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2 *AS APPROVED JULY 25, 2013*
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4 **MINUTES OF REGULAR MEETING**
5

6 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
7 **1776 E. Washington Street**
8 **Urbana, IL 61802**
9

10 **DATE:** May 30, 2013 **PLACE:** Lyle Shields Meeting Room
11 **TIME:** 7:00 p.m. **1776 East Washington Street**
12 **Urbana, IL 61802**
13

14 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Brad Passalacqua
15

16 **MEMBERS ABSENT :** Roger Miller, Paul Palmgren
17

18 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass
19

20 **OTHERS PRESENT :** Jack Murray, Pattie Keith-Murray, Lauren Miller, Anne Murray, Ellen Nuss,
21 Rick Nuss, Ben Miller, Jerry Wallace, Chris Wallace
22

23
24 **1. Call to Order**
25

26 The meeting was called to order at 7:00 p.m.
27

28 **2. Roll Call and Declaration of Quorum**
29

30 The roll was called and a quorum declared present with two Board members absent and one vacant Board
31 seat.
32

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

37 **3. Correspondence**
38

39 None
40

41 **4. Approval of Minutes**
42

43 None
44

45 **5. Continued Public Hearing**

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

21
22 Mr. Thorsland stated that the Zoning Administrator has requested that Case 685-AT-11 be continued to the
23 August 15, 2013, meeting.

24
25 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the August 15, 2013, meeting.

26
27 **Mr. Passalacqua moved, seconded by Mr. Courson to continue Case 685-AT-11 to the August 15,**
28 **2013, meeting. The motion carried by voice vote.**

29
30 **6. New Public Hearings**

31
32 **Case 748-V-13 L.A. Gourmet Catering, LLC, with owners Anne Murray, Lauren Murray-Miller and**
33 **landowner Jack Murray. Request to authorize 5 employees to be present on the subject property in**
34 **lieu of the maximum of 2 for a Rural Home Occupation on a lot larger than five acres in the AG-1**
35 **District. Location: An 11.7 acre tract located in the Southeast Corner of the Southeast Quarter of the**
36 **Southeast Quarter of Section 22 of Condit Township and commonly known as the farmhouse and**
37 **buildings at 2607 CR 1000E, Champaign.**

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

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

13
14 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

15
16 Ms. Anne Murray, who resides at 2150 CR 1000E, Champaign, stated that they have not changed anything
17 and this request came up after their last zoning case. She said that the business was started seven years ago
18 and they are at maximum capacity for the existing kitchen therefore staff recommended that they apply for
19 the variance to maintain the amount of employees that they have at the kitchen currently. She said that when
20 the new building opens employees will go there but there will always be some full-time employees at the
21 current kitchen. She said that the employees include herself and Lauren, a cousin, and two other people.
22 She said that the office manager is shared with their father's business which is Murray Farms Seeds. She
23 said that all of food preparations are completed at the kitchen and then sent to the events. She said that L.A.
24 Gourmet is an off-site caterer therefore all their part-time and full-time employees put time in at the kitchen
25 for preparation. She said that nothing is changing but they wanted to make sure that they were compliant.

26
27 Mr. Thorsland asked the Board if there were any questions for Ms. Murray.

28
29 Mr. Passalacqua asked Ms. Murray if the kitchen will exist at its current location once the new building is
30 completed.

31
32 Ms. Murray stated that the kitchen will remain at its current location to maintain the current business. She
33 said that the event center will have a kitchen as well to accommodate the events at that location.

34
35 Mr. Passalacqua asked Ms. Murray if she will be back in six months requesting a variance for yet more
36 employees once the number of employees is changed to five.

37
38 Ms. Murray stated no. She said that the existing kitchen is at its maximum capacity for employees.

