

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

1776 E. Washington Street
Urbana, IL 61802

DATE: March 30, 2023**PLACE:** Shields-Carter Meeting Room
1776 East Washington Street**TIME:** 6:30 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Ryan Elwell, Larry Wood, Lee Roberts, Tom Anderson, Nolan Herbert,
Thaddeus Bates**MEMBERS ABSENT:** Jim Randol**STAFF PRESENT:** John Hall, Susan Burgstrom, Stephanie Berry**OTHERS PRESENT:** Catherine Capel, Benjamin Rice, Josh Kamerer, Darrel Rice, Jim Rector,
Dustin Mayfield-Jones, Justin Leerkamp, Larry Negangard, Aaron Esry,
Kara Walker, Shawn Walker, David Happ, Jan Carter-Niccum, Todd
Herbert, Diane Henning, Roger Henning, Ted Hartke**1. Call to Order**

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the Witness Register.

3. Correspondence - None**4. Minutes – February 16, 2023 and March 2, 2023**

Mr. Elwell asked if there was any discussion on the February 16, 2023 minutes.

Mr. Wood moved, seconded by Mr. Bates, to approve the February 16, 2023 minutes. The motion carried by voice vote.

Mr. Elwell asked if there was any discussion on the March 2, 2023 minutes.

Mr. Bates moved, seconded by Mr. Wood, to approve the March 2, 2023 minutes. The motion carried by voice vote.

5. Audience participation with respect to matters other than cases pending before the Board - None**6. Continued Public Hearings- None**

1 Mr. Elwell entertained a motion to move Case 090-V-23 to the beginning of the Docket.

2
3 **Mr. Bates moved, seconded by Mr. Wood, to move Case 090-V-23 to the beginning of the Docket.**
4 **The motion carried by voice vote.**

5
6 **7. New Public Hearings -**

7
8 **Case 086-AT-23**

9 Petitioner: **Zoning Administrator**

10
11 Request: **Amend the Champaign County Zoning Ordinance as follows in order to ensure**
12 **compliance with Public Act 102-1123:**

- 13 **1. Add the following definitions to Section 3.0 Definitions: FACILITY**
- 14 **OWNER, NON-PARTICIPATING PROPERTY, OCCUPIED**
- 15 **COMMUNITY BUILDING, PARTICIPATING PROPERTY.**
- 16
- 17 **2. Revise the following definitions in Section 3.0 Definitions:**
- 18 **PARTICIPATING DWELLING, NON-PARTICIPATING DWELLING,**
- 19 **COMMUNITY PV SOLAR FARM**
- 20
- 21 **3. Revise Section 6.1.4 WIND FARM SPECIAL USE PERMIT to establish an**
- 22 **effective date for regulating previously authorized WIND FARMS.**
- 23
- 24 **4. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE**
- 25 **PERMIT to establish regulations applicable after an effective date for**
- 26 **proposed WIND FARMS, including but not limited to:**
- 27 **a. Establish a separation from each WIND FARM TOWER of 1.1 times**
- 28 **the maximum blade tip height to the nearest PARTICIPATING**
- 29 **DWELLING, to the center point of a public street right-of-way, to the**
- 30 **nearest non-participating property line, and to third-party transmission**
- 31 **lines.**
- 32 **b. Establish a separation from each WIND FARM TOWER of 2.1 times**
- 33 **the maximum blade tip height to the nearest NON-PARTICIPATING**
- 34 **DWELLING or OCCUPIED COMMUNITY BUILDING, and to the**
- 35 **nearest point on the property line of fish and wildlife areas and Illinois**
- 36 **Nature Preserve Commission protected lands.**
- 37 **c. Establish that the total WIND FARM TOWER HEIGHT (measured to**
- 38 **the tip of the highest rotor blade) must receive a Determination of No**
- 39 **Hazard to Air Navigation by the Federal Aviation Administration**
- 40 **under 14 CFR Part 77.**
- 41 **d. Establish that the financial assurance for WIND FARMS will be based**
- 42 **on the requirements in the Agricultural Impact Mitigation Agreement**
- 43 **but will be required to be an Escrow Account.**
- 44 **e. Add other new standard conditions consistent with Public Act 102-1123.**
- 45
- 46 **5. Renumber existing Section 6.1.5 to new Section 6.1.6 PHOTOVOLTAIC**
- 47 **(PV) SOLAR FARM and establish an effective date for regulating**
- 48 **previously authorized PHOTOVOLTAIC (PV) SOLAR FARMS.**
- 49

- 1 **6. Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR**
 2 **FARM to establish regulations applicable after an effective date for**
 3 **proposed PHOTOVOLTAIC (PV) SOLAR FARMS, including but not**
 4 **limited to:**
 5 **a. Establish a separation of 50 feet between the PV SOLAR FARM**
 6 **fencing and the street centerline.**
 7 **b. Establish a separation of 50 feet between the nearest edge of any**
 8 **component of the PV SOLAR FARM and the nearest point on the**
 9 **property line of the non-participating property.**
 10 **c. Establish a separation of 150 feet from the nearest edge of any**
 11 **component of the PV SOLAR FARM and the nearest point on the**
 12 **outside wall of an OCCUPIED COMMUNITY BUILDING or NON-**
 13 **PARTICIPATING DWELLING.**
 14 **d. Establish that the financial assurance for PV SOLAR FARMS will be**
 15 **based on the requirements in the Agricultural Impact Mitigation**
 16 **Agreement.**
 17 **e. Add other new standard conditions consistent with Public Act 102-**
 18 **1123.**

19
 20 Location: **Unincorporated Champaign County**

21
 22 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
 23 the witness register for that public hearing. He reminded the audience that when they sign the witness
 24 register, they are signing an oath. He referred to the petitioner.

25
 26 Mr. Hall thanked Mr. Elwell and stated that as they may have heard, the State adopted a new Public Act
 27 102-1123 overriding any existing county regulations in certain ways. He said there are a lot of ways that
 28 are most notable, but it establishes lesser separations than what Champaign County's Zoning Ordinance
 29 requires in most instances. He said it also gets rid of a maximum height for wind farm towers and making
 30 that subject to Federal Aviation Administration determination. He said it is restricting what the County's
 31 decommissioning requirements are, so that they are consistent with the Agricultural Impact Mitigation
 32 Agreement from the Illinois Department of Agriculture. He said it establishes the Pollution Control Board
 33 noise limit as the maximum noise limit that can be imposed. He said they have submitted a number of
 34 questions to the State's Attorney about the interpretation of what some of this language in Public Act 102-
 35 1123 means. He said for example, when it says the County may also regulate the siting of commercial
 36 wind energy facilities with standards that are not more restrictive than the requirements specified in this
 37 section or commercial solar energy facilities that are more restrictive than specified in this section, he and
 38 Ms. Burgstrom gave their best guess at what that meant. Given the complexity of Case 086-AT-23, and
 39 they still haven't heard from the State's Attorney, this may change over the course of the public hearings,
 40 but this is their best guess right now. He said as they can see, the changes are numerous, but this is what
 41 they have been told to do and unless the County Board wants to spend taxpayer dollars fighting what the
 42 State has told them to do, then that is what they're going to do – that remains to be seen. He said that he
 43 doesn't want to dwell on these changes right now; they have provided the side-by-side comparisons, he
 44 knows that is a lot of material to go through, but they think it is the best way to make clear what the
 45 changes are. He said they also provided copies of the Agricultural Impact Mitigation Agreements and he
 46 was pleasantly surprised to find that the Agricultural Impact Mitigation Agreement for wind facilities lets
 47 the County determine what the form of the financial insurance is to be. He said for wind farms, the County
 48 has always required that the letter of credit be converted to an escrow account over time; they did that
 49 over the first 12 years, but they don't have that much discretion now, so they have proposed to require an

1 escrow account from the very beginning in the three phases that the Illinois Department of Agriculture for
2 the Agricultural Impact Mitigation Agreement requires, which is 10%, 62%, and 100% he thinks. He said
3 in fact when they adopted the solar farm standards, it was decided that maybe escrow accounts aren't quite
4 as flexible as they thought they were, and the Zoning Board of Appeals recommended to go with a letter
5 of credit, they can deal with that during this text amendment if they want to. He said they opted to propose
6 making it an escrow account and this was a big decision when the County Board made it back in 2010; he
7 would not recommend changing that, but this is what the Zoning Board of Appeals wants to see, so they
8 can work on that if they want. He said those are all his comments right now.

