

CASE NO. 718-S-12 & 719-V-12

SUPPLEMENTAL MEMORANDUM

October 11, 2012

Champaign
County
Department of

PLANNING &
ZONING

Petitioners: Sangamon Valley Public Water District and Parkhill Enterprises, LLC

Request: CASE: 718-S-12

Authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12 on the subject property described below:

Part A. Authorize the expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions.

Part B. Authorize the replacement of a non-conforming water tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions.

CASE: 719-V-12

Authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S-12 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12:

Part A. The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.

Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; a side yard of 46 feet in lieu of the required 50 feet.

Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet on the subject property described below.

Location: An approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.

Site Area: 3.6 acres

Time Schedule for Development: March 2013-March 2014

Prepared by: Andy Kass
Associate Planner

John Hall
Zoning Administrator

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

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STATUS

These cases were continued from the September 27, 2012, public hearing. A revised site plan has been submitted and is included. New evidence and revisions to the Summary of Evidence are included below.

REVISED SITE PLAN

The petitioner submitted a revised site plan on October 10, 2012. The new site plan indicates the requested screening by the Mahomet Christian Church along the north property line as well as the future extension of Middletown Drive.

PROPOSED EVIDENCE & REVISIONS

Make the following revision and add the proposed evidence to Item 4.B. of the Summary of Evidence as follows:

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north is in agriculture production and is zoned R-4 Multiple Family Residence.
 - (2) Land on the south is in residential use and agricultural production and is zone AG-1 Agriculture and is located within the Village of Mahomet Village limits and is zoned RU Residential Urban, R-2 Residential Two Family, and R-3 Residential Multiple Family.
 - (3) Land east of the subject property is in residential use and is zoned R-4 Multiple Family Residence.
 - (4) Land west of the subject property is in residential use and is located within the Village of Mahomet Village limits and is zoned R-1 Residential Single Family.

Make the following revisions and add the proposed evidence to Item 5. Of the Summary of Evidence as follows:

5. Regarding site plan and operations of the water treatment plant:
 - A. The site plan received June 19, 2012, and revised on August 16, 2012, and October 10, 2012, indicates the following:
 - (1) The original non-conforming water treatment plant which consists of a 61' × 44' treatment plant and District office, related smaller buildings, 12

Cases 718-S-12 & 719-V-12

Sangamon Valley Public Water District and Parkhill Enterprises, LLC

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existing parking spaces, 2 existing wells, 2 existing overhead lights, existing fencing, the existing access easement, two wells, and the 131 feet tall elevated water storage tank. All situated on a .70 acre non-conforming lot of record.

- (2) An unauthorized 63' × 48' building to the west of the original plant that is partially on a .80 acre lot that has not been approved by the Village of Mahomet. This lot is a portion of the property proposed to be rezoned in related case 717-AM-12.
- (3) The proposed expansion onto an additional 2.10 acres (proposed to be rezoned in related case 717-AM-12) north of the existing property and consists of the following buildings and structures:
 - (a) A proposed 5,475 square feet treatment plant.
 - (b) A proposed 28' × 28' backwash tank.
 - (c) A proposed brine storage tank.
 - (d) A proposed 56,000 gallon ground storage tank that is 35 feet in height.
 - (e) The locations of proposed 6' to 8' in height fencing and landscape screening. The landscape screening consists of a berm on the east side and a berm along the north property line. Existing trees on the west side will be utilized as well.
 - (f) The proposed 20 feet wide access easement.
 - (g) A 15' × 40' loading berth.
 - (h) 2 parking spaces and 1 accessible parking space.
 - (i) The location of the future south Right-of-Way line of Middletown Drive in the northeast corner of the subject property.
- (4) An existing 50 feet wide Ameren easement in the southwest corner of the subject property.
- (5) A note indicating that the proposed treatment plant will utilize a lighting system conforming to the Champaign County lighting requirements.
- (6) A note indicating that the fence will be relocated when the south right-of-way line of Middletown Drive is extended through the property.

Make the following revisions and add the proposed evidence to Item 8.F. Of the Summary of Evidence as follows:

- F. Regarding outdoor lighting on the subject property, the revised site plans received August 16, 2012, and October 10, 2012, indicates the following:
- (1) The Sangamon Valley Public Water District utilizes two overhead pole mounted lighting units located along the existing access road, one at the entrance at Prairieview Road and one at the plant gate. The locations of these overhead lights are indicated on the site plan.
 - (2) The new water plant will utilize a lighting system conforming to the Champaign County lighting regulations.

Make the following revisions and add the proposed evidence to Item 9. C.(2)(e) Of the Summary of Evidence as follows:

- (e) The site plans received on August 16, 2012, and October 10, 2012, indicates that there will be a total of 15 parking spaces, including 2 handicap accessible spaces located on the subject property. Screening has been indicated on the site plan as a landscaped berm and an 8 feet in height opaque fence along the east property line. There are some trees located in the southwest corner of the subject property that could provide screening. In addition a landscaped berm along the north property line is indicated.

Make the following revisions and add the proposed evidence to Item 9.C.(3)(c) Of the Summary of Evidence as follows:

- (c) The site plans received August 16, 2012, and October 10, 2012, indicates that a 15' × 40' loading berth will be located next to the proposed treatment plant. The existing water treatment plant has received deliveries since 1973 so there is an unloading area on the property. There are some trees located in the southwest corner of the subject property that could provide screening.

ATTACHMENTS

- A Revised Site Plan received October 10, 2012 (attached separately)
- B Draft minutes of public hearing on September 27, 2012

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5. Continued Public Hearing

Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to amend the zoning Map to change the district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture Zoning District. Location: Approximately 2.9 acres of an approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet and subject to the proposed Special Use Permit in related Case 718-S-12 and the variance requested in related Case 719-V-12.