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2 Mr. Thorsland asked the Board if there were any additional questions for Ms. Murray and there were none.
3
4 Mr. Thorsland asked if staff had any questions for Ms. Murray and there were none.
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6
7 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Murray at this time and there was
8 no one.
9
10 Mr. Andrew Kass, Associate Planner, distributed a Supplemental Memorandum dated May 30, 2013, and a
11 Supplemental Memorandum B. dated May 30, 2013, to the Board for review. He said that both
12 memorandums include letters of support that were received prior to tonight's hearing. He said that the letters
13 of support should be added as new items of evidence to the Summary of Evidence as new Items 11.D and
14 11.E. Mr. Kass stated that new Item 11.D. should read as follows: A letter of support from Ron Scudder,
15 982 CR 2550N, Champaign, was received on May 29, 2013, and is summarized as follows: (1) He has been
16 a neighbor with the petitioners since before they opened their business; and (2) He is the nearest neighbor to
17 the south; and (3) He would like to see their business thrive at its current location. Mr. Kass stated that new
18 Item 11.E. should read as follows: A letter of support from Ken and Becky Pedigo, 951 CR 2550N,
19 Champaign, was received on May 30, 2013, and indicates that they are neighbors of the petitioner's business
20 and that they support the growth of the business on the subject property.
21
22 Mr. Thorsland asked the Board if there were any questions for Mr. Kass.
23
24 Mr. Passalacqua asked if there were any parking issues since this is a Rural Home Occupation.
25
26 Mr. Kass stated that for a Rural Home Occupation the only parking requirement is that a space be provided
27 for every employee. He said that this is an 11.7 acre parcel and therefore, there is adequate area for parking.
28
29 Mr. Passalacqua asked if Anne Murray and Lauren Murray-Miller were counted as employees. He said that
30 Case 732-AT-12 discussed family members who no longer reside at the property where the Rural Home
31 Occupation is located but returned to the property to work.
32
33 Mr. Hall stated that if Case 732-AT-12 were adopted already this would be a variance to request the
34 allowance of one additional employee over the limit.
35
36 Mr. Thorsland asked the Board if there were any additional questions for staff and there were none.
37
38 Mr. Thorsland called Anne Murray to testify.

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Ms. Anne Murray declined to testify at this time.

Mr. Thorsland called Lauren Murray-Miller to testify.

Ms. Lauren Murray-Miller declined to testify at this time.

Mr. Thorsland called Jerry Wallace to testify.

Mr. Jerry Wallace, who resides at 2691 CR 1000E, Champaign, submitted a letter in support of the variance. He said that his residence is approximately ½ mile north of the subject property therefore they are next door neighbors. He apologized for his error in his letter which indicates that he is in support of the requested Special Use Permit when indeed the petitioners are requesting a variance. He said that he is in favor of the variance because the business has been a tremendous asset to the neighborhood and it has had no negative impacts. He said that the petitioner's business, in comparison to some of the other local businesses that have popped up in the neighborhood, is very attractive and is very well kept. He said that parking should not be a concern because the vehicles cannot be seen from the road. He said that he sees a lot of grain trucks go by his home but he seldom sees a vehicle that is related to the business.

Mr. Wallace stated that it is his understanding that most of the employees report to the business before most of us are out of bed therefore there is no rush hour type traffic to deal with. He said that he would encourage the Board to approve the requested variance.

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

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

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

Mr. Thorsland called Ellen Nuss to testify.

Ms. Ellen Nuss, who resides at 2739 CR 1000E, Rantoul, stated that she is the Condit Township Supervisor and is in attendance tonight to voice her support of the requested variance. She said that the Murray family are good neighbors and conduct their businesses well. She said that they are a welcomed business to Condit Township.

Mr. Thorsland asked the Board if there were any questions for Ms. Nuss and there were none.

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1 Mr. Thorsland asked if staff had any questions for Ms. Nuss and there were none.

2
3 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Nuss and there was no one.

4
5 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to submit testimony
6 regarding this case and there was no one.

7
8 Mr. Thorsland closed the witness register.

9
10 Mr. Thorsland asked the Board and staff if there were any additional questions for the petitioners and there
11 were none.

12
13 Mr. Thorsland asked staff if this was a new business, which permit would staff recommend to the applicant.

