

STATE OF ILLINOIS )

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COUNTY OF DEKALB )

**ORDINANCE 2006-09**

**AN ORDINANCE AMENDING A SPECIAL USE PERMIT  
FOR AN AGRI-BUSINESS  
LOCATED AT 2386 SUYDAM ROAD  
IN PAW PAW TOWNSHIP**

WHEREAS, DeKalb County Ordinance 99-16 approved a Special Use Permit for an agri-business in the form of an existing grain elevator business located at 2386 Suydam Road in Paw Paw Township, said agri-business being owned and operated as Mullins Grain Company, and DeKalb County Ordinance 2003-18 approved an amendment to the Special Use Permit for the agri-business to accommodate a change in the dimensions of the land area subject to the Special Use Permit, said property being legally described as set forth in Exhibit "A" attached hereto; and

WHEREAS, Mullins Grain Company has filed a petition for an Amendment to the Special Use Permit on the property at 2386 Suydam Road to accommodate the addition of a new grain bin, the area of which would exceed 10% of the combined area of existing structures on the subject property; and

WHEREAS, the proposed grain bin was to be set back 29 feet from the right-of-way of Suydam Road, in lieu of the minimum required setback of 50 feet as set forth in the DeKalb County Zoning Ordinance for structures in the A-1, Agricultural District, which request required a Variation from the 50-foot-setback requirement; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least ten (10) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on February 9, 2006, at which the petitioners presented evidence, testimony, and exhibits in support of the requested Special Use Permit, and no members of the public testified in favor and six spoke in opposition thereto; and

WHEREAS, based on the evidence, testimony and exhibits, the Hearing Officer has made his findings of fact and denied the requested Variation, but recommended that the Amendment to the Special Use Permit be granted, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated February 9, 2006, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has reviewed the testimony presented at the afore mentioned public hearing and has considered the findings of fact and recommendations of the Hearing Officer, and in consideration of an alternate site plan provided by the petitioner showing three possible locations for a new grain bin, each of which would meet or exceed the minimum setbacks required in the A-1 District, has forwarded to the DeKalb County Board a recommendation of approval of the requested Amendment to a Special Use Permit, subject to conditions; and

WHEREAS, the DeKalb County Board has considered the recommendation of the Planning and Zoning Committee and the findings of fact and recommendation of the Hearing Officer, and has determined that granting approval of the requested Amendment to a Special Use Permit to accommodate a new grain bin is consistent with the requirements established by Section 9.01.B.3. of the DeKalb County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings of Fact and Recommendation of the DeKalb County Hearing Officer, Exhibit "B" attached hereto, is hereby accepted, and the findings of fact set forth therein are hereby adopted as the findings of fact and conclusions of the DeKalb County Board.

SECTION TWO: Based on the findings of fact, DeKalb County Ordinances 99-16 and 2003-18, granting a Special Use Permit for an agri-business in the form of a grain elevator business located at 2386 Suydam Road in

Paw Paw Township, are hereby Amended to allow construction and use of a new grain bin on property legally described in Exhibit "A" attached hereto, subject to the condition set forth below.

SECTION THREE: Approval of this Amendment to a Special Use Permit is subject to the condition that the location of the new grain bin shall be either site #1 or site #2 as identified on the Site Plan, received February 22, 2006, from Robert Mullins representing Mullins Grain Company.

SECTION FOUR: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

PASSED BY THE COUNTY BOARD THIS 15TH DAY OF MARCH, 2006, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

**Legal Description of Subject Property**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 37 NORTH RANGE 3 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE DUE WEST 489.28 FEET ON THE NORTH LINE OF SAID NORTHWEST QUARTER TO A POINT 20.00 PERPENDICULARLY DISTANT FROM THE MAIN TRACK CENTERLINE OF THE CHICAGO AND NORTHWESTERN RAILROAD FOR A POINT OF BEGINNING; THENCE SOUTH 22° 14' 00" WEST 501.71 FEET ON A LINE PARALLEL TO SAID MAIN TRACK CENTERLINE; THENCE NORTH 67° 46' 00" WEST 160.00 FEET ON A LINE WHICH IS PERPENDICULAR TO SAID MAIN TRACK CENTERLINE; THENCE NORTH 22° 14' 00" EAST 436.42 FEET ON A LINE PARALLEL WITH SAID MAIN TRACK CENTERLINE TO ITS INTERSECTION WITH THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE EAST ALONG SAID NORTH LINE 172.70 FEET TO THE POINT OF BEGINNING, ALL SITUATED IN PAW PAW TOWNSHIP, IN DEKALB COUNTY, ILLINOIS.