Case 718-S-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12. Part A. Authorize expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions; and Part B. Authorize the replacement of a non-conforming water treatment tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions. Location: An approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.

Case 719-V-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S012 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12: Part A. The expansion of a non-conforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H; and Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12. Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55feet; a side yard of 46 feet in lieu of the required 50 feet; and Part D. Waiver (variance) for a elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet. Location: An approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.

Ms. Capel informed the audience that Cases 718-S-12 and 719-V-12 are Administrative Cases and as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she

1 will ask for a show of hands for those who would like to cross examine and each person will be called upon.
2 She requested that anyone called to cross examine go to the cross examination microphone to ask any
3 questions. She said that those who desire to cross examine are not required to sign the witness register but
4 are requested to clearly state their name before asking any questions. She noted that no new testimony is to
5 be given during the cross examination. She said that attorneys who have complied with Article 7.6 of the
6 ZBA By-Laws are exempt from cross examination.

7
8 Ms. Capel informed the audience that anyone wishing to testify for these public hearings tonight must
9 sign the witness registers. She reminded the audience that when they sign the witness register they are
10 signing an oath. She asked the audience if anyone desired to sign the witness registers at this time.

11
12 Mr. Courson informed the Board that approximately ten years ago he completed sewer and water main work
13 for the petitioners.

14
15 Ms. Capel 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 the information
18 provided by staff explains why they are before the Board. He said that the expansion has to be done
19 therefore they will do whatever they need to do to comply with County's requirements. He said that they are
20 requesting a rezoning, special use permit and several variances.

21
22 Mr. Gifford stated that the water district serves approximately 4,500 people. He said that the current water
23 treatment plant was built in the 1960's and it is almost at its maximum capacity which affects the water
24 quality at times. He said that the EPA recommends that they build additional water storage therefore it is
25 vital as a health and safety issue that they get the project completed.

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27 Ms. Capel asked the Board if there were any questions for Mr. Gifford.

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29 Mr. Palmgren asked Mr. Gifford if he indicated that the current water treatment plant was built in the 1960's.

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Mr. Gifford stated that the district was formed on August 1, 1966. He said that originally the treatment plant consisted of only a pressure tank and well but in 1972 a softener was added.

Mr. Palmgren asked Mr. Gifford what type of development was in the area in 1966.

Mr. Gifford stated that there were a few small subdivisions and a mobile home park. He said that the system was never designed to handle what is required currently. He said that a large part of their customer base is from the Village of Mahomet and not just the rural vicinity and it would be advantageous for the Village of Mahomet to cooperate with this process.

Ms. Capel asked if staff had any questions for Mr. Gifford and there were none.

Ms. Capel called John Hall to testify.

Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated September 27, 2012, for the Board's review. He said that the new memorandum traces the history of the tracts that leads us up to today. He said that the history of development around the lots was reviewed and he does not know what the Village of Mahomet's Ordinances require for approving divisions on part of a property. He said that if the Board will review the Sidwell map dated 2011 the Board will see the Quail Run Subdivision freshly platted even though on the Sidwell map dated 2005 there is no Quail Run Subdivision but a .80 parcel that was not authorized by the Village of Mahomet. He said that if the County's Zoning Ordinance had been in effect there would not have been a Quail Run Subdivision until that unauthorized lot had been corrected. He said that he does not know if the Village of Mahomet Ordinances are set up with as much for thought as the County Ordinance but that is precisely why the County's Ordinance is set up the way that it is. He said that it makes him wonder if municipalities do not care where a proposed parcel for development came to be and whether everything was created properly. He said that the County's Ordinance is what it is and it requires compliance with the village subdivision regulations and at some point the question will probably be asked as

1 to why the County cares more than a village and it isn't that the County cares more it is just that the
2 Ordinance is set up that way.

3
4 Mr. Hall stated that a letter dated January 14, 2003, which is attached to the September 27, 2012,
5 Supplemental Memorandum, is relevant to the issue of how the Village of Mahomet has continued to
6 approve plats when they knew that there was an illegal subdivision. He said that even though there had been
7 previous letters making requests, on January 14, 2003, the Village of Mahomet formally notified the
8 Sangamon Valley Public Water District that there had been an unlawful creation of a lot. He said that he
9 does not know how this date compares with Quail Run Subdivision but he does know that the Quail Run
10 Subdivision first appeared on the 2011 Sidwell map.

11
12 Ms. Capel asked the Board if there were any questions for Mr. Hall.

13
14 Mr. Hall stated that in regards to conditions, the only condition that staff sees a need for is the condition
15 regarding compliance with the Village of Mahomet's Subdivision Regulations. He said that he would
16 suggest that the Board consider making that condition only a requirement for the map amendment. He said
17 that the Zoning Ordinance already requires it so technically there will be compliance and the Board does not
18 need to burden the Special Use Permit or the Variance with that but he would suggest burdening the map
19 amendment because it is the only part of these cases that goes to the County Board. He said that it would
20 make sense to have that condition, if it is adopted, but a condition that the County board has some control
21 over. He said that even if this is not made a condition it remains a requirement of the Ordinance.

22
23 Ms. Capel stated that if the Board does not specify it as a condition it could easily be ignored.

24
25 Mr. Passalacqua stated that if it is part of the Ordinance there is no need to cover it twice.

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27 Mr. Hall stated that the Board is not obligated to make it a condition.

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29 Ms. Capel asked if the map amendment would take place regardless.