9
10 Mr. Elwell asked if there were any questions from the Board.

11
12 Mr. Anderson asked which one seems to be the most crucial and elaborate of sides that are well defined.

13
14 Mr. Hall asked if he meant which change seems to be the most elaborate.

15
16 Mr. Anderson said yes.

17
18 Mr. Hall said that is a tough call, he can't say, but he will say the one that immediately jumped out to him
19 was the lesser separation distance to a non-participating dwelling or principal structure. He doesn't know
20 where the State came up with that number, he doesn't even think it represents any kind of a standard or
21 typical, but it is what it is, they were told that, that is the most they can require. He said one thing that
22 Public Act 102-1123 also says is they can't require any stricter requirements as a special condition, so the
23 State has pretty much locked it down, the separation is going to be what the State says it is going to be.
24 He said other than that, there are lots of things in Public Act 102-1123 for anybody to be concerned about.

25
26 Mr. Anderson asked if he has any advice to give them for the order they should take when dealing with
27 these various changes.

28
29 Mr. Hall said his view is this is what they were told to do, and it is a matter of law; it doesn't matter how
30 many pages of evidence this Board comes up with against any one of these requirements. He said they
31 have to adopt these requirements and he doesn't even think it would be fruitful to accumulate pages and
32 pages of evidence, but this a public hearing, they have citizens that want to make their views known, that
33 is what they are here for. He said when it comes right down to it and he can't stress this enough, this Board
34 has no discretion in this decision, and the County Board will have no discretion in this decision unless
35 they want to spend taxpayer dollars.

36
37 Mr. Bates asked him if there were any other counties suing over this currently with lawsuits in place.

38
39 Mr. Hall said not that he knows of.

40
41 Mr. Bates said okay, but that is an option.

42
43 Mr. Hall said the other option is to not do it and wait until the County is sued, but it's a bright line.

44
45 Mr. Wood said over the last several years they have developed all the solar stuff and they have several
46 different solar types out there and asked Mr. Hall if that was all going to be replaced by just one definition
47 of a solar farm or community solar, they also have it as a secondary use for data centers and stuff.

48
49 Mr. Hall said it is his view that the State regulations do not affect the solar arrays and asked if that was

1 Ms. Burgstrom's view also.
2
3 Ms. Burgstrom said yes.
4
5 Mr. Hall said that is another question for the State's Attorney, but to him it seems clear that this is about
6 solar farms; it's not about solar arrays that are behind the meter.
7
8 Mr. Wood asked if he meant on residential.
9
10 Mr. Hall said he means even residential or the data center solar arrays they have been seeing are behind
11 the meter.
12
13 Mr. Wood asked him if those would still require a permit.
14
15 Mr. Hall said they would still need permits for these in any case, there will still be public hearings and
16 Special Use Permits, but regarding the standard in Public Act 102-1123, the County Board will have no
17 discretion. He said they have a question in to the State's Attorney about some detailed consideration of
18 what that means, but those standards that are in Public Act 102-1123 are set in stone.
19
20 Mr. Wood asked if that was the same for any type of solar array.
21
22 Mr. Hall said any type of solar farm.
23
24 Mr. Wood said solar farm.
25
26 Mr. Hall said it is not going to affect residential or data center solar arrays.
27
28 Mr. Wood said if an industry puts them on top of a roof it is treated the same as residential.
29
30 Mr. Hall said yes.
31
32 Mr. Wood said okay.
33
34 Mr. Elwell said the pendulum is swinging and asked Mr. Hall why they even needed to be a part of this if
35 the State has said this is how it is going to be; it feels like they are just rubber stamping what the State has
36 said.
37
38 Mr. Hall said first, the State also says there has to be a public hearing before a County Board takes action
39 even in Counties that don't have zoning. He said secondly, the grey area around that statement that he just
40 read, that is a huge interpretation question, and he doesn't know what the outcome is going to be, but it
41 could be that these changes are not as broad as they thought. He said the State is still changing the
42 separation to dwellings, making big changes to decommissioning requirements and things like that. He
43 said once they get that determination from the State's Attorney, they may not be as broad of changes as
44 what they were thinking, but they still have to have a public hearing.
45
46 Mr. Wood said he noticed in the Agricultural Impact Mitigation Agreements, they are fairly
47 comprehensive; even removing the foundation, they take it down an extra six inches from 54 inches (4.5
48 feet) to 60 inches (five feet), so he guesses that is a good thing.
49

1 Mr. Elwell asked if there were any other questions from the Board or staff. He asked if anyone from the
2 audience would like to sign the Witness Register for Case 086-AT-23. He called Darrel Rice from the
3 Witness Register up to the testimony microphone. He said to please state his full name, address, and
4 commence with his testimony.

5
6 Darrel Rice, 726 County Road 1800 East, Philo, stated that he wanted to express his appreciation to this
7 Board for what they have done over the last year or so on their behalf. He felt like the Board really listened
8 to the people from the county, read what the people had asked the Board to read, and the Board listened
9 to what the people commented on, and he hopes the Board doesn't feel like this is a whole lot of wasted
10 time, because he knows the Board spends a lot of time on this, but at the very least, it shows that they
11 listen to the people of this county, so he appreciates that very much. He came tonight to try to figure out
12 how this works and Mr. Hall has kind of answered some questions but is it true still if a wind farm comes
13 to Champaign County, they still have to get a Special Use Permit.

14
15 Mr. Hall said yes.

16
17 Mr. Rice asked what the function of this Board is when that time comes.

18
19 Mr. Hall said this Board would hold a public hearing, which establishes the facts upon which the County
20 Board bases their decision.

21
22 Mr. Rice said okay and asked if they would still have public testimony every single time a solar or wind
23 farm is requested in the county. He asked Ms. Burgstrom how this would be publicized, so they could
24 hear about it.

25
26 Ms. Burgstrom said any landowner within 250 feet of the wind or solar farm property area would get
27 notification of this.

28
29 Mr. Rice asked if it would be by mail.

30
31 Ms. Burgstrom said yes, it is by mail; they also have a New Gazette legal advertisement a couple weeks
32 before the meeting.

33
34 Mr. Rice said so if he read the paper, that would be beneficial.

35
36 Ms. Burgstrom said exactly right.

37
38 Mr. Rice asked if this Board had any power over the Agricultural Impact Mitigation Agreement on what
39 the Board's requirements would be for drainage and if the Board could still require an open trench for the
40 wiring, so that it can be inspected for drainage tile breakage before it is covered up with dirt. He asked if
41 the Board still has any authority over that.

42
43 Mr. Hall said that is a difficult question, because everything like that is now done under the purview of
44 the Agricultural Impact Mitigation Agreement, that is something they can try and get some information
45 on from the Illinois Department of Agriculture; he doesn't even know who he should contact at the Illinois
46 Department of Agriculture to find out the answers to questions like that about how things can be done. He
47 said the County's Zoning Ordinance authorizes them to enforce the requirements of the Agricultural
48 Impact Mitigation Agreement, but he doesn't remember ever reading something like that in those
49 guidelines. He asked Mr. Rice if he knew if the Agricultural Impact Mitigation Agreement says that can

1 be inspected.

2

3 Mr. Rice says he doesn't know, but he does know some counties are requiring that and it makes a huge
4 difference, because it allows them to see the problems before the drainage tiles are covered up with dirt
5 and they can address them as construction is going on. He said some of these problems can show up years
6 later and they wouldn't know the problem is there until everybody is done and gone.

7

8 Mr. Hall asked him if he knew what counties he would recommend they talk to about it.

9

10 Mr. Rice said a starting point could be around McLean County, but he doesn't have specifics. He asked
11 how much leverage the Board has on making requirements for a Special Use Permit or has the State
12 already made all the requirements and all the Board can do is follow them.

13

14 Mr. Hall said again, they have to follow the Agricultural Impact Mitigation Agreement, but that is a
15 reasonable question, he knows that is one of the main concerns, and he will try to get an answer before
16 the end of the public hearing.