AND;

THAT PART OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 37 NORTH RANGE 3 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE DUE WEST 239.73 FEET ON THE NORTH LINE OF THE SAID NORTHWEST QUARTER TO A POINT THAT IS 211.00 FEET PERPENDICULARLY DISTANT FROM THE MAIN TRACK CENTERLINE OF THE CHICAGO AND NORTHWESTERN RAILROAD TO THE POINT OF BEGINNING; THENCE SOUTH 22° 14' 00" WEST 589.16 FEET ON A LINE PARALLEL WITH SAID MAIN TRACK CENTERLINE 589.16 FEET; THENCE NORTH 67° 46' 00" WEST 191.00 FEET TO A POINT ON A LINE DRAWN PARALLEL WITH AND 20.00 FEET PERPENDICULARLY TO SAID MAIN TRACK CENTERLINE; THENCE NORTH 22° 14' 00" EAST 516.87 FEET ON A LINE PARALLEL WITH SAID MAIN TRACK CENTERLINE TO ITS INTERSECTION WITH THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE DUE EAST 206.49 FEET ON THE NORTH LINE OF SAID NORTHWEST QUARTER TO THE POINT OF BEGINNING, SITUATED IN THE TOWNSHIP OF PAW PAW, DEKALB COUNTY, ILLINOIS.

P.I.N.: 16-21-127-004



**DeKalb County  
Planning/Zoning/Building Department**

**MEMORANDUM**

**TO:** Planning and Zoning Committee

**FROM:** Paul R. Miller, AICP  
Planning Director

**DATE:** February 14, 2006

**SUBJECT:** Mullins Grain Amendment to Special Use Permit  
Petition PP-06-01

Mullins Grain Company has filed a petition for an Amendment to a Special Use Permit for property located at 2386 Suydam Road. The site is located on the south side of Suydam Road, on the east and west sides of the C.& N. W. railroad, and is zoned A-1, Agricultural District, with a Special Use for the agribusiness. Mullins Grain is proposing to add a new grain bin to east side of the property, north of the existing grain bins. Because of the area of the proposed bin, the change requires an Amendment to the Special Use Permit.

The required public hearing was conducted on February 9, 2006 by DeKalb County Hearing Officer Kevin Buick. Representatives of Mullins Grain explained that the new bin is needed to accommodate the growing business, and that the proposed location of the bin is the only site that works given the existing layout of the property. The petitioner also indicated that sight lines for traffic on Suydam Road would not be significantly different after construction of the bin than currently are the case, due to existing residential structures that are closer to the road than the grain bin would be if built as proposed. Six members of the public spoke in opposition to the request, citing sight line, noise and dust concerns, and no member of the public spoke in favor of the request. The County Engineer and Planning and Zoning staff also raised concerns about sight lines and negative impacts to traffic on Suydam Road.

The Hearing Officer has submitted his Findings and has **denied** the Variation request, but recommends approval of the Amendment to the Special Use Permit (see attached Findings of Fact). As a consequence of the denial of the Variation, the petitioner may either withdraw the request to approve the Amendment to the Special Use Permit or may continue with this part of the request, in which case the petitioner must be prepared to show the Planning and Zoning Committee where a new grain bin can be located on the subject property in conformance with the minimum required setbacks. The Planning and Zoning Committee is requested to make a recommendation to the full County Board on the requested amendment to a Special Use Permit in the form of an ordinance. The Committee may recommend approval, approval with conditions, or denial of the request.

cc: Rob Mullins  
PRM:prm

**Mullins Grain Company  
Variation and Amendment to Special Use Permit**

Petition Number: PP-06-01

Date: February 13, 2006

**FINDING OF FACT**

This matter comes before the DeKalb County Alternate Zoning Hearing Officer on February 9, 2006, for consideration of a request for an Amendment to a Special Use Permit and Variation for property located at 2386 Suydam Road. The site is located on the south side of Suydam Road, on the east and west sides of the C. & N. W. railroad, and is zoned A-1, Agricultural District, with a Special Use for the agribusiness. Mullins Grain Company is seeking to build a new grain bin on the east side of the railroad tracks within 29 feet of the highway right-of-way. To build in the proposed location would require a Variation from the 50-foot setback regulation established by the Zoning Ordinance. The Amendment of the Special Use permit is sought because the footprint of the proposed 90-foot diameter grain bin to be constructed would be 6,358 square feet, while the combined area of all other structures on the property is 20,742 square feet. Because the area of the proposed bin would exceed 10% of the area of the other structures, an Amendment to the Special Use permit is required.