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Mr. Hall stated that the map amendment will only take place if there is no protest received from the Village of Mahomet or if there are 21 affirmative County Board votes to over-ride any protest and if there is then the map amendment happens and even if it isn't a condition it is still part of the Ordinance.

Mr. Passalacqua asked Mr. Hall if it sits better with the Village of Mahomet if it is a special condition.

Mr. Hall stated that he is sure that it does and staff always tries to include those conditions so that they cannot be accused of letting it be overlooked. He said that he is only suggesting that it might be useful for only the map amendment case that will be reviewed by the County Board. He said that there cannot be any variance from that requirement because it is a procedural requirement that is in the Ordinance and the Board does not need to include it in any case if the Board does not feel that it is needed.

Ms. Capel called Phillip VanNess to testify.

Mr. Phillip VanNess, attorney representing the Sangamon Valley Public Water District, stated that the Board has already heard testimony from Mr. Gifford and if the Board has any technical questions for Mr. Gifford, General Manager or Mike Buzicky, Consulting Engineer with Sodeman and Associates, he is sure that they would be happy to address those questions. He said that also present tonight on behalf of the Sangamon Valley Public Water District are Board members Bud Parkhill and Paul Clinebell. He said that his purpose is to urge the Board to approve these requests and the petitioners would prefer that the special condition is not included in that approval. He said that this is going to be a legal issue and they are going to have to go to the Village of Mahomet to hammer those things out therefore his suggestion to the ZBA is that subdivision is completely different than zoning and the ZBA's concern is only zoning. He said that the ZBA has the opportunity to avoid being involved in a legal issue that they do not have to get in to. He said that the Board already has a copy of his letter to Mr. Hall which outlines the petitioner's legal argument and it is not important for the ZBA to address those arguments. He urged that the Board review his letter and bide by Mr. Hall's suggestion in not including a special condition because nothing that the ZBA would do or say would

1 vary the terms of the Ordinance and there is no reason for the ZBA to become involved in a legal battle
2 between the petitioner and the Village of Mahomet.

3
4 Mr. VanNess stated that when he was a young attorney he poked his nose into a more seasoned attorney's
5 case and became well over his head very quickly. He said that the seasoned attorney informed him that he
6 had the opportunity to stay out of the fight and should have taken it therefore he is now urging the ZBA to
7 take the opportunity to stay out of the fight between the water district and the Village of Mahomet and they
8 should take it.

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10 Ms. Capel asked the Board if there were any questions for Mr. VanNess and there were none.

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12 Mr. Hall asked Mr. VanNess to affirm that his client is well aware that the Champaign County Zoning
13 Ordinance requires compliance with the Village of Mahomet's Subdivision Regulations.

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15 Mr. VanNess stated that his letter references a specific section in the Ordinance and he agrees that this is
16 what the Ordinance states although he does not agree that it is legal and this is not the place to determine
17 that. He said that the County Board is the only entity that has the authority to change the Ordinance at their
18 public hearing.

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20 Mr. Hall stated that the County Board cannot change the Ordinance at the public hearing by itself.

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22 Mr. VanNess stated that he realizes that he understands the entire process and was only short sheeting the
23 description of the process.

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25 Ms. Capel called Robert Mahrt to testify.

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27 Mr. Robert Mahrt, Village Planner for the Village of Mahomet, stated that he appreciates the opportunity to
28 speak at tonight's public hearing. He said that the Village of Mahomet is supportive of the quality services
29 that the Sangamon Valley Public Water District does provide to the citizens of the Mahomet community.

1 He said that the Village of Mahomet's Board and the Village of Mahomet's staff does have concerns
2 regarding the proposed rezoning, special use and variances. He asked if the outline of the rezoning that they
3 received in June had changed since the legal advertisement.

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5 Mr. Hall stated no.

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7 Mr. Mahrt stated that he will first address Case 717-AM-12. He said that item #6.B(2) of the Draft Finding
8 of Fact indicates that the land on the south is in agricultural production and is zoned AG-2 Agriculture. He
9 said that this information is incorrect because the zoning to the south is actually under the Village of
10 Mahomet's jurisdiction and is zoned RU and R-2. He said that he would be happy to provide a Village of
11 Mahomet zoning map which will illustrate the Village of Mahomet's zoning in that location.

12

13 Mr. Hall asked Mr. Mahrt if some of the land this is in the Village of Mahomet is in agricultural production.

14

15 Mr. Mahrt stated that there is some row crop production in that area. He said that the Village of Mahomet
16 has preliminarily platted those tracts when the rezoning came into place and when the rezoning goes into
17 place it will allow for immediate development. He said that Quail Run is almost completely full and
18 discussions have taken place between the Village of Mahomet and the developer regarding further
19 development.

20

21 Mr. Mahrt stated that the proposed rezoning in Case 717-AM-12 would create essentially a spot zone
22 because an agricultural district would be placed in the heart of what is essentially surrounded by residential
23 zoning. He said that there is RU and R-2 zoning to the south and R-1 to the west and R-4 to the north. He
24 said that the Board would not consider placing a residential use in the center of an agriculture district
25 therefore why consider placing an agricultural district in the heart of a residential area. He said that the
26 statement of intent for the Agricultural District is intended to be for areas that are in the rural periphery of
27 the County and not necessarily in the urbanized areas of a municipality. He said that the Board needs to
28 consider the statement of intent of the district and its relationship to this particular property.

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2 Mr. Mahrt stated that it is very likely that the Village of Mahomet's Board will consider a protest to the
3 rezoning request at its meeting on October 23, 2012. He said that if a continuance date for these cases is
4 prior to the Village of Mahomet's meeting then the Village will hold a special meeting to protest the
5 proposal.