17

18 Mr. Rice said that would be neat, because he is a drainage district commissioner and that is a huge concern
19 of theirs. He said if the drainage is directly covered or if the Board has some leeway and the drainage is
20 not directly addressed in the Agricultural Impact Mitigation Agreement, if the Board could flush that out
21 themselves and still have some control over at least that aspect of it, that was one point he was wondering
22 if the Board still had any control over. He said again, his appreciation to the Board over the work they
23 have done for the people of the county over the last many months and thanked them.

24

25 Mr. Wood said with respect to the damaged roads and stuff like that he asked Mr. Hall if that still had to
26 be a separate agreement, because it's not included in the Agricultural Impact Mitigation Agreement.

27

28 Mr. Hall said right, that is separate, and his view is nothing changed that requirement for having costs that
29 are specifically and uniquely attributable to the wind or solar farm. He said it was always his understanding
30 from day one, so he doesn't really think that changed, they are still going to need road agreements.

31

32 Mr. Wood said okay.

33

34 Mr. Elwell called Mr. Hartke from the Witness Register up to the testimony microphone. He asked him
35 to state his full name, address, and commence with his testimony.

36

37 Ted Hartke, 1183 County Road 200 East, Sidney, Illinois, stated that he would start out by saying he has
38 a heavy load on his shoulders when he comes here to talk about wind and solar farms. He said let's do
39 some low hanging fruit first, he doesn't think there was a single thing listed in the solar portion where it
40 talks about solar panel distances to homes. He thinks the Board should sneak in there, the County probably
41 wouldn't get much push back or lawsuits like they are afraid of, if the Board simply said that all the noise
42 making inverters have a setback of 800 feet away, the solar farms could put the solar panels as close as
43 they want, but the inverters that make noise have a setback of 800 feet away. He asked Mr. Hall what he
44 thought about that and if he could get any kind of feedback on that.

45

46 Mr. Hall said not until he gets a reply from the State's Attorney.

47

48 Mr. Hartke said to add to that, that some of the portions of the project could certainly be closer to a property
49 line, but the inverters that intrude upon the neighbor, he thinks that is a minimum thing that they could

1 ask for as an easy win. He said that most likely the County wouldn't get sued against that. He said let's
2 talk about the next lowest hanging fruit, he wants to talk about what the job of the County Board is; the
3 job the County Board does is upholds laws and all those things.

4
5 Mr. Bates asked if he realized that they were not the County Board.

6
7 Mr. Hartke said he understands, and the County Board's job is to uphold the Constitution, right. He said
8 if something is unconstitutional, whether it be another law, dumb rule, or unfunded mandate, if they
9 thought it was the job of a board to refuse to go along with something that is unconstitutional and, in this
10 case, it is unconstitutional for taking of land without compensation. He said what is happening is, they are
11 getting an unpaid for free easement given to a private wind company to make money on land that they
12 don't own, rent, or compensate; it is a giveaway. He said the State of Illinois has stepped in and become
13 the middleman to take that away from a person who just wants to live and be left alone on their own land.
14 He referred to the projector screen and asked the Board if they got an individual copy of this or just the
15 electronic copy.

16
17 Mr. Hartke asked if they could see it on the projector screen, if he needs to zoom in closer, he thinks he
18 will for the people in the back of the meeting room. He said the people that went before them in the
19 previous case, they are trying to make a three-acre tract into a six or seven-acre tract of land and he thought
20 that was great. He said let's say that piece of land was a vacant piece of land, they came to Champaign
21 County to buy it, but they were living in Urbana like these folks were, and they were going to build their
22 home on those five acres. He said a wind developer comes in and builds a wind turbine right there and it's
23 1.1 times the height from their property line, because there is no house on those five acres. He said look
24 what happened to that acreage, that five-acre site got completely crushed and ruined as a home site and
25 the wind company didn't pay for it. He said the Champaign County Board failed to uphold the constitution,
26 because in the constitution there should never be uncompensated taking of land, that is what is happening
27 right here. He thinks this Board can vote or do whatever they want, the Board doesn't have to vote yes for
28 this; he thinks this Board becomes strong, broad shouldered, and upholds why the United States of
29 America is the way it is and not have a five-acre piece of land completely ruined to put a home on it. He
30 told Mr. Hall to please ask their State's Attorney if it is cool that they pass an unconstitutional law, that
31 allows uncompensated taking of land, that is purely on the basis of having a setback to a property line or
32 a house on the property. He said there are no other rules around except for wind and solar farms that have
33 setback based on the location of the house; all the setbacks should be based on the offset to a property
34 line.

35
36 He said he was going to pan this over and show the crowd, the point of him showing the wind turbine on
37 the opposite side is to show that this is going to happen from all directions, they aren't going to be stuck
38 with one wind turbine, but with two wind turbines. He said that is where he sat, it was a bad deal, he didn't
39 get any money and got screwed out of his house, he could sit here and cry about it, but he wants this Board
40 to have on the record that this was an intrusion into their home. He said now he is going to talk about the
41 person with the 82 acres. He said a Champaign County landowner that owns 82 acres can put a house
42 anywhere they want on it, they can divide these 82 acres in half, they can sell off part of it and have a
43 grandson or a kid in the family build another house on this property. He told Mr. Hall that he wanted him
44 to check with their State's Attorney and ask them if the 82-acre site with a wind turbine setback to a house
45 is constitutional. He would like to know exactly what her or his response is from the State's Attorney to
46 see if this is a constitutional thing that they can do and give a setback, which causes uncompensated taking
47 of land. He said he had a bunch of circles on here and he wants to point out before he moves onto those,
48 that here they have 82 acres, and he has a couple of setbacks drawn on here of the 82 acres. He said 2.74
49 acres remain for a house location, so 96 percent of the 82 acres is no longer suitable for a building site for

1 a home. He would like to have Mr. Hall ask the State's Attorney the same question. He said here are the
2 purposes of these circles, Ford County, Illinois has a setback to a property line at 2,250 feet; the 2,250 feet
3 is 25 feet further away than the wind turbine that caused his family the worst effects at his house. He gave
4 sworn testimony that living 2,225 feet downwind of a wind turbine is not tolerable to Ford County's
5 Zoning Board and County Board just like he is here. He said that Ford County passed that as their
6 Ordinance, and they did not get sued. He is told that Ford County plans to not approve this State mandate,
7 because they feel it is unconstitutional taking of land without compensation and he would expect the same
8 out of Champaign County since they're more sophisticated than Ford County, and they should know
9 better. He wanted to point that out, that is why this 2,225-foot circle is on here, that was what convinced
10 Ford County in 2018, and it passed, has withstood, and it has stood the test of time, so far since 2018 with
11 no issues.

12
13 Mr. Hartke said he wanted to also talk about the 1,640 feet, that is the red circle. He said that 500 meters
14 is the same as 1,640 feet; there is a safety manual from Vestas for this wind turbine, he thinks the wind
15 turbine was 450-foot tall. He said in the safety manual it said, when there is a fire, emergency, or a runaway
16 wind turbine, the wind turbine workers are to run up wind 500 meters as their evacuation zone. He would
17 like to ask the State's Attorney that since this is an evacuation zone, they should require that the wind
18 farm workers knock on the door of the house as they run past the house, grab the kids, and continue their
19 running up wind, because the house is only like 1,200 feet away. He said then he would like to ask the
20 State's Attorney or whoever on how far downwind they should be, because his house was 2,225 feet
21 downwind, so he wants to know how far he needs to run downwind. He said to him this safety evacuation
22 zone should never cross the property line of an uncompensated landowner – never. He can't imagine life
23 where people who are going to live comfortably and have health, safety, and welfare in their home at night
24 during any storm, lightning, and any kind of event when the wind turbine is breaking off at its foundation
25 like what just happened a few weeks ago in Ford County. He said this is a severe intrusion on the private
26 property inside homes, this is not bologna, this is the truth, and he is not a fearmonger.