The application of the Petitioner was duly filed in accordance with the DeKalb County Code. The Petition and its attachments are incorporated in the Record of Proceedings by reference.

Publication of Notice:

The Notice of Public Hearing was originally published inaccurately identifying the location of the proposed grain bin on the west side of the railroad tracks. A revised Public Notice correctly identifying the location of the proposed grain bin on the east side of the railroad tracks was published in the Daily Chronicle on January 25, 2006. Correspondence was sent to all adjacent property owners.

Location of Subject Property:

Subject property is located on the south side of Suydam Road next to the community of Rollo, Illinois in Paw Paw township, DeKalb County, Illinois. A full legal description and mapping diagram depicting the subject parcel are hereby made a part of the record and incorporated herein by reference.

Site Characteristics:

A. Surrounding uses and zoning

A single residence lies directly to the north of the subject property, surrounded by agricultural use. Agricultural use is prevalent to the south as well. The community of Rollo lies directly to the east of the subject property, and Paw Paw township's property lies directly to the west.

B. Proposed Use

The property will continue to be used by Mullins Grain Company's grain elevator operation, as an agribusiness.

C. Comprehensive Plan

The future land use plan of the DeKalb County Unified Comprehensive Plan recommends agricultural use for the subject property. The subject property is, and has been used for, an agribusiness for many years. Construction of the proposed grain bin would not comprise the goals of the Comprehensive Plan.

Correspondence:

Correspondence was received from DeKalb County Engineer William G. Lorence dated January 13, 2006. Mr. Lorence expressed the opinion that the location of the grain bin only 29 feet from the roadway system would have the effect of reducing the visibility of the roadway for traffic in and around the facility. He further expressed the opinion that during harvest season the placement of this bin would have the potential to cause a hazardous traffic situation.

Correspondence was received from Charles and Mariann Boston dated January 28, 2006. Mr. and Mrs. Boston expressed their objection to the granting of a Variance from setback requirements based upon the possibility that the location close to the road could cause traffic hazards. They expressed their opinion that they were not opposed to a new bin at the facility but were opposed to the proposed location on the property. They identify other reasons for their objection as relating to health issues, reduced property values, and public nuisance to neighboring property owners.

Correspondence dated January 20, 2006, was received by the Hearing Officer at the Hearing from the Rollo Congregational United Church of Christ. The church, in its correspondence, objected to the placement of the bin in the proposed location on the east side of the railroad tracks. The church indicated its hope that the Petitioner would consider relocating the grain bin to another acceptable location on their property that would both serve the grain company's needs and reduce the traffic safety concerns occasioned by the proposed placement.

All correspondence received is hereby incorporated into the record of proceedings by reference.

Site Visit:

The undersigned conducted a site visit on February 8, 2006.

Persons Appearing on Behalf of the Petitioner:

**William R. Mullins**, 215 N. Shabbona Road, Shabbona, appeared on behalf of the Petitioner. Mr. Mullins presented what has been marked as Petitioner's Exhibit 1, consisting of a narrative statement, two photographs of the subject premises, and a copy of the Sidwell map of the site. He stated that the request for the Variation represented a net reduction of 21 feet from the 50-foot setback requirement, acknowledging that the bin would be sited 29 feet from the south right-of-way of Suydam Road. He stated that he believed that the construction of the new bin would reduce dust, traffic and noise associated with grain elevator operations. He noted the location of other houses closer to the right-of-way of the proposed location of the grain bin, which he identified as being set back from the right-of-way approximately 15 feet (the house to the east) and 6 feet (the township building), respectively. Mr. Mullins felt that the new bin would reduce potential traffic hazards on Suydam Road because the traffic flow would be concentrated to a greater extent on the property to the south and west than the current pattern now provided for staging, loading, unloading, and parking of vehicles. He indicated the use of his facility during a normal harvest season was approximately 650,000 bushels of grain, representing approximately 700 semi-truck load equivalents. He believed that about half of these would be delivered in small farm trucks and wagons.

Mr. Mullins indicated that the request for new storage would allow the company to store more grain on site during peak season, rather than transporting the excess to other facilities in the vicinity. He felt that this would reduce the traffic load by approximately 12 ½ percent during peak harvest time.