6

7 Mr. Mahrt stated that in March the Village of Mahomet was approached for a request to expand the plant,
8 primarily on a property to the south which is within the Village of Mahomet's jurisdiction. He said that the
9 Village of Mahomet did provide correspondence in March to the Sangamon Valley Public Water District
10 identifying that they could proceed with the project under Village of Mahomet's Developmental Regulations
11 which would include a rezoning to the R-1 District and a Conditional Use Permit. He said that under the
12 Village of Mahomet's Ordinance a government use is allowed in the R-1 District with a Conditional Use
13 Permit and in order to expand to the south SVPWD would have to do a subdivision to consolidate their
14 existing tracts and sign an annexation agreement. He said that a complete building permit application and
15 site plan with drainage detention provided is also required. He said that the Village of Mahomet is
16 concerned with the request to not include the provision of subdivision. He said that it may seem redundant
17 in the County's Ordinance and it may be asked why it should be put back in but the westerly lot which Mr.
18 Hall is calling a non-conforming lot of record or an illegal lot, has a building that was not permitted by the
19 County so how did the failings by the Village of Mahomet to proceed to the Board on a subdivision
20 violation did the County moved forward to envelop the unauthorized construction of a building. He said that
21 the Village of Mahomet has correspondence from 2001 and 2003 and he does not know what caused the
22 Village Board at that time to not move forward on the enforcement of the Subdivision Ordinance but the
23 current Village of Mahomet Board is interested in continuing enforcement to get this matter resolved.

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25 Mr. Mahrt stated that in relationship to Case 718-S-12 the proposed Special Use Permit request is counter to
26 the Village of Mahomet's established land use policy with the village and is inconsistent with the approved
27 Area General Plan for the Wood's Subdivision. He said that the Area General Plan for the Wood's
28 Subdivision was approved by the Village of Mahomet for the remainder of the tract with frontage on
29 Prairieview Road and the proposal would eliminate the extension of Middleton Drive without providing a

1 cul-de-sac for emergency services to move through that area. He said that the Village of Mahomet's main
2 concern is the deviation from the Area General Plan, the lack of public access for emergency services to the
3 area and the possible extension of Middleton Drive and no turn around. He said that these are the principal
4 concerns of the Village of Mahomet and he would like to encourage the Board to include the special
5 provision regarding subdivision and potentially move the provision on to securing required building permits
6 as applicable to the District. He said that in their previous correspondence in March with SVPWD the
7 Village of Mahomet indicated that they could turn around the process within as little as 60 days and the
8 SVPWD would already be turning dirt if they had followed the Village of Mahomet's development standards
9 and he is not sure why they chose to go in the direction that they are going. He said that it is his opinion that
10 the SVPWD is asking the ZBA and the County Board to bend over backwards to meet their objectives when
11 they should be leaning toward cooperating with the Village of Mahomet.

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13 Ms. Capel asked the Board if there were any questions for Mr. Mahrt and there were none.

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15 Ms. Capel asked if staff had any questions for Mr. Mahrt.

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17 Mr. Hall stated that the Wood's Subdivision Plat is attached to the Supplemental Memorandum dated
18 September 27, 2012. He said that the Village of Mahomet has already approved a street that dead ends
19 without a cul-de-sac. He said that the property on which the hoped for cul-de-sac will soon be owned by the
20 SVPWD and they clearly are not proposing townhomes as was proposed on the plat. He said that this is the
21 SVPWD's property and that is not what they are proposing although he understands why the Village of
22 Mahomet may have an issue with a change from an Area General Plan but it was only an Area General Plan
23 that was approved in 1983. He said that Area General Plans change quite a bit, as far as he knows, and the
24 only real problem that this development would propose is that the northeast corner edges into the proposed
25 Middleton Drive and he would agree that he does not know why that was done but he would take issue that it
26 is as serious as Mr. Mahrt has indicated that it is.

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28 Mr. Mahrt stated that it is obvious that Mr. Hall does not understand the Village of Mahomet's development

1 policy. He said that in the past they have allowed a dead end street that will terminate into a temporary turn-
2 around and in all likelihood that subdivision included the requirements for a temporary turn-around,
3 although he does not have that fact in front of him therefore he cannot verify that standard at that time. He
4 said that their Subdivision Ordinance was updated in 2000 and that was probably incorporated into the 2000
5 Ordinance as opposed to the subdivision approval at that time. He said that it is routine for the Village of
6 Mahomet to allow for a temporary dead end street with a future extensions. He said that the Village of
7 Mahomet does require two entrances into a subdivision and their biggest concern there is the logical
8 extension of that street system. He said that people are buying land in the area with the intent of how the
9 Village of Mahomet is intending growth in the community and the Village of Mahomet can show them the
10 Area General Plan and how they intend to see that development tract over time and providing this Board
11 with an Area General Plan, regardless of the age, shows the logical extension of what should be a street that
12 continues either further to the west or certainly to the north.

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14 Mr. Hall stated that Mr. Mahrt called out the issue of spot zoning and the Finding of Fact for Case 717-AM-
15 12 reviewed the uses authorized in the zoning districts. He said that he would agree that this is an expansion
16 of spot zoning but the AG-2 already exists and the Village of Mahomet has gone on record that they support
17 the expansion of the plant.

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19 Mr. Mahrt stated that the Village of Mahomet supports the efforts of the Sangamon Valley Public Water
20 District to provide quality public service to the citizens of Mahomet.