27
28 Mr. Hartke referred to Illinois Pollution Control Board noise level standards. He wants to emphasize that
29 in all the wind farm applications that he has seen, the noise acoustician has always sat down and presented
30 the numerical values of the whole broadband of all noise levels. He said the first thing the acoustician says
31 is the low frequency noise is not a problem, because it is not regulated, he knows that that is a problem.
32 He said that it's not in the Illinois Pollution Control Board noise level standards, that is why the State of
33 Illinois is pushing that level upon us. He said that he was going to repeat again, that the only living person
34 alive today that helped establish those octave band limits is Dr. Paul Schomer, he said that those noise
35 levels are not suitable for wind turbines. He said if those levels are not suitable for wind turbines, he
36 believes that is an excellent defense when a wind developer, the State of Illinois, or whoever it is that is
37 going to come and file a lawsuit against them. He said when they show up and file the lawsuit, exhibit one
38 should be Dr. Schomer's presentation to Boone County, Illinois from 2012 or 2013, he doesn't remember
39 when, and in that testimony, it says that the Illinois Pollution Control Board noise level limits are not
40 intended for wind turbines; therefore, that is a great defense and they could show to the judge in court that
41 those are not appropriate noise level limits.

42
43 Mr. Hartke said the next thing about the Illinois Pollution Control Board noise level limit rules is that
44 those noise levels are supposed to be at the property line. He said in all the applications he's gone to,
45 reviewed, seen, and testified against, those noise levels were always measured at the residential use area
46 on the property, which is the house and a little bit of yard around the house. He said he pressed them in
47 Piatt County when a developer sat there with her noise acoustician and he asked the noise acoustician if
48 she measured that noise at the property line and their answer was at the residential use, and the use
49 classification at that limit is where he measured the noise, but the Illinois Pollution Control Board noise

1 level limits clearly says property lines. He said when they put in Illinois Pollution Control Board noise
2 level limits, they should add a little star on there that says all the noise limits in verbatim on exactly what
3 it says, because it says property lines, they want to ignore that.
4

5 Mr. Hartke said the last thing about the Illinois Pollution Control Board noise level limits is there are two
6 portions of the rules that they are faced with. He said the first portion is the numerical noise limit, which
7 can be measured, and it can be measured to a property line and is very technical with a specific outcome.
8 He said the second portion is thou shall not cause pollution to harm the neighbors, he paraphrased it, but
9 that section is often ignored, because it is much harder to determine. He said however, he thinks that the
10 second part being that they are not allowed to produce noise that antagonizes or harms the nature and
11 health of their neighbor, that portion could be summed up in one sentence in their Zoning Ordinance. He
12 said they should ask the State's Attorney if it is cool that they have Apex Clean Energy sign a letter that
13 says their wind turbines will not cause sleep deprivation to the children next door or if they don't want to
14 talk about sleep deprivation, they just change it to torture, because sleep deprivation is a sort of torture,
15 they can't do it to prisoners of war or in jail. He said to ask their State's Attorney if they can add a line
16 that says not allowed to torture the neighbors and he thinks that would be excellent. He may be getting
17 farfetched here and the Board might think that, but he wants the Board to know that he lived through it,
18 and it was very difficult. He said it's hard on a marriage, he has spilled his guts about this, and he thinks
19 he is going to tell them right now there was a time in the past where they took all of their beds in their
20 home and moved them into the middle of the house, so he, his wife, and children all slept in the middle of
21 living room with all three beds together. He said the reason why parents have their private bedroom is for
22 health of a marriage, and when parents are sleeping in the same room as their children, their marriage is
23 not going to be healthy, because of the intimate moments they want to share with their wife, family, or
24 wife without the kids in the room.
25

26 Mr. Hartke said if the Board wants to protect the health, safety, and welfare of families in Champaign
27 County, then it is a good idea that the families have a married mother and father in the same home in a
28 healthy marriage, so the kids don't suffer, and they don't lose citizens that want to live in Illinois because
29 their County Board didn't follow the United States Constitution and create an ordinance that protects all
30 of their private land from the unconstitutional taking without any compensation. He said he is totally an
31 open book, and he would be happy to answer any questions the Board might have; he also would be happy
32 to lend his backbone or spine and encourage the Board to stand up. He said this is the time to do it and not
33 when it is too late, right now is the time, they must go straight and not turn left or right. He said their
34 County Ordinance is already bad, and this new one is pathetic and unlivable. He said if the Board wants
35 to see families harmed, land ruined, and in this case a 96 percent of an 82-acre tract of land with only two
36 wind turbines screwing it up, that is exactly what they are going to get about a year from now when they
37 are ready to come to southern Champaign County and ruin these people's homes that are sitting right
38 behind him tonight. He is not going to let that happen, he apologizes for his long-winded explanation, but
39 this is terribly important. He said to please excuse his emotional thing here, he knows he has worn out his
40 welcome with a few of the Board members and staff, because they don't like to hear him go on, but he
41 feels like he needs to be strong, on the record, and have all this stuff explained, so when these folks lose
42 the ability to live in their homes, they have something on the record to look back on and sue the Champaign
43 County Board and Zoning Board of Appeals for them giving away their land. He thanked the Board and
44 staff and is sorry he is so long-winded, but this is so important he just can't stand it.
45

46 Mr. Elwell thanked Mr. Hartke and asked if there were any questions from the Board.
47

48 Mr. Wood said first, Mr. Hartke is preaching to the choir here.
49

1 Mr. Hartke said he is sorry, but he must do it, because it must be on the record.
2
3 Mr. Wood said that is fine.
4
5 Mr. Hartke said he apologizes for that, but it must be.
6
7 Mr. Wood said that is fine, he understands that, and he understands the issue here and the issue goes
8 beyond that, because there are current residents out there where these things are going to be relatively
9 close to them as well. He would easily see if a wind farm went in down there, then they are going to have
10 neighbor against neighbor. He said the only way they can avoid this is for the landowners to say no and
11 not do that, but it doesn't really matter if they approve or deny it, because if they deny it, the County Board
12 can overrule it.
13
14 Mr. Hartke said he understands.
15
16 Mr. Wood said that is his understanding of it.
17
18 Mr. Hartke said it starts here with them sending the message.
19
20 Mr. Wood told him that he needs to get to the County Board, their State Representatives, and stuff like
21 that. He said it's more than just you, more people need to get in touch with their State Representatives
22 about some of the issues that are here and make sure they do a good job about presenting their facts. He
23 said the Board doesn't really have a choice as to what they do, they can deny this, but that doesn't
24 necessarily mean anything. He said it will be up to the County Board to make a final decision and it is
25 really not a Zoning Board of Appeals issue, they are not a political organization; this is a political issue,
26 they need to take it to the politicians that are involved in this, whether it is the County Board or anybody
27 on up the ladder.
28
29 Mr. Hartke said he is pleading for his clear conscience to make sure that none of these terrible rules are
30 given a thumbs up, that is why he is asking for their conscience in a way that protects the families in their
31 neighborhoods.
32
33 Mr. Wood said he understands.
34
35 Mr. Elwell asked if there were any other questions from the Board or staff. Seeing none, he thanked Mr.
36 Hartke.
37
38 Mr. Hartke said does anybody here not need to ask questions. He said since the applicant is Mr. Hall, he
39 has questions to ask Mr. Hall. He said he didn't get a chance to ask him when he was testifying, because
40 he is the applicant and asked if he was allowed to ask him questions since there was no cross-examination.
41
42 Mr. Elwell said since this is not an administrative case, they don't have the cross-examination time.
43
44 Mr. Hartke said okay, that is a procedure that should be revisited. He asked if that was a procedural thing
45 that was ruled by the County and set by their rules.
46
47 One of the Board members said it was ruled by State law.
48
49 Mr. Hartke said it's State law, there is another bad State law.

1 Mr. Hall said it is case law, it's not State law.

2

3 Mr. Hartke said that is bad case law, it needs to be challenged.

4

5 Mr. Hall told him he could ask questions of him through the Board.

6

7 Mr. Hartke said great and asked the Board members if he could ask them the following questions to Mr.
8 Hall.

9

10 Mr. Bates asked him to please be respectful to Mr. Hall because it is not him doing this. He asked him if
11 he understands this starts with the State and goes to Environment and Land Use Committee, so please be
12 respectful.