Mr. Mullins stated that his personal residence is directly adjacent to the Mullins Grain Shabbona facility. He felt that the addition of the grain bin would provide screening, privacy and separation from the grain facility operation for neighbors. He noted the significant efforts that Mullins Grain Company had made to make improvements and clean up the grounds on this facility since acquiring it in 2002 from Charles and Mariann Boston. In response to neighbors concerns about grain chaff and other annoyances resulting from the operation, Mr. Mullins felt that the grain bin would improve circumstances because it would change the way the loading was done on the property.

Mr. Mullins articulated, in his written application, the need for the additional grain storage bin for the purpose of serving local farmers who require this increased storage demand. He stated that two bins had been damaged by wind and needed to be replaced, and that there had been lost storage capacity from a land swap that occurred in 2003 with Paw Paw Township. Mr. Mullins noted his company's years of good service to the farmers of the community and the fact that a grain elevator had been serving the surrounding communities at this particular site for over 60 years. He felt that the additional bin would be in keeping with the long established appearance of the site and consistent with the existing structures already located with on the site. He noted that the setback of the grain bin would be 62 feet from the center of the Suydam Road, while conceding that the measurements would place it 29 feet from the right-of-way. He further articulated that this location was the only location that he felt could be "smoothly integrated" into the existing operation based upon its location near the dump pit and dryer facility. He stated that for three years his company has been seeking to obtain permission and the necessary insurance coverage to cross the railroad tracks with an auger-walkway system to allow Mullins Grain to build on the west side of the track, but to date has been unsuccessful with regard to obtaining the railroad's permission to do this.

Persons Speaking in Opposition to the request:

**Otis W. Martin**, 2461 Weddell Street, Earlville, (Rollo), indicated that he lived on the property adjacent immediately to the east of the subject property. He expressed concern about the dust and "bee wings" that the new grain bin would cause. He commented that he felt that his property was already "destroyed," and expressed his strong opposition to the proposed location of the bin. Mr. Martin indicated that the roadway often used by vehicular traffic running along the eastern edge of the subject property was, in fact, his private driveway. He stated that in the past he voluntarily permitted this but if this facility was built it was his intention to revoke that permission.

**Judy Swenson**, 1760 Whitman Road, Earlville, stated that she was the Paw Paw Township Supervisor and that she was appearing to represent the people of the township. She stated that it was the consensus of the people of the township, based upon what has been conveyed to her, that the storage bin should be sited elsewhere on the property and not in the proposed location. She stated that she felt that this was an "accident about to happen," and that she had significant concerns about traffic safety if the bin were to be located in the proposed location. When asked by Mr. Mullins where else on the site the bin should be located, she stated "anywhere but there."

**Penny Edecker**, 1785 S. Paw Paw Road, Earlville, stated that she lived approximately one mile outside of Rollo. She stated that she used to haul grain and was aware of the traffic patterns and the semi trucks that were parked on the facility. She expressed strong opposition to the proposed location of the storage bin. She noted the train tracks and indicated that an oncoming train had almost hit a vehicle on occasion in the past. She felt that a new grain bin at the proposed location would exacerbate an already dangerous situation relating to the train crossing on Suydam Road, which is not regulated or signaled, except by a yield sign. She felt that trucks leaving or coming toward the facility would have their view blocked by the bin if it were placed in the proposed location.

**Vincent Franzen, Jr.**, 2480 Suydam Road, Earlville, stated that he had the same concerns about safety with regard to traffic and the train intersection. He stated that he felt that "cars fly around" in the area and that there would be little protection for individuals if the bin were located in its proposed location. When asked by Mr. Mullins if the existing bin caused the problems that Mr. Franzen was identifying, he stated that there were some problems but an additional bin would make things worse, especially with regard to the railroad tracks.

**Andrea Markiewicz**, 3440 Kane Road, Leland, inquired generally regarding setbacks and the reasoning for establishing the 50-foot setback threshold. Planning Director Miller responded that in rural areas of the county, and "open" aesthetic was desirable, and some farms structures can be quite tall and therefore this can evoke safety concerns. Ms. Markiewicz expressed her opinion that the obstruction in the form of the grain bin in the proposed location would make the area less safe.

**Wayne Davey**, 5919 Suydam Road, Earlville, indicated that he was appearing on behalf of the neighboring Rollo Congregational United Church of Christ. He stated that the church congregation objected to the proposed location, because it would impede sight lines necessary for traffic safety. He further introduced the correspondence previously referenced.