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22 Mr. Hall stated that Mr. Mahrt also indicated that the Village of Mahomet also supports the expansion of the
23 plant as well. He said that in the Champaign County Zoning Ordinance a water plant is allowed in the AG-2
24 District or either one of the industrial districts. He said that the uses in AG-2 are compatible with the uses in
25 R-4. He said that it is spot zoning but it already exists and it is ^{not} making it worse but it is to allow for a
26 needed public facility and even though he understands that the Village of Mahomet has a problem with this
27 being a County project but when it comes right down to it there is a certain logic that exists. He said that at
28 this point Mr. Mahrt is not debating the compatibility of AG-2 and R-4.

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1 Mr. Mahrt stated that he is not debating the compatibility of AG-2 and R-4 but is indicating that this is
2 something that is unique and does not necessarily meet the intent of the *LaSalle Factors*. He said that
3 regardless of the applicant if the County were to see a farmer come in with no purchase contract in hand and
4 request to rezone this property to agriculture any agricultural use could occur that is allowed in the AG-2
5 District.

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7 Mr. Hall stated that this situation is already occurring and the property immediately to the north and Mr.
8 Mahrt admitted that currently there is agriculture occurring in the Village.

9
10 Mr. Mahrt asked Mr. Hall if livestock would be allowed in the R-4 District.

11
12 Mr. Hall stated yes, livestock is allowed in any of the County's zoning districts.

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14 Mr. Mahrt stated that the Village of Mahomet, via this staff member, is indicating that they have
15 appropriately offered alternatives for the petitioner to move forward on their plant expansion in compliance
16 with the standards of the Village of Mahomet without having to go through the County Board approval
17 process and it could have been done in short order. He said that the petitioner's attorney has indicated that
18 they will be working with the Village of Mahomet and he is anxious to have that meeting at any time next
19 week along with the Village of Mahomet's Administrator and the Village of Mahomet's attorneys.

20
21 Mr. Hall asked Mr. Mahrt if the Village of Mahomet would prefer to have the opportunity to provide written
22 comments directly to the Zoning Board of Appeals or directly to the County Board.

23
24 Mr. Mahrt stated that he would need to speak to the Village of Mahomet's Board and their attorney. He said
25 that right now they are looking forward to a cooperative relationship with the petitioner during the proposed
26 meeting and he is not sure why they chose to not go through the Village of Mahomet's process to achieve
27 their goals and the Village of Mahomet's goals as well without significant variances and so forth.

28

1 Mr. Passalacqua asked if it is inappropriate to request that the petitioner and the Village of Mahomet meet
2 before this Board moves to final determination.

3

4 Mr. Hall asked Mr. Passalacqua if he would like the two parties to at least talk.

5

6 Mr. Passalacqua stated that the Board has suggested such to other applicants so that can discuss their
7 differences and attempt to work those differences out.

8

9 Mr. Hall stated that the Village of Mahomet provided correspondence regarding this issue in 2001 and in
10 2003, nine years ago, and the petitioner was properly notified that the property did not receive the proper
11 approvals. He said that perhaps a few more weeks would make a difference and it is the Board's time
12 although the petitioner keeps affirming how critical this project is.

13

14 Mr. Passalacqua stated that if the Board wants to press on then that is fine.

15

16 Mr. Hall stated that he is only indicating that timeline that has occurred thus far. He said that suggesting that
17 the two parties meet is a customary practice of this Board.

18

19 Mr. Palmgren asked Mr. Passalacqua if he is suggesting that the parties meet.

20

21 Mr. Passalacqua stated that the Board has the Documents of Record and the testimony to base their decision
22 upon and it appears that there is a large separation between the two parties' testimony and he believes that
23 the Board could make more intelligent decisions if some of those differences are hashed out. He said that
24 the attorney pointed out that it is not the ZBA's place to be the attorney but if the testimonies are a little bit
25 closer together the Board could make a better decision.

26

27 Ms. Capel asked the audience if anyone desired to cross examine Mr. Mahrt regarding Cases 719-V-12 or
28 718-S-12.

29

1 Mr. Phillip VanNess asked Mr. Mahrt if the Village of Mahomet had a position regarding the public health
2 and safety needs that will be provided by the expansion of the plant.
3
4 Mr. Mahrt stated that the Village of Mahomet does have an understanding of the services that the Sangamon
5 Valley Public Water District provides.
6
7 Mr. VanNess asked Mr. Mahrt if the Village of Mahomet has a problem with the proposed expansion.
8
9 Mr. Mahrt stated no, but the expansion must meet the standards of the Village of Mahomet.
10
11 Mr. VanNess asked Mr. Mahrt if it is his position that the SVPWD could have gone through the Village of
12 Mahomet rather than through the County.
13
14 Mr. Mahrt stated yes.
15
16 Mr. VanNess asked Mr. Mahrt if he was aware that the County has exclusive zoning authority in that area.
17
18 Mr. Mahrt stated that if the petitioner were to make application with the Village of Mahomet they would be
19 rezoned upon annexation and subsequent subdivision would be under the jurisdiction of the Village of
20 Mahomet. He said that the Village of Mahomet does not make it a practice to have an annexation agreement
21 with property that is not directly adjacent to the Village of Mahomet periphery and has always been
22 consistent in rezoning upon annexation directly adjacent to their Village limits.
23
24 Ms. Capel asked the audience if anyone else desired to cross examine Mr. Mahrt and there was no one.
25
26 Ms. Capel called Michael Buzicky to testify.
27
28 Mr. Michael Buzicky, engineer with Sodeman and Associates, stated that Sodeman and Associates was the