13

14 Mr. Hartke said to please excuse the tone in his questioning here.

15

16 Mr. Bates said don't excuse mine.

17

18 Mr. Hartke said he would like this Board to ask Mr. Hall what he would do since he is their Zoning
19 Administrator, he has seen all kinds of stuff happen, gets asked, and gives permission to do all kinds of
20 things in their county for years and years. He said one of the things that he and Mr. Hall discussed recently
21 was the maximum three-acre allowance, that was purely to protect productive agriculture farm ground.
22 He said they both know if people go out and want to follow the State of Illinois Plat Act, it allowed for
23 tracts to be sold and developed of any size down to a minimum of five acres before it had to have a survey.
24 He said their County didn't like the five acres, six, ten-acre pieces, because most people can't handle
25 maintaining more than three acres, and he and Mr. Hall both agreed upon that. He said in an effort to
26 preserve farm ground, they have this three-acre limit, because people can handle it and if they want more
27 acreage, they come to this Board and prove their case just like they did a few minutes ago. He said that
28 three-acre lot size restricts the size a person can have to give themselves a buffer against bad plans like
29 this. He said there is another exception a person can have, but it is if a person makes more than 50 percent
30 of their income comes from farming, because the bigger than three acres could be considered agriculture
31 use or purpose.

32

33 Mr. Hartke said at the last public hearing meeting or two public hearing meetings ago, he doesn't know
34 when, he asked Mr. Hall if that was fair, that if a person wanted a bigger tract in Champaign County it
35 depended on where a person worked, how much money a person made, and there was no answer for this,
36 but he asked Mr. Hall if that was racist, because there are no black farmers in Champaign County as far
37 as he knows. He said he wants to remind everybody in a day and an age when they are worried about
38 racism and human rights, he wants ask their State's Attorney through Mr. Hall, their County Zoning
39 Administrator, that if it is a basic human rights, since the smallest minority is an individual and if an
40 individual landowner is harmed and interrupted with their life, lifestyle, or whatever it is, and these rules
41 come from someone that is out of town, that is not here, and they don't live here, and they're telling them
42 how to live and if it is going to be appropriate if they can sleep in their homes or not. He wants to know
43 how that is fair in Champaign County in the eyes of the Zoning Administrator. He would encourage this
44 and their entire county to come up with more equitable rules, and if a landowner comes and they want to
45 host a wind turbine or solar panels, and what the landowner does crosses the boundary lines onto their
46 neighbor's property and asks if that is a fair and equitable thing based on a person's income, social status,
47 or whatever. He would like this Board to ask those questions of Mr. Hall, especially when he advises this
48 Board, that there is nothing they can do, they have to vote yes, because it's coming down from the State
49 of Illinois; he disagrees with that advice that Mr. Hall gave the Board, that is the question he has for the

1 Board, that he was going to ask Mr. Hall, their County Zoning Administrator, through this Board like he
2 is supposed to do it.
3

4 Mr. Bates asked Mr. Hall how he would like to receive these questions. He asked if he would like to see
5 them in writing, because he is not sure what he should even ask.
6

7 Mr. Hall said he is not sure either, he has a general sense, and he will pose that question to the State's
8 Attorney.
9

10 Mr. Bates said there were multiple other questions that were asked. He asked Mr. Hall if that was the
11 normal practice for how he will address those questions – is that correct. He asked him how he would like
12 to receive those to make sure they are getting the proper questions asked.
13

14 Mr. Elwell told Mr. Bates it is his question to him on if he is able to take Mr. Hartke's questions and
15 present it before the Zoning Administrator.
16

17 Mr. Bates said in Mr. Hartke's testimony there was several questions he wanted asked of the State's
18 Attorney.
19

20 Mr. Hartke said yes, numerous questions.
21

22 Mr. Elwell asked if the Board could get Mr. Hartke to write those questions down.
23

24 Mr. Bates said that is what he is asking and asked if that was the proper process Mr. Hall.
25

26 Mr. Hall said that is the best way to ensure that they ask all of the required questions of the State's
27 Attorney. He said right now here tonight, he has a general sense, and he will ask those questions, but if
28 Mr. Hartke wants to take the time to put more questions down, he will pass any questions he receives from
29 Mr. Hartke to the State's Attorney's Office.
30

31 Mr. Bates asked Mr. Hartke if he would be okay doing that.
32

33 Mr. Hartke said he would make a list of all his questions, but it's going to be a lot of questions. He is
34 going to be happy to submit and it is going to make them all look bad, because this is a serious thing, it's
35 an encroachment on people's lives.
36

37 Mr. Herbert said he would recommend they ask good questions; he doesn't think they should bombard
38 the State's Attorney right now when they have other important questions that they do want answers to.
39

40 Mr. Hartke said he understands.
41

42 Mr. Herbert said he thinks some good questions are good.
43

44 Mr. Hartke said he understands.
45

46 Mr. Hall said he can't stress enough, that he can ask the State's Attorney any question he wants, they will
47 only answer the questions they think are relevant and meaningful, but again, he will pass along whatever
48 Mr. Hartke gives him.
49

1 Mr. Hartke thanked him and thanked the Board for their time. He is sorry he had to put all of them through
2 this, but it's going to be really tough and bad. He thanked the Board very much.

3
4 Mr. Elwell asked if anyone else would like to testify in Case 086-AT-23. He called Mr. Henning from the
5 Witness Register up to the testimony microphone. He asked him to please state his full name, address, and
6 commence with his testimony.

7
8 Roger Henning Jr., 1664 County Road 600 North, Philo, Illinois, stated that he had heard the comment
9 earlier at tonight's meeting about notifying people within a 250 foot range for upcoming cases. He asked
10 if people wanted to get that distance enlarged, then who would they need to go to, because he has a piece
11 of property within 600 feet from where they threw a solar farm on it and was never told about the solar
12 farm. He said the person next to his piece of property didn't know about it, because there is another piece
13 of property in between that. He asked how somebody who lives within the setbacks of that same section
14 could get notified.

15
16 Mr. Hall asked him what he meant by within setbacks of 600 feet.

17
18 Mr. Henning said he meant the setback from a homestead to a proposed wind or solar farm.

19
20 Mr. Hall said he would have to go to the Environment and Land Use Committee and ask them to do that.

21
22 Mr. Henning said okay, that wouldn't be a recommendation from the Zoning Board of Appeals to the
23 Environment and Land Use Committee.

24
25 Mr. Hall said they have never had the Zoning Board of Appeals recommend something to the
26 Environmental and Land Use Committee, that would be up to the Zoning Board of Appeals, if they would
27 want to do that, that is their discretion, but the decision to change the Ordinance must come from the
28 Environment and Land Use Committee.

29
30 Mr. Henning asked if the Zoning Board of Appeals would be willing to look at something like that, so
31 how would he address that.

32
33 Mr. Herbert asked what the distance in feet was from a project again to get notified.

34
35 Mr. Hall said 250 feet range and they use the entire parcels that the wind and solar farms are proposed on.

36
37 Mr. Herbert said if the project was in the middle of an 80-acre tract.

38
39 Mr. Hall said they go around the 80-acre tract.

40
41 Mr. Herbert said so a person would be notified if they are within the 250 feet range from the 80-acre tract.

42
43 Mr. Hall said yes.

44
45 Mr. Herbert said he does kind of think that somehow they need to try and get a broader announcement
46 rather than in the News Gazette; he doesn't even get the News Gazette. He thinks that would be fair to get
47 that out there, word of mouth would work well too, but they have to get a core group of people to know
48 that before they can get information passed on. He said he doesn't even really know what he is trying to
49 ask or what he is trying to state here, but how do they go about getting a larger notification area for

1 upcoming projects; just by proposing it to the Environment and Land Use Committee separately, because
2 that is a different deal entirely or would they combine that in with Case 086-AT-23.

3
4 Mr. Hall said his view is that they can add things to this that they think are important. He said there comes
5 a point when something that is being added is perhaps so critical that it should be included in a new legal
6 advertisement or something like that. He said simply broadening the expanse of what they provide notice,
7 he doesn't think that would need to be advertised in a new legal advertisement. He said if the Board wants
8 to do that, they can add it into their recommendation to the County Board.

9
10 Mr. Elwell asked how much further.

11
12 Mr. Herbert said to give him some time because he doesn't know right now, he was just thinking on that
13 right now, but 250 feet range doesn't seem like a whole lot.

14
15 Mr. Elwell said well, it is a whole lot.