14
15 Mr. Hall stated that he would recommend something other than just a home occupation. He said that this
16 Board is the strictest ZBA that he has every worked under therefore coming before this Board with a new
17 RHO that is not even established and then asking for more employees than is allowed would be discouraged.

18
19 Mr. Thorsland asked Mr. Hall if he would suggest a major home occupation.

20
21 Mr. Hall stated that he would need to study the situation more because this is located in the AG-1 District
22 which is very restrictive.

23
24 Mr. Thorsland stated that pending Case 732-AT-12 has a discussion about family members who do not
25 reside on the subject property but still continue to work within the home occupation are exempted.

26
27 Mr. Hall reminded the Board that he received a request from the County Board to be as liberal as possible
28 with the employee limits but there are some County Board members who desire to not have any limits on
29 employees for rural home occupations but no one has seriously suggested that desire to the full County
30 Board.

31
32 Ms. Capel asked if this will potentially be a variance for five employees.

33
34 Mr. Hall stated that if this case is approved the Board will have granted a variance for three above the current
35 limit of two employees. He said that it would be expected that two of those employees will be covered by
36 Case 732-AT-12 so his view is that the evidence in the case argues only for what it is and does not argue for
37 an additional two employees once Case 732-AT-12 is approved. He said that Ms. Capel raised a good point
38 and he would recommend that if the Board is concerned enough the Board could make it a special condition.

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Ms. Capel stated that she would like to make it a special condition.

Mr. Passalacqua stated that the degree of the variance in this case, regardless of the outcome of Case 732-AT-12, is irrelevant.

Mr. Hall stated that if the Board approves this request they are approving three more than the allowance of two employees and if Case 732-AT-12 is approved the limit is effectively no longer two at this property but four.

Mr. Passalacqua stated that Case 732-AT-12 has not been approved therefore this Board has to work on the calendar date that it is on currently.

Ms. Capel stated that a special condition would keep them within a reasonable standard in terms of employees. She said that currently if the variance is granted the petitioner could have five employees with a special condition and if Case 732-AT-12 is approved they would still only have a variance for one employee.

Mr. Hall stated that the way that this case has been described in the Final Determination is as follows: five employees to be present on the subject property in lieu of the maximum of two for a Rural Home Occupation on a lot larger than five acres in the AG-1 District. He said that perhaps this is even more reason to indicate a special condition isn't necessary. He said that if the variance had only been worded in terms of the number of employees beyond what is allowed then a special condition may have been necessary but the way that the Final Determination is worded the risk that Ms. Capel was concerned about is not there.

Mr. Kass stated that he agreed with Mr. Hall. He said that testimony has been received tonight from the petitioner indicating that they were at maximum capacity therefore they do not have additional room to add more employees.

Mr. Hall stated that the Board should understand that the petitioners can always expand their existing footprint of the home occupation kitchen. He said that the way that this variance is written it is very limited and a special condition is not necessary.

Ms. Capel stated that she is just trying to keep the number of employees in check.

Mr. Hall stated that the Board needs to make sure that what happens is nothing more than what the Board has already approved.