1 engineer of record for the attached site plan. He said that they briefly commented and made modifications to
2 the site plan per all of the written and expressed comments by the Board at their last meeting. He said that
3 he believed that he had covered all of the comments although if he missed anything he would appreciate it if
4 the Board would let him know. He said that they are proceeding with recommendations based on a facility
5 plan that is with the EPA at this time and the report indicates that water expansion at the SVPWD is urgent.
6 He said that a recommendation in that report was that the water plant be placed immediately at the existing
7 facility. He said that feasible and reasonable options were reviewed outside of the property and they did not
8 compare to placing a new plant adjacent to or on the same site as it currently is located. He said that a lot of
9 the questions that have been surfaced are more engineering, site and area and utility type questions and not
10 governmental differences. He said that his company is trying to find a site for this new treatment plant and
11 earlier there was an option for a site to the south but that site also required replatting and rezoning and a
12 major Illinois Power line was located in the easement which could not moved. He said that the only
13 available land adjacent to the current facility is to the north and he would agree with Mr. Hall regarding the
14 Mahomet Area General Plan. He said that the current property owner has agreed to sell a portion of his land
15 to the Sangamon Valley Public Water District for the expansion and it is the property owner's plan or right
16 to do so.

17

18 Mr. Buzicky stated that the reason for the request to rezone to agriculture was for a recommendation from
19 the County Board because it is the only district for a water treatment plant with a special use. He said that
20 the water treatment plant has been in existence in the 1970's therefore they cannot go back and change any
21 of the locations. He said that the facility report did recognize that the subject property, for feasibility reasons,
22 is the best site to place expansion or upgrade for the water treatment plant.

23

24 Mr. Buzicky stated that the site plan does take into account that Middleton Drive can be extended and no one
25 is indicating that it could not be extended and it is expected that it will be. He said that the immediate reason
26 why they went to the north was due to the recommendation by their surveyors and that was just to gain
27 immediate access control to the water treatment plant. He said that everyone knows that there is heightened
28 security and control of public access to water treatment plants but there is an intent to allow people to flow
29 through there and the setbacks have been indicated accordingly.

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Mr. Passalacqua asked Mr. Buzicky if the current facility is at capacity.

Mr. Buzicky stated yes, it is very close to capacity. He said that the report states that the water treatment plant is only a few years away from going over its capacity.

Mr. Buzicky stated that if all of the houses are built on the proposed map they would not have access to water without the expansion.

Mr. Buzicky stated that the expansion is needed to accommodate and serve growth in the area.

Mr. Hall asked Mr. Buzicky to review the access control considerations which lead to the decision to take the property to the far side of Middleton Drive.

Mr. Buzicky stated that Middleton Drive could be expanded in the future but currently the map indicates fencing for short term control of public access but no one is trying to block Middleton Drive. He said that the Ordinance states that the minimum is five acres therefore they were trying to find a spot which was as large as possible but one that would accommodate their needs.

Mr. Hall asked Mr. Buzicky if anyone considered revising the layout of the fence and the berm so that if Middleton Drive was extended those improvements would not have to be relocated.

Mr. Buzicky stated yes. He said that those are minor areas and there could be some modifications to the berm without undue expense.

Mr. Hall stated that Mr. Kass received a phone call today from a person who indicated that they were calling on behalf of the church which is located to the west of the subject property. He said that there may be a request for some kind of screening towards the church side of the property.

1

2 Mr. Buzicky stated that they did plan for this concern and it was believed that the existing trees on the west
3 is a screen, per the Ordinance, and then there could be an opaque fence as well.

4

5 Mr. Hall stated that Mr. Buzicky is correct as long the trees screen to the extent required.

6

7 Ms. Capel asked the audience if anyone desired to cross examine Mr. Buzicky and there was no one.

8

9 Ms. Capel called Mike Smith to testify.

10

11 Mr. Mike Smith, who resides at 492 CR 2675N, Mahomet, stated that he is present tonight to represent the
12 church which is located to the west of the subject property. He said that he was going to request that the
13 berm that is located on the east side, as indicated on the map, to be extended across to the north end of the
14 boundary.

15

16 Mr. Capel asked the Board if there were any questions for Mr. Smith and there were none.

17

18 Ms. Capel asked Mr. Smith if he would prefer that the berm wrap around the entire boundary.

19

20 Mr. Smith stated that wrapping the berm around the entire boundary was going to be his original request but
21 after hearing testimony about the road and the expansion he does not believe that wrapping it around the
22 entire boundary is necessary. He said that perhaps something from the northwest corner to the east could be
23 a consideration.

24

25 Ms. Capel asked if staff had any questions for Mr. Smith.

26

27 Mr. Hall asked Mr. Smith if he has been asked by the church to make this request.

28

29 Mr. Smith stated yes.

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Mr. Hall asked Mr. Smith if it would be possible for the church to submit their request in writing. He said that if the Board takes action tonight then no written request would be necessary but if the case is continued to a later date it would necessary to have the request from the church in a written form for the file.

Mr. Smith stated that he will have the church send their request in written form.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Smith and there was no one.

Ms. Capel asked the Board if they desired to continue these cases and suggest that the petitioners and the Village of Mahomet meet to discuss their concerns.

Mr. Passalacqua stated that he could go either way.

Mr. Courson stated that it appears that this expansion will require legal action therefore he is comfortable with moving forward tonight.

Mr. Palmgren stated that he has not received enough information to move forward to a final determination therefore he would prefer to wait and continue the cases to a later date.