16
17 Mr. Herbert said it just doesn't seem like enough when there is a 40-acre tract of land between a person
18 and the neighboring person's land. He said there is not a whole lot of notification getting out there he
19 guesses.

20
21 Mr. Elwell asked Mr. Henning if he had any insight on if the 250 feet range isn't enough.

22
23 Mr. Henning said Mr. Rice is on the drainage district and asked him how that worked when they do a
24 drainage tile and hit everybody up for extra money and stuff; isn't that like the section it happens in.

25
26 Mr. Elwell told Mr. Henning he needs to speak to the Board.

27
28 Mr. Henning said he was sorry; he was asking a question basically.

29
30 Mr. Elwell said right, but it has to go through the Board and not to the audience.

31
32 Mr. Henning said correct him if he is wrong, but he knows when the drainage districts want to put in a
33 new tile, he believes the section and the section next to that drainage tile being put in are notified, because
34 the landowner will sometimes have to pay for that drainage tile per acre out of pocket. He doesn't know
35 if they should notify people of the upcoming cases by the section or surrounding sections, they are located
36 in or take the 2,000-foot setback or whatever setback it is for anybody who lives within there. He said if
37 he had a plat book, they could see that piece of property and solar farm located over in Sidney he is talking
38 about. He said there are three 20-acre tracts of land in a row from those three pieces of property, that are
39 probably only 800-foot from that solar farm. He called the neighbor to see if he knew what was going on
40 and he didn't have a clue, because they weren't within that 250-foot range.

41
42 Mr. Elwell asked Ms. Burgstrom if she could do something like three parcels over by the Parcel
43 Identification Number instead of the 250 feet range.

44
45 Ms. Burgstrom said no. She said first, she is not against spreading the range out for notifying more people,
46 but she wants the Board to think about this one thing that comes to mind, which is that solar farms like to
47 be close to municipalities. She said if they have something that is section wide, for example, advertising
48 requiring them to send notice to everybody in a section and they have a tract of land that is up against the
49 City of Champaign that a solar farm wants to build on, imagine the cost that would come out of the P&Z

1 Office to send an envelope to every single property in a section, that could be thousands of people, so she
2 just wanted to give that side of why they might want to consider a different distance range.

3
4 Mr. Henning said he knows there have been other instances, there was a marijuana dispensary business
5 that tried to get a permit from Champaign County, that was only about 2,500-foot from his house, and he
6 wasn't even notified of that, so it might be a little extra money, but he thinks at least the people in that
7 section or within 1,100-foot or 1.1 times the wind turbine height should be notified – not the 250-foot
8 range. He said whatever he needs to do to make that happen or bring it to the County Board – let him
9 know.

10
11 Mr. Elwell asked if there were any other questions from the Board.

12
13 Mr. Herbert asked Ms. Burgstrom how hard it is to know to send a letter, for example, to every property
14 owner within a section of property over an acre. He said would that eliminate a bunch of the smaller
15 parcels for wind and solar farms coming into the county or is that something she would have to go through
16 and say okay, this part is over an acre, this house is over an acre, and rule those out by hand basically.

17
18 Ms. Burgstrom said she would have to rule them out by hand.

19
20 Mr. Elwell said would it be fair if his property was .75-acre compared to his neighbor being an acre, and
21 they were notified and not him.

22
23 Ms. Herbert said no, but can see where Ms. Burgstrom is coming from on that, that they do have to draw
24 a line somewhere and he just doesn't know where that line is now.

25
26 Mr. Elwell said it is 250 feet range.

27
28 Mr. Herbert said right.

29
30 Ms. Burgstrom said there are always alternative means of advertising other than changing the 250 feet
31 range for case notices like Facebook or social media in general. She said some places put out public
32 hearing signs at major intersections, so there are other things that could be done to expand the reach for
33 these wind and solar farms. She said it is just a question of which ones they want to take on and can they
34 take them on with the resources they have in the P & Z Office.

35
36 Mr. Bates said one last statement on that, it does seem like the projects they are working on tend to be
37 getting bigger and covering more space, he is not sure when this 250-foot range was put into place for
38 P&Z of sending people notices, however many years ago that was, but he is sure it was way before the
39 wind and solar came into their community, so maybe just something to consider. He said considering the
40 sensitivity to this topic on both sides, they just went through a case where there was a solar farm coming
41 in next to a village; he thinks they have every right that everybody else does to be notified, whether it
42 takes time, it is too late once the wind or solar farm is in.

43
44 Mr. Elwell called Mr. Leerkamp from the Witness Register to come up to the testimony microphone. He
45 told him to please state his full name, address, and commence with his testimony.

46
47 Justin Leerkamp, 548 County Road 1900 East, Sidney, stated that he hadn't really planned on speaking
48 tonight, the last set of notes he had for a public hearing meeting was several months ago. He had a pretty
49 good description of notes on personal experience with noise, but it seems kind of irrelevant now with what

1 the State has done. He said his one comment or thing he would really urge this Board to do is to take their
2 time; he knows there is a deadline put forth. He said Mr. Hall has already stated the number of meetings
3 required, they probably can't make that 120-day deadline in this county anyway, so he doesn't think the
4 State is probably going to seek legal action if they take a few more months and really examine what they
5 can and cannot do. He said part of that is there are still things in flux at the State level, there is another
6 proposed bill called 3146 that seeks to amend some of these setback distances. He said being that they did
7 this statewide, it is very clear that there are a lot of State politicians that are starting to hear from their
8 constituents, and he thinks a lot of them are hearing that this is just flat wrong. He said it is taking away
9 rights of the County, the individual, and it's not right. He would really urge them to take the time to drag
10 their feet and miss the deadline, and he is not saying that they are not working towards where the State
11 wants them to work towards in the public hearing meetings. He said that Mr. Hall and staff put out a 258-
12 page document or whatever the notes were that were huge, and there is a lot of reading there, he hasn't
13 gotten all the way through it yet, so he would like the Board to take a little bit more time, so he can keep
14 reading that thing whenever he can't sleep. He feels like they were on the right track in this county three
15 or four months ago, they had made progress and had a bunch of public hearing meetings. He said this
16 move by the State has taken the wind out of those sails, but he doesn't think they need to forget the points
17 that were made and the direction they were going, because things may change at the State, then if they
18 adopted this law as their standards, then the State changes politically or gets enough feedback from
19 constituents to where they make some changes. He said depending on what the State does with any
20 amendments to this, then are they were stuck with the less stringent standards at that point. He would hate
21 to rush in adopt this very lenient minimum separation requirement and have that become the new
22 Champaign County Zoning Ordinance, then the State does something else six months to a year down the
23 road, then they are stuck with something that nobody in the room really wanted. He said that is really all
24 he has tonight, but he will put together some better thoughts for next time and he would take any questions.
25

26 Mr. Elwell thanked Mr. Leerkamp and asked if there were any questions for this witness. Seeing none, he
27 thanked him. He called Mr. Carter-Niccum from the Witness Register up to the testimony microphone.
28 He said to please state his full name, address, and commence with his testimony.
29

30 Jan Carter-Niccum, Village Board of Savoy for the last 18 years, stated that the first response to the
31 question about the 250 feet range is the 250 feet range is less than half the height of one wind turbine, so
32 that gives them an idea about how far they are talking about. He knows that Mr. Hall remembers Mr.
33 Richard Helton, their former Zoning Administrator, and he had to live with the number of 250 feet range,
34 but he told them when they have issues, they were going to go to the 350 feet range, because it impacts
35 them. He said if the Board thinks about something he mentioned the last time he was here where he talked
36 about the micronuclear reactor that the University of Illinois is installing near the Abbott Power Plant next
37 to an extremely busy freight railroad line, then think about the number of people that are within 250 to
38 350 feet range from that location and will that possibly impact them, because those are things to maybe
39 think about. He said that is not the real reason he signed the Witness Register to speak tonight; it is a
40 question also for the State's Attorney on the issue of solar, they are looking at a large array across Curtis
41 Road from Savoy. He said it is one or two solar arrays the University of Illinois has put in over the last
42 few years, and this last one unfortunately has tied their hands on building out to Curtis Road on
43 improvements for the viaduct the was supposed to tie into Windsor Road up by the Carle facility. His
44 question to the State's Attorney is if this new legislation exempts the University of Illinois from these
45 regulations, because they are exempt on so many other things or does it also impact the University of
46 Illinois when they come to the County and say they want to expand solar on their footprint, whether it's
47 down First Street to the east of Savoy or another development on the north side of Curtis Road. He asked
48 what kind of restrictions this new law will have on the University of Illinois, or will there be no restrictions
49 for them, so that is his question and concern and thanked them.