Staff Input:

**Planning Director Paul Miller** noted that Staff had raised concerns about vehicle movement in and out of site, particularly with regard to semi trucks pulling out of the facility. He requested further elaboration by Mr. Mullins on his basis for asserting that safety concerns would not be jeopardized by the location of the grain bin within the 50-foot setback area. He particularly expressed concern about westbound traffic approaching the area with a northbound train, and the sight line concerns that would be invoked.

Petitioner's Final Response:

William Mullins responded to the above by stating that he did not believe that traffic flow would invoke concerns. He stated that upon his company's acquisition of the facility, improvements were made with regard to the speed of the dump based upon a faster leg and pit. This, he contended, has alleviated back ups or lines waiting to unload, which he characterized as occurring on a "very seldom" basis. He indicated the possibility of redirecting the traffic flow if circumstances should occur that would cause lines or backups.

Mr. Mullins further asserted that he did not believe that the sight lines would be significantly changed as a result of the location of the bin at 29 feet back from the right-of-way. He noted potential problems with the train intersections, but felt that the railroad should be addressing this by improving the signalization of the crossing rather than prohibiting the location of the bin at its proposed placement.

He reiterated that he had selected this location as the most efficient location for the storage bin on the property, and felt that it would reduce the annoyances associated with grain elevator operations, noting that he would need to move the grain with trucks on the property if the bin were to be located elsewhere on his property. He asserted that it was simply cost prohibitive to locate the grain bin at any other location on this property.

Findings and Recommendation:

A. Variation

Mullins Grain Company has requested a Variation from the County's 50 foot setback requirement from the Suydam Road right-of-way, seeking to locate a grain storage bin 29 feet south of the right-of-way. Section 10.01.C of the DeKalb County Zoning Ordinance restricts the Hearing Officer from varying the bulk regulations of the zoning ordinance unless the evidence presented demonstrates that all of the requirements of Section 10.01.C have been met.

With regard to these requirements, it appears to the undersigned that Petitioner has submitted adequate evidence showing unique circumstances relating to this owner, and it seems quite clear that the Variation, if granted, will not alter the essential character of the locality. However, the undersigned cannot make the required finding that Petitioner has submitted evidence sufficient to demonstrate that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the District in which it is located. (See 10.01.C. 1). Petitioner has asserted his belief that construction of a new grain bin elsewhere on the property was economically cost-prohibitive, and that to locate elsewhere on the property will require the use of trucks to move grain back and forth on the subject property instead of the more efficient way Petitioner wishes to conduct these operations. Nevertheless, Petitioner's own testimony reflects the historical reality that this operation has generated a reasonable rate of return in its current state, which does not currently take advantage of the additional storage bin. While sympathetic to the obvious desire of Petitioner to make his operation as efficient as possible, the undersigned cannot find that sufficient evidence was presented by Petitioner to demonstrate that the property is incapable of generating a reasonable economic return unless relief from the 50-foot setback requirement is granted.

The undersigned is further required to consider facts regarding the following:



a) **The particular physical surrounding, shape or typographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out:** I cannot find the particular hardship necessary to fulfil the requirements of this section. Inconvenience was unquestionably demonstrated by Petitioner's testimony regarding the need to use trucks to move grain on the property to a storage bin if it were to be located elsewhere. Nevertheless, I do not believe that Petitioner has introduced facts mandating that the condition of this property from a physical or topographic perspective causes particular hardship to an owner who therefore has a particular need to deviate from the 50-foot setback requirement. Indeed, the numerous requests from neighbors to the effect that they support the operation and have no objection to an additional storage bin on the property, but desire it to be located elsewhere would seem to lend weight to this consideration.

b) **The conditions upon which the petition for variation is based would not be applicable, generally, to other property within the same zoning classification:** The 50-foot setback requirement is deemed by the undersigned to be generally appropriate in the agricultural community, based upon safety considerations, and particularly in a situation where traffic hazards may be invoked as a result of offloading and waiting semi trucks and other vehicles.

c) **The purpose of the Variation is not based exclusively upon a desire to make more money out of the property:** I find that the facts demonstrate that Petitioner's goals with regard to the location of this storage bin are not exclusively based upon a desire to make more money out of the property.

d) **The alleged difficulty or hardship has not been created by the owner of the property:** I find that the alleged difficulty or hardship has not been caused by the owner of the property, but rather by the location of the railroad and its apparent intransigence with regard to permitting construction of a storage bin on the west side of the railroad tracks that would be able to be connected to the operations taking place on the east side of the railroad tracks.

