opportunity to view these maps at the Champaign Library last summer and there were a lot of people there  
8 and he would assume that those same people received notices about the current process. He said that staff  
9 did not send notices to everyone that is located in the floodplain.

10  
11 Mr. Hall stated that there is not a lot of discretion as to when the ZBA has to have this done and forwarded to  
12 the County Board for their September meeting. He said that he is sure that the County will end up with a  
13 better Special Flood Hazard Areas Ordinance in the end. He recommended that Case 757-AT-13 be placed  
14 on every meeting agenda until the end of July just in case there is additional interest from the public.

15  
16 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

17  
18 Mr. Thorsland entertained a motion to continue Case 757-AT-13 to the July 11, 2013, meeting.

19  
20 **Mr. Palmgren moved, seconded by Mr. Courson to continue Case 757-AT-13 to the July 11, 2013,**  
21 **meeting. The motion carried by voice vote.**

22  
23 **7. Staff Report**

24  
25 None

26  
27 **8. Other Business**

28 **A. Review of Docket**

29 **B. Cancellation of September 12, 2013, meeting**

30  
31 Mr. Hall stated that by the next meeting staff will need to know if the Board intends to hold the September  
32 12, 2013, meeting so that cases can be docketed.

33  
34 Mr. Thorsland entertained a motion to cancel the September 12, 2013, meeting.

35  
36 **Ms. Capel moved, seconded by Mr. Palmgren to cancel the September 12, 2013, meeting. The motion**  
37 **carried by voice vote.**

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

2

3 None

4

5 **10. Adjournment**

6

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

8

9 **Mr. Miller moved, seconded by Mr. Palmgren to adjourn the meeting. The motion carried by voice**  
10 **vote.**

11

12

13 The meeting adjourned at 9:57 p.m.

14

15

16 Respectfully submitted

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21 Secretary of Zoning Board of Appeals

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