1 Mr. Hall told Mr. Carter-Niccum that the University of Illinois never has to ask the County for permission,
2 so he doesn't think these rules impose any standards on the University of Illinois either, but even if they
3 did, those standards would not come from Champaign County, because the University of Illinois is a State
4 entity, and they don't tell the State what they can and cannot do.

5
6 Mr. Carter-Niccum said he thinks maybe they need to think about that issue in the future too, because both
7 sides need to be good neighbors and thanked them.

8
9 Mr. Elwell asked if there were any other questions for this witness. Seeing none, he said that concluded
10 everyone that has signed up on the Witness Register. He asked if anyone else would like to speak in Case
11 086-AT-23. Seeing no one, he entertained a motion to close the Witness Register for Case 086-AT-23.

12
13 **Mr. Wood moved, seconded by Mr. Herbert, to close the Witness Register for Case 086-AT-23. The**
14 **motion carried by voice vote.**

15
16 **Case 090-V-23**

17 Petitioner: **Catherine Capel**

18
19 Request: **Authorize a variance for an existing 5.69-acre tract plus a proposed 3.03-acre tract**
20 **totaling 8.72 acres in lieu of the maximum allowed 3 acres in area for a lot with soils**
21 **that are best prime farmland in the CR Conservation Recreation Zoning District,**
22 **per Section 5.3 of the Champaign County Zoning Ordinance.**

23
24 Location: **An existing 5.69-acre tract plus a proposed 3.03-acre tract totaling 8.72 acres in the**
25 **Southeast Quarter of the Southeast Quarter of Section 2, Township 18 North, Range**
26 **10 East of the Third Principal Meridian in Sidney Township, with an address of 1123**
27 **CR 2300E, Sidney.**

28
29 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
30 the witness register for that public hearing. He reminded the audience that when they sign the witness
31 register, they are signing an oath.

32
33 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
34 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
35 show of hands from those who would like to cross-examine, and each person will be called upon. He said
36 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
37 state their name before asking any questions. He noted that no new testimony is to be given during the
38 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
39 exempt from cross-examination.

40
41 Ms. Burgstrom stated she had a change in the description of Case 090-V-23. She said it is listed as a 5.69-
42 acre tract plus a proposed 3.03-acre tract, but the actual measurements are 5.64 acres and a 3.00-acre
43 addition to that for a total of 8.64 acres.

44
45 Mr. Elwell asked Ms. Capel if she wouldn't mind telling the Board her full name, address, and commence
46 with her testimony.

47
48 Catherine Capel, 2022 Cureton Drive, Urbana, Illinois, stated that she has a farm and wants to sell it. She
49 said it is divided into a 14-acre tract and 5.69-acre tract, but that doesn't go with the lay of the land very

1 well, so she utilized it differently with the intention she would never leave, but now she finds herself in a
2 position to sell. She has two prospective buyers where one wants 11 acres and the other one wants 8.64
3 acres, because the additional three acres is paddocks that are part of a livestock operation setup with the
4 barn and house, and the 11 acres is leased to another company, so there is different usage. She said this
5 boundary would be right on an existing fence line.

6
7 Mr. Elwell asked Ms. Capel if she was finished with her testimony.

8
9 Ms. Capel said yes.

10
11 Mr. Elwell thanked her and asked if there were any questions from the Board.

12
13 Mr. Wood asked if there were any anticipated change in usage of the paddocks and are they going to
14 remain paddocks.

15
16 Ms. Capel said yes, she doesn't anticipate any change, but the perspective buyers are here tonight with the
17 livestock operation and the house and paddocks, they have signed the Witness Register to speak tonight.

18
19 Mr. Wood said okay.

20
21 Mr. Elwell asked if they could convey both parcels in the transaction.

22
23 Ms. Capel said yes, ideally, they would combine the two parcels into one parcel.

24
25 Mr. Anderson said there is a for sale sign out there that says sold as he passed by there. He asked her if
26 she had already sold it then.

27
28 Ms. Capel said it is under contract to the perspective buyers, but it is not already sold.

29
30 Mr. Anderson said the sold sign usually means sold.

31
32 Ms. Capel said she hasn't been out there, but the last time she was out there, there wasn't a sold sign. She
33 hasn't been paid, so it's not sold yet.

34
35 One of the prospective buyers from the audience said that April 28, 2023 was the closing date.

36
37 Mr. Elwell asked if there were any other questions from the Board or staff. Seeing none, he asked if anyone
38 would like to cross-examine this witness and if so, please raise their hand. Seeing no one, he thanked Ms.
39 Capel. He called Mr. Rector from the Witness Register to the testimony microphone.

40
41 James Rector, 9 Dunlap Woods, Sidney, Illinois, stated that he was the owner of the property immediately
42 to the west of all these parcels that are under discussion here tonight. He said he has one concern and one
43 concern only, and that is the three-acre tract not be allowed to be a buildable lot, that it can't become
44 another homesite out there. He said that they have nice spaces out there and having something on that
45 small of a parcel is not staying within the guidelines of the Conservation Recreation Zoning District, he
46 doesn't believe. He said that is all he wanted to say, and he would prefer to see it somehow so that three
47 acres doesn't become a buildable lot and thanked the Board.

48
49 Mr. Elwell asked Mr. Hall if he could speak to the lot dimensions of the three-acre tract being a buildable

1 lot.

2

3 Mr. Hall asked Ms. Burgstrom if that three-acre tract met the average minimum lot width.

4

5 Ms. Burgstrom said with the legal description she received, she thinks it came in at an average lot width
6 of 196 feet and they need 200 feet, so it would need an administrative variance.

7

8 Mr. Hall said so it doesn't meet the average lot width requirement and his view of this variance is that it
9 is for both lots as a unit. He believes with his interpretation for that three acres to be useable separately
10 would need a separate maximum lot size variance, because it is more than ten percent just on its own, so
11 there are a couple of things that would need to be done before the three-acre tract could be used separately.

12

13 Ms. Burgstrom said to add to that conversation, they also have a proposed special condition that Ms. Capel
14 asked staff to add regarding the combination of the lot, so whenever the Board is ready for special
15 conditions, they have that.

16

17 Mr. Elwell asked if there were any other questions from the Board.

18

19 Mr. Herbert said if that three-acre tract is sold to the people that are buying the house and asked if that
20 becomes one parcel, then therefore they wouldn't be able to have two houses on the same parcel, so
21 wouldn't that stop that right there without rezoning and separating that parcel again off later.

22

23 Mr. Hall said as long as that fit the plans of the owners. He said the zoning being what it is, the future
24 owners might have different plans and his view is even if the Board puts a special condition on this
25 variance, then the future owners could seek a different variance allowing them to divide the parcel again,
26 so there is no way to prevent that from happening in the future, but the determination would be up to a
27 future Zoning Board. With that being said, the Zoning Board is in its right to impose whatever conditions
28 seem reasonable at this time, but there is no way to permanently meet the concerns of Mr. Rector.

29

30 Mr. Elwell asked if there were any other further questions for this witness from staff. He asked if anyone
31 would like to cross-examine this witness. Seeing no one, he thanked Mr. Rector. He called Mr. Mayfield-
32 Jones from the Witness Register to the testimony microphone.

33

34 Dustin and Karen Mayfield-Jones said they live at 2505 Combes Street, Urbana, Illinois. Mr. Mayfield-
35 Jones stated that they were interested in purchasing this piece of property and combining them to maintain
36 what is already being done on that property. He said as the property stands now where the approximately
37 five-acre lot is it includes a barn, but it lacks the three additional paddocks, which include the water and
38 irrigation system that is set up on the other three paddocks, including the fencing that is on the smaller
39 approximately three-acre lot. He said by including this together, this is continuing to use the land in the
40 same way for small livestock and to his knowledge has been done as long as Ms. Capel has been on that
41 property.