e) **The granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located:** While some testimony was elicited regarding the nuisance that the additional grain bin would present, I accept as credible Petitioner's arguments that the screening effect would present some improvement with regard to neighboring properties and the public welfare, given its blocking of the grain elevator operations. Nevertheless, the concern about traffic safety significantly militates against the granting of the Variation and therefore it is the undersigned's opinion that a granting of the Variation to allow construction in the location identified by Petitioner is detrimental to the public welfare.

f) **The proposed Variation will not impair adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood or adversely affect the health, morals, or general welfare of the public:** The most significant concern associated with this Variation request is that the proposed location of the storage bin would indeed endanger the public safety. It is evident that the size of a grain storage bin will present an obstruction to be contended with by traffic entering and exiting the facility, and, perhaps more important, approaching the facility on Suydam Road. The Planning Director's and the County Engineer's articulated discomfort with the placing of the storage bin only 29 feet from the right-of-way due to potential traffic hazards that could be created are of significant, and prohibitive, concern to the undersigned. The speed limit on that stretch of roadway is 55 mph, not 30 mph or some other relatively slow speed which would allow drivers

encountering traffic pulling onto the roadway to be adequately prepared for what they would encounter. I cannot find that the proposed deviation from the 50-foot setback, in this instance, would not endanger public safety as is required by Section 10.01.C.4.f.

For the foregoing reasons, the Variation request is denied.

B. Special Use

The Petitioner has requested a modification of the existing Special Use permit based upon the requested to construct a grain storage bin 90 feet in diameter having a total footprint area of 6358.50 square feet. The total building footprint for the site is 20,742 square feet and therefore the request exceeds the allowed 10% total of existing building square footage, requiring the amendment. The standard of Section 9.02.3 of the DeKalb County Zoning Ordinance with regard to Special Use requires the applicant to clearly establish the proposed Special Use meets certain criteria. As is reflected below, I find that the proposed Special Use meets the necessary criteria and recommend that the DeKalb County Board approve the requested amendment of the Special Use, provided that Petitioner complies with all necessary bulk regulations including the 50-foot setback requirement from the roadway. With regard to the specific criteria, I find the following:

- a) **The proposed Special Use complies with all applicable provisions of the applicable District regulations.** The current proposed location of the bin is unavailable due to the denial of the Variation request. Nevertheless, should Petitioner relocate the storage bin in an area permitted by County bulk regulations, this subsection will be met and approval of the Special Use may occur.
- b) **The proposed Special Use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or the public welfare at large:** I find that this condition has been satisfied based upon the circumstances presented by Petitioner and by the testimony submitted to illustrate the care with which Petitioner operates the grain facility. Petitioner repeatedly cited instances of “good neighbor” actions on part of Mullins Grain and there is no indication that the continued operation of the grain facility, even with the expanded storage, would be unreasonably detrimental to the value of other property in the neighborhood or to the public welfare at large. It should be noted that none of the objectors appearing at the public hearing had anything bad to say about the operation; the focus was quite clearly on the proposed location of the storage bin.
- c) **The location and size of the Special Use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to the streets giving access to it are such that the Special Use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with applicable zoning regulations:** I find that the location, nature and height of buildings, structures, walls and fences on the site are appropriate for the area that the maintenance of the landscape and buildings on the site do not violate the considerations set forth in this subsection.
- d) **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations:** I find that Petitioner has submitted sufficient evidence to demonstrate that the grain elevator operation appropriately provides for these items.
- e) **Adequate utilities, drainage, and other such necessary facilities have been or will be provided:** I find that the expansion of the use will not invoke concerns with regard to utility and drainage systems associated with this property.
- f) **The proposed uses where such developments and uses are deemed consistent with good planning practice, or can be operated in a manner that is not detrimental to the**

**permitted developments and uses in the District; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall in all other respects conform to the applicable regulations of the District in which it is located; and are deemed essential or desirable to preserve the public health, safety and general welfare of DeKalb County:** I find that Petitioner has demonstrated adequate and appropriate attention to these requirements and the expansion of the storage capacity will not invoke any concerns with regard to these requirements.

I therefore recommend that the DeKalb County Board grant Petitioner's application for amendment of the Special Use permit to operate a grain elevator facility on the subject premises, provided that all DeKalb County bulk zoning requirements, including setback requirements are adhered to in the expansion of the grain storage area.

Respectfully submitted,

KEVIN E. BUICK

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Alternate Hearing Officer  
DeKalb County