Mr. Hall stated that even if the Board took action tonight it is not staff's intent to forward this to the Committee of the Whole meeting on Tuesday, October 2nd, although it is technically possible under the *Freedom of Information Act*. He said that forwarding the cases that the ZBA closed on at last Thursday's meeting to Tuesday night's meeting is adequate promptness on cases therefore whether the ZBA took action tonight or continued it to one of the two meetings for October is not going to make a difference as to when this case is before the County Board. He said that the Board has received a request from Mike Smith regarding the berm and staff has had to construct conditions on the spot, although it is not desirable. He said that there has been testimony from Mr. Buzicky indicating that there is no intention to block the extension of

1 Middleton Drive which strikes him as fair grounds for a condition or maybe the testimony is sufficient to
2 establish that the plan is not intending to block Middleton Drive. He said that he would have a concern if the
3 Board took action on the submitted plan because in the future if someone looks at this plan and it says that it
4 does not plan to block Middleton Drive it may be blocking Middleton Drive. He said that a condition should
5 be constructed because this is likely to end up in court and the ZBA must make sure that their intentions are
6 clear. He said there have been a couple of things surface at tonight's hearing that he believes would be
7 sufficient grounds to continue this case to a later date. He said that there are two meetings in October by
8 which this case could be continued to and still have enough time to get to the County Board in the same time
9 frame that it would get if the Board took action tonight. He said that the new site plan is so much better than
10 the original site plan and the delay was well worth it because Mr. Buzicky has prepared a very good plan
11 with huge improvements.

12
13 Mr. Passalacqua stated that he agrees with Mr. Courson because the petitioners have a lot of details that they
14 have to work out on their own and he is comfortable with the condition that Middleton Drive is not
15 permanently blocked and consideration is given to the screening. He said that if the petitioner is comfortable
16 with the present Board making a determination then he would like to move forward.

17
18 Mr. Hall stated that there is no condition regarding berming on the north. He asked Mr. Passalacqua to
19 emphasize how he is happy about not blocking the extension of Middleton Drive.

20
21 Mr. Passalacqua stated that he would be happy to make a notation regarding Middleton Drive but how
22 should that notation be constructed.

23
24 Mr. Hall stated that how that notation should be constructed is a good question.

25
26 Mr. Passalacqua asked Mr. Hall if he is making the suggestion that the Board continue this case to another
27 date so that a revised site plan indicating the intent regarding the future extension of Middleton Drive

28
29 Ms. Capel stated that a continuance date would give staff time to construct the conditions in a logical

1 manner.

2

3 Mr. Hall stated that this would be his preference. He said that there has been testimony received at tonight's
4 hearing therefore a continuance date would give staff time to enter that testimony in the finding. He said that
5 he wouldn't want to continue the case with the expectation of staff doing a whole lot of work but making
6 those two conditions clear and having an the opportunity to review the minutes for critical testimony would
7 be appreciated. He said that the case could be continued to either meeting in October but both meetings are
8 already very full.

9

10 Mr. Passalacqua asked Mr. Hall if the east side of Middleton Drive currently exists.

11

12 Mr. Hall stated yes.

13

14 Mr. VanNess requested the opportunity to address the Board.

15

16 Ms. Capel granted Mr. VanNess' request.

17

18 Mr. VanNess stated that the petitioners are agreeable to any conditions that the Board may make regarding
19 Middleton Drive. He said that this matter is time sensitive therefore they would like to close this hearing
20 tonight.

21

22 Mr. Courson stated that he is concerned with the condition regarding Middleton Drive and any interference
23 with setbacks if it is extended.

24

25 Mr. Hall stated that it appears that the north line of the property is parallel with the line of some imagined
26 extension of Middleton Drive. He said that the site plan indicates a 55 foot separation that parallels that
27 therefore it appears that the site plan has been prepared as Mike Buzicky explained and Middleton Drive
28 could be extended and it would not make anything nonconforming. He said that to the extent that the

1 extension would reduce the lot area that would make the lot area any further from the five acres but would
2 bring more in line with the three acre maximum. He said that the perhaps a condition may not be necessary
3 so much as simply a notation on the plan that the purpose of the plan is to not block Middleton Drive, the
4 location of the berm and fencing may have to be moved in the future. He said that the Board cannot make
5 the condition or notation too much of a commitment because no one knows what is going to happen. He
6 said that whatever the Board does needs to be as simple and as clear as possible and the Board would not
7 want to go too far with it and lock people in to something but this plan could accommodate that with the
8 separations that are shown.

9

10 Mr. Passalacqua asked if Middleton Drive could actually border the proposed setback line on the plan.

11

12 Mr. Hall stated that for some distance and if Middleton Drive were extended to follow the lot lines the
13 building would be too close to the right of way.

14

15 Mr. Kass stated yes. He said that for a water treatment plant the Ordinance requires a 50 feet side and rear
16 yard. He said that the site plan indicates that the northern side of the water treatment plant has a 37 feet
17 separation from the proposed 55 feet setback and if Middleton Drive is extended the building would be too
18 close.

19

20 Mr. Hall stated that if Middleton Drive curved to the north more like the approved General Area Plan there
21 would be no issues.

22

23 Mr. Kass stated probably not.

24

25 Mr. Passalacqua stated that it will still be noncompliant on the side.

26

27 Mr. Hall stated that the only things that do not meet the current Ordinance are the thing that already exist.

28

29 Mr. Kass stated that the existing water tank does not meet the standard condition and one of the existing

1 small accessory buildings does not meet the standard condition. He said that the first site plan proposed new
2 structures that were not going to meet the standard conditions but that site plan has since been revised.

3
4 Mr. Hall stated that if the case is continued he finds it hard to believe that the Village of Mahomet's
5 requirements regarding an elevated water storage tank are merely a yard of 17 feet 11 inches. He said that he
6 has to believe that it will be as nonconforming inside the Village of Mahomet as it is in the County. He said
7 that the elevated water storage tank exists and he doubts that it is suppose to be that close to the lot line if it
8 were inside of the Village of Mahomet.