42

43 Ms. Mayfield-Jones stated that they have no intent to build anything on those three acres, they plan to
44 keep the same usage as before, they plan to use it for livestock and have a small hobby farm.

45

46 Mr. Elwell asked if there were any questions from the Board or staff. He asked if anyone would like to
47 cross-examine this witness and if so, please raise their hand. Seeing no one, he thanked Mr. and Mrs.
48 Mayfield-Jones. He asked Ms. Capel to please come back up to the testimony microphone. He said there
49 is one special condition and if she agrees with the special condition to please acknowledge in the

1 affirmative.

2
3 **SPECIAL CONDITIONS OF APPROVAL FOR CASE 090-V-23**

4 **13. Regarding proposed special conditions of approval:**

- 5
- 6 **A. The 5.64-acre lot and the proposed three-acre lot shall be joined into one lot within**
- 7 **six months of approval of zoning case 090-V-23.**
- 8

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

10 **That the proposed three-acre lot will not be developed as a separate**
11 **residential lot.**

12

13 Mr. Elwell asked if she agreed with the special condition.

14

15 Ms. Capel agreed.

16

17 Mr. Elwell entertained a motion to close the Witness Register for Case 090-V-23.

18

19 **Mr. Herbert moved, seconded by Mr. Roberts, to close the Witness Register for Case 090-V-23. The**
20 **motion carried by voice vote.**

21

22 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 090-V-23.

23

24 **Mr. Wood moved, seconded by Mr. Bates, to move to the Findings of act for Case 090-V-23. The**
25 **motion carried by voice vote.**

26

27 Mr. Elwell said he would be reading the Finding of Facts for Case 090-V-23 from Attachment H on page
28 10 of 11 in the Preliminary Memorandum, as follows:

29

30 **FINDINGS OF FACT FOR CASE 090-V-23**

31 From the documents of record and the testimony and exhibits received at the public hearing for zoning
32 case **090-V-23** held on **March 30, 2023**, the Zoning Board of Appeals of Champaign County finds that:

- 33
- 34 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land**
- 35 **or structure involved, which are not applicable to other similarly situated land and**
- 36 **structures elsewhere in the same district because:**
- 37

38 Mr. Wood said the special conditions and circumstances DO exist which are peculiar to the land or
39 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
40 the same district because: there are two prospective buyers for these two lots, but the lots do not align with
41 how they want to divide the land based on the current existing uses; it’s important that the petitioner make
42 this change, so the two new owners can utilize the ground the way they wish.

- 43
- 44 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
- 45 **sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of**
- 46 **the land or structure or construction because:**
- 47

48 Mr. Herbert said the practical difficulties or hardships created by carrying out the strict letter of the
49 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or

1 structure or construction because: without the proposed variance, the land could not be divided as desired
2 and sold to the intended buyers.

3
4 **3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}***
5 **result from actions of the applicant because:**

6
7 Mr. Wood said the special conditions, circumstances, hardships, or practical difficulties DO result from
8 actions of the applicant because: the petitioner did not anticipate selling the land to two different owners
9 when they created the paddocks and farmland south of the house.

10
11 **4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in**
12 **harmony with the general purpose and intent of the Ordinance because:**

13
14 Mr. Herbert said the requested variance *{SUBJECT TO THE PROPOSED CONDITION}* IS in harmony
15 with the general purpose and intent of the Ordinance because: no land is being taken out of agricultural
16 production.

17
18 **5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL***
19 ***NOT}* be injurious to the neighborhood or otherwise detrimental to the public health,**
20 **safety, or welfare because:**

21
22 Mr. Wood said the requested variance *{SUBJECT TO THE PROPOSED CONDITION}* WILL NOT be
23 injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
24 relevant jurisdictions have been notified of this case, and no comments have been received.

25
26 **6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the**
27 **minimum variation that will make possible the reasonable use of the land/structure**
28 **because:**

29
30 Mr. Wood said the requested variance *{SUBJECT TO THE PROPOSED CONDITION}* IS the minimum
31 variation that will make possible the reasonable use of the land/structure because: the 8.64-acre lot is the
32 minimum amount of land area that includes the residence and paddocks.

33
34 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE**
35 **PARTICULAR PURPOSES.**

36
37 Mr. Elwell entertained a motion to adopt the Finding of Fact, Documents of Record, and Findings of Fact
38 for Case 090-V-23, as amended.

39
40 **Mr. Wood moved, seconded by Mr. Herbert, to adopt the Finding of Fact, Documents of Record,**
41 **and Findings of Fact for Case 090-V-23, as amended. The motion carried by voice vote.**

42
43 Mr. Elwell entertained a motion to move to the Final Determination for Case 090-V-23.

44
45 **Mr. Roberts moved, seconded by Mr. Wood, to move to the Final Determination for Case 090-V-**
46 **23. The motion carried by voice vote.**

47
48 Mr. Elwell said he would be reading the Final Determination for Case 090-V-23 from Attachment H on
49 page 11 of 11 in the Preliminary Memorandum, as follows:

FINAL DETERMINATION FOR CASE 090-V-23

Mr. Wood moved, seconded by Mr. Herbert, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 090-V-23 is hereby GRANTED WITH ONE SPECIAL CONDITION to the petitioner, Catherine Capel, to authorize the following:

Authorize a variance for an existing 5.64-acre tract plus a proposed 3.00-acre tract totaling 8.72 acres in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the CR Conservation Recreation Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

Mr. Elwell requested a roll call vote.

The vote was called as follows:

Randol- Absent	Roberts- Yes	Anderson- Yes	Herbert- Yes
Elwell- Yes	Wood – Yes	Bates- Yes	

Mr. Elwell thanked Ms. Capel on her six affirmative votes for Case 090-V-23.

8. Staff Report - None

9. Other Business-

Mr. Elwell asked the Board if any absences were coming up and saw none.

A. Review of Docket

Mr. Hall told Mr. Elwell he needed to continue Case 086-AT-23.

Mr. Elwell asked if it was his understanding that Case 086-AT-23 was going to be continued for the next four public hearing meetings.

Mr. Hall said Case 086-AT-23 was continued for the next four, but then they put a case on April 13, 2023, and he doesn't recommend continuing this case to April 13, 2023, since there are three cases on the docket already. He wouldn't want to have people sitting around while those cases are decided, but that is up to the Board; he would recommend continuing to April 27, 2023.

Mr. Wood asked if Case 086-AT-23 needs to be decided by May 26, 2023.

Mr. Hall said no, it needs to be decided when the Board is ready. He said the deadline was May 26, 2023, and if the Board can decide by May 25, 2023, that would be fantastic, but he agrees with what Mr. Leerkamp said about not being forced to rush through this. He said now on the other hand, he hopes that the Board doesn't spend a lot of time developing standards that they can't even implement, because he knows the P & Z Department doesn't have time to do that, but they need to spend enough time so the

1 Board makes a recommendation they are comfortable with and the Board can recommend denial, if that
2 is what they are comfortable with.

3
4 Mr. Wood said he thinks the Board needs to get some of those questions answered from the State’s
5 Attorney, because there are some interesting possibilities there.

6
7 Mr. Elwell asked Mr. Hall if he thought they would be able to have those questions answered by the State’s
8 Attorney before the next public hearing meeting on April 27, 2023.

9
10 Mr. Hall said he hopes, but it is not him that has to do the answering and all he can do is wait.

11
12 Ms. Burgstrom told the Board to please bring the packets from tonight’s public hearing meeting to the
13 April 27, 2023 public hearing meeting, and if the Board doesn’t want to carry the packets with them, Staff
14 would be happy to hold onto them for the Board.

15
16 Mr. Elwell entertained a motion to continue Case 086-AT-23 to April 27, 2023.

17
18 **Mr. Roberts moved, seconded by Mr. Wood, to continue Case 086-AT-23 to April 27, 2023. The**
19 **motion carried by voice vote.**

20
21 **10. Adjournment**

22
23 Mr. Elwell entertained a motion to adjourn the meeting.

24
25 **Mr. Roberts moved, seconded by Mr. Wood, to adjourn the meeting. The motion carried by voice**
26 **vote.**

27
28 The meeting adjourned at 8:40 p.m.

29
30 Respectfully Submitted

31
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33
34 Secretary of the Zoning Board of Appeals

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