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2 Mr. Courson asked if some text could be inserted into Case 732-AT-12 that would keep an existing variance
3 from using a loophole for employees.
4
5 Mr. Hall stated that it might be possible but this is all speculative and the way that the Final Determination is
6 worded is an absolute cap and what is approved is all that can happen.
7
8 Mr. Thorsland stated that it is an absolute cap for this case but after Case 732-AT-12 does that cap include
9 children who live there now or employees that don't or does that cap become five plus two.
10
11 Mr. Hall repeated that he does not believe that a special condition is warranted for this case.
12
13 Mr. Passalacqua stated that Case 732-AT-12 is not going to affect this case.
14
15 Mr. Thorsland stated that the Findings of Fact discusses pending Case 732-AT-12.
16
17 Mr. Passalacqua stated that Case 732-AT-12 has not been approved yet.
18
19 Mr. Thorsland stated that Case 732-AT-12 would change the degree of this variance. He said that Item
20 10.C.(2) indicates the following: If this amendment is adopted Anne Murray and Lauren Murray-Miller
21 would no longer be counted in the number of non-resident employees. The new number of non-resident
22 employees would then be 3, which is 1 more than the maximum allowed of 2, and a 50% variance. He asked
23 if this text means that Anne and Lauren are not counted in the maximum cap of five pending the outcome of
24 Case 732-AT-12.
25
26 Ms. Capel agreed.
27
28 Mr. Hall stated that it may be easier to change the description of the variance as follows: Authorize five
29 employees to be present on the subject property for a Rural Home Occupation on a lot larger than five acres
30 in the AG-1 District.
31
32 Mr. Thorsland asked the Board if they agreed with the revised text and the Board agreed.
33
34 Mr. Hall stated that the following items should be added to the Documents of Record: 8. Supplemental
35 Memorandum dated May 30, 2013, with attachment; and 9. Supplemental Memorandum B. dated May 30,
36 2013, with attachment; and 10. Letter of Support from Jerry Wallace dated May 30, 2013, received at the
37 May 30, 2013, public hearing. He said that Mr. Wallace's letter and testimony from Ms. Nuss should be
38 added to Item 11 of the Summary of Evidence.

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Finding of Fact for Case 748-V-13:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 748-V-13 held on May 30, 2013, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because to meet demand the petitioners need more than the allowable number of employees.

Ms. Capel stated that Anne Murray and Lauren Murray-Miller have moved from the subject property, but were residents of the property when the Rural Home Occupation was established.

Mr. Kass read the Board's findings:

- To meet demand the petitioners need more than the allowable number of employees**
- Anne Murray and Lauren Murray-Miller have moved from the subject property, but were residents of the property when the RHO was established.**

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

Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because two employees are not sufficient to keep up with the current workload.

Mr. Thorsland stated that the facility already exists and the variance will allow a commercial kitchen to be used to its full capacity.

Mr. Kass read the Board's findings:

- Two employees are not sufficient to keep up with the current workload.**

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- 1 • **The facility is existing and will allow a commercial kitchen to be used to its full**
- 2 **capacity.**
- 3
- 4 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
- 5 **result from actions of the applicant.**
- 6

7 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
8 result from actions of the applicant because the need for additional employees is a result of additional
9 demand for a growing business.

10
11 Mr. Kass read the Board's findings:

- 12
- 13 • **The need for additional employees is a result of additional demand for a growing**
- 14 **business.**
- 15
- 16 **4. The requested variance IS in harmony with the general purpose and intent of the**
- 17 **Ordinance.**
- 18

19 Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of the
20 Ordinance because it allows the business to continue to operate with little impact on the surrounding
21 neighborhood.

22
23 Ms. Capel stated that pending Case 732-AT-12 would exempt Lauren and Anne from the count of non-
24 resident employees thereby reducing the variance from 150% to 50%.

25
26 Mr. Kass read the Board's findings:

- 27
- 28 • **It allows the business to continue to operate with little impact on the surrounding**
- 29 **neighborhood**
- 30 • **Pending Case 732-AT-12 would exempt Lauren Murray and Anne Murray-Miller from**
- 31 **the count of non-resident employees thereby reducing the Variance from 150% to 50%.**
- 32
- 33 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
- 34 **detrimental to the public health, safety or welfare.**
- 35

36 Mr. Thorsland stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
37 detrimental to the public health, safety or welfare because no comments were received from the road
38 commissioner or the fire protection district and support for the proposed variance was received from the

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1 Condit Township Supervisor.

2

3 Mr. Kass read the Board's findings:

4

- 5 • **No comments were received from the road commissioner or the fire protection district.**
- 6 • **Support for the proposed Variance was received from the Condit Township Supervisor**

7

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

10

11 Mr. Thorsland stated yes.

12

13 Mr. Passalacqua stated that the five employees allows the petitioners to operate the existing business at
14 maximum capacity.