9
10 Ms. Passalacqua stated that perhaps the Board should work on language because he is prepared to move
11 forward tonight.

12
13 Ms. Capel asked Mr. Passalacqua if he had any suggestions for the text of the condition or notation. She
14 asked if the Board will craft a condition that will essentially allow for the extension of Middleton Drive
15 through the northeast corner of the property.

16
17 Mr. Passalacqua stated that he believes that it should be as Mr. Hall suggested previously and merely have a
18 notation on the plan that the plan is drawn with that intent. He said that he does not believe that a condition
19 is necessary.

20
21 Mr. Hall stated that adding a note to the drawing should be treated the same way as a condition and the
22 petitioner should concur. He said that a note as follows could be added to the site plan received on August
23 16, 2012: locations of the proposed berm and proposed fence shall be adjusted or moved as required to
24 allow for the future extension of Middleton Drive consistent with required separations. He said that this
25 notation would not require the petitioner to make anything less than what the Ordinance requires.

26
27 Mr. Passalacqua stated that the petitioners have already agreed to the screen on the other corner therefore is
28 an adjustment required for that as well.

1

2 Mr. Mahrt stated that he is concerned about the notation and the level of enforcement that the County has to
3 maintain that standard in the future. He said that he is also concerned about the ownership being separated
4 from the parent tract and who is responsible for platting that extension of driveway and the cost of the
5 construction. He said that he is uncomfortable seeing this put on as a note on a site plan that will be
6 administratively approved and could be changed prior to final approval.

7

8 Mr. Hall stated that this will be a legal issue. He said that a notation on an approved site plan, in his view, is
9 no more or no less enforceable of a condition on a case. He said that the notation cannot be removed from
10 the approved site plan.

11

12 Mr. Mahrt said that perhaps then a provision should be included in the approval that no deviation, once the
13 site plan is approved, is possible.

14

15 Ms. Capel stated that the provision is already part of the Ordinance.

16

17 Mr. Mahrt stated that he still voices his opposition of the notation on the site plan and not including a
18 condition being proposed as a resolution which would adopted by the County Board.

19

20 Mr. Hall stated that Mr. Mahrt's concerns cannot be addressed as long as any part of any land that is
21 necessary for the extension of Middleton Drive is included as part of the approved site plan. He said that
22 Mr. Mahrt does raise a good point. He said that the Board has received testimony about no intention of
23 blocking Middleton Drive and he would take that as face value however Middleton Drive cannot be
24 extended without the cooperation of the Public Water District and that would necessarily make any
25 extension more complicated.

26

27 Ms. Capel stated that she is concerned that in the Board's rush to finish this that they are not going to get it
28 done completely and properly because this is more complicated than some of the other conditions that the
29 Board has invented on the wing. She said that this case deserves staff's and the Board's full consideration

1 because it will probably end up in court.

2

3 Mr. Hall stated that any extension of Middleton Drive that involves what the Board has approved for this
4 plan the Village of Mahomet will always see as a problem. He said that this Board works very hard to come
5 up with conditions to try to please all parties but that customary standard may not work with this case but he
6 is willing to work on it.

7

8 **Mr. Palmgren moved, seconded by Ms. Capel to continue Cases 717-AM-12, 718-S-12 and 719-V-12 to**
9 **the next available meeting or possible a special meeting. The motion carried by voice vote.**

10

11 Mr. Courson stated that he would suggest that the petitioner add the screening from the church to the site
12 plan and indicate the future extension of Middleton Drive on the subject property. He said that if the site
13 plan is revised the Board will be able to determine if there are any concerns with the road going through the
14 property.

15

16 Mr. Hall stated that the extension of Middleton Drive could be indicated by dashed lines or lightly indicated
17 on the site plan.

18

19 Mr. Hall stated that due to staff error recognizing parts of Mr. Howard's variance action cannot be taken on
20 Case 729-V-12 on October 11th and notices will be sent out to reschedule that case to October 24th. He said
21 that not all of the cases indicated on the docket for October 24th will be on the agenda. He said that Case
22 728-AM-12 will not be ready for final action on October 11th because there are required variances and staff
23 does not have a site plan to evaluation all of the variances that are required. He said that Case 728-AM-12
24 can only be opened and request direction from the Board at the October 11th meeting. He said that it appears
25 that October 11th is probably going to have more time available for these cases than October 24th.

26

27 **Mr. Courson moved, seconded by Mr. Palmgren to continue Cases 717-AM-12, 718-S-12 and 719-V-12**
28 **to the October 11, 2012, meeting. The motion carried by voice vote.**

1

2 Mr. Courson stated that since these are time sensitive cases, if there is anything else that the Board would
3 like to see from the petitioners then now would be a good time to indicate such.

4

5 Mr. Passalacqua stated that he would like to see the changes on the site plan regarding the extension of
6 Middleton Drive and the proposed screening from the church. He said that if there is any communication
7 with the Village of Mahomet perhaps the petitioners could present the results of those discussions to the
8 Board.

9

10 Ms. Capel called for a five minute recess.

11

12 **The Board recessed at 8:30 p.m.**

13 **The Board resumed at 8:35 p.m.**

14

15 **6. New Public Hearings**

16 7.

17 **Case 727-V-12 Petitioner: Dale Masley Request to authorize a variance in the AG-2, Agriculture**
18 **Zoning District for a residential accessory building with a height of 17.5 feet in lieu of the maximum**
19 **of 15 feet in height. Location: Lot 12 of Denhart's Second Subdivision in the Northwest Quarter of**
20 **Section 13 of St. Joseph Township and commonly known as the dwelling at 1408 Peters Drive, St.**
21 **Joseph.**

22

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

31

32 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must