15

16 Mr. Kass read the Board's findings:

17

- 18 • **The five employees allows the petitioners to operate the existing business at maximum**
19 **capacity.**

20

21 **7. No special conditions are hereby imposed.**

22

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

25

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

28

29 Mr. Thorsland entertained a motion to move to the Final Determination.

30

31 **Mr. Courson moved, seconded by Ms. Capel to move to the Final Determination. The motion carried**
32 **by voice vote.**

33

34 Mr. Thorsland informed the petitioners that a full Board is not present at this time due to absence of two
35 Board members and one vacant seat therefore it is at their discretion whether to move to a final
36 determination with the present Board or continue the case until the vacant seat is filled.

37

38 Ms. Anne Murray and Ms. Lauren Murray-Miller requested that the present Board proceed to the Final

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1 Determination.

3 **Final Determination for Case 748-V-13:**

5 **Ms. Capel moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**
6 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
7 **that the requirements for approval in Section 9.1.9.C HAVE been met and pursuant to the authority**
8 **granted by Section 9.1.6.B. of the Champaign County Zoning Ordinance, the Zoning Board of**
9 **Appeals of Champaign County determines that the variance requested in Case 748-V-13 is hereby**
10 **GRANTED to the petitioners L.A. Gourmet Catering, LLC to authorize 5 employees to be present on**
11 **the subject property for a Rural Home Occupation on a lot larger than five acres in the AG-1 District.**

13 Mr. Thorsland requested a roll call vote.

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

18 Mr. Hall informed the petitioners that they have received an approval for their variance request.

20 **7. Staff Report**

22 None

24 **8. Other Business**

25 **A. Review of the Docket**

27 Mr. Hall stated that starting on June 27th Case 757-AT-13 is the adoption of the new Special Flood Hazard
28 Area Ordinance with the updated flood maps and the updated flood insurance study. He said that this is the
29 result of a more than two year effort by the State Water Survey to do the flood map modernization for
30 Champaign County. He said that Case 757-AT-13 is a case that must be adopted by the County Board no
31 later than October 2nd which effectively makes it September 19th so that it could be heard at the County
32 Board's September meeting. He said that the ZBA must have this case to the County Board no later than
33 September, or even better yet August. He said that this is a big case and there are new flood maps with very
34 little discretion in the adoption of the new ordinance but there may be a little bit and staff will make sure that
35 the Board is aware of that. He said that staff knew that this case would have to be docketed sometime this
36 year and it was discovered in April that the case must be completed by October 2nd therefore it has been
37 added to the ZBA's docket. He said that this case is on the June ELUC agenda for their direction and he is
38 sure that they will approve it and the June 27th meeting was the earliest date that this case could be placed on

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1 the ZBA's docket for the Board's review. He said that staff does not mean to rush the ZBA but this is a case
2 that absolutely has to be completed in time for the County Board to adopt it in September. He said that the
3 State Water Survey held an open house at the Champaign Library last August and only about one dozen
4 landowners were present and other landowners have been made aware of the new flood maps. He said that
5 the word is out and this is going to be an improvement for most people but because it is better data there will
6 be people who will be placed in the floodplain due to the new maps that were not previously in the
7 floodplain. He said that this case will be a lot of work.

8
9 Mr. Hall stated that staff continues to docket other new cases and the Board is outpacing last year's zoning
10 cases. He said that a lot of text amendments have been completed and there are more to come therefore staff
11 and the Board remains very busy.

12
13 Ms. Capel asked Mr. Hall why Case 685-AT-11 was continued.

14
15 Mr. Hall stated that Case 685-AT-11 is a very important case that has to be completed but there are only so
16 many hours in staff's day.

17
18 Ms. Capel stated that she understood.

19
20 **B. March 2013 Monthly Report**

21
22 Mr. Hall stated that permitting has been slacking off although March, 2013 is almost identical to what it was
23 in March, 2012.

24
25 **9. Audience Participation with respect to matters other than cases pending before the Board**

26
27 None

28
29 **10. Adjournment**

30
31 Mr. Thorsland entertained motion to adjourn the meeting.

32
33
34 **Mr. Courson moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice**
35 **vote.**

36
37 The meeting adjourned at 7:50 p.m.

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Respectfully submitted

Secretary of Zoning Board of Appeals