

MINUTES OF SPECIAL MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

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

DATE:	August 17, 2023	PLACE:	Shields-Carter Meeting Room
			1776 East Washington Street
TIME:	6:30 p.m.		Urbana, IL 61802

MEMBERS PRESENT: Tom Anderson, Thaddeus Bates, Ryan Elwell, Nolan Herbert, Jim Randol, Lee Roberts, Larry Wood

MEMBERS ABSENT: None

STAFF PRESENT: John Hall, Susan Burgstrom

OTHERS PRESENT: Ed Sexton, Denise Sexton, Justin Leerkamp, Aaron Esry, Darrel Rice, 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 – July 13, 2023

Mr. Bates moved, seconded by Mr. Roberts, to approve the July 13, 2023 minutes. The motion carried by voice vote.

Mr. Bates moved, seconded by Mr. Herbert, to advance case 105-V-23 to first on the agenda. 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

Case 086-AT-23

Petitioner: Zoning Administrator

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

- 1 **1. Add the following definitions to Section 3.0 Definitions: FACILITY**
2 **OWNER, NON-PARTICIPATING PROPERTY, OCCUPIED**
3 **COMMUNITY BUILDING, PARTICIPATING PROPERTY.**
4
- 5 **2. Revise the following definitions in Section 3.0 Definitions:**
6 **PARTICIPATING DWELLING, NON-PARTICIPATING**
7 **DWELLING, COMMUNITY PV SOLAR FARM**
8
- 9 **3. Revise Section 6.1.4 WIND FARM SPECIAL USE PERMIT to**
10 **establish an effective date for regulating previously authorized WIND**
11 **FARMS.**
12
- 13 **4. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE**
14 **PERMIT to establish regulations applicable after an effective date for**
15 **proposed WIND FARMS, including but not limited to:**
 - 16 **a. Establish a separation from each WIND FARM TOWER of 1.1**
17 **times the maximum blade tip height to the nearest**
18 **PARTICIPATING DWELLING, to the center point of a public**
19 **street right-of-way, to the nearest non-participating property**
20 **line, and to third-party transmission lines.**
 - 21 **b. Establish a separation from each WIND FARM TOWER of 2.1**
22 **times the maximum blade tip height to the nearest NON-**
23 **PARTICIPATING DWELLING or OCCUPIED**
24 **COMMUNITY BUILDING, and to the nearest point on the**
25 **property line of fish and wildlife areas and Illinois Nature**
26 **Preserve Commission protected lands.**
 - 27 **c. Establish that the total WIND FARM TOWER HEIGHT**
28 **(measured to the tip of the highest rotor blade) must receive a**
29 **Determination of No Hazard to Air Navigation by the Federal**
30 **Aviation Administration under 14 CFR Part 77.**
 - 31 **d. Establish that the financial assurance for WIND FARMS will**
32 **be based on the requirements in the Agricultural Impact**
33 **Mitigation Agreement but will be required to be an Escrow**
34 **Account.**
 - 35 **e. Add other new standard conditions consistent with Public Act**
36 **102-1123.**
- 37
- 38 **5. Renumber existing Section 6.1.5 to new Section 6.1.6**
39 **PHOTOVOLTAIC (PV) SOLAR FARM and establish an effective**
40 **date for regulating previously authorized PHOTOVOLTAIC (PV)**
41 **SOLAR FARMS.**
42
- 43 **6. Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR**
44 **FARM to establish regulations applicable after an effective date for**
45 **proposed PHOTOVOLTAIC (PV) SOLAR FARMS, including but not**
46 **limited to:**
 - 47 **a. Establish a separation of 50 feet between the PV SOLAR**
48 **FARM fencing and the street centerline.**

- 1 **b. Establish a separation of 50 feet between the nearest edge of any**
2 **component of the PV SOLAR FARM and the nearest point on**
3 **the property line of the non-participating property.**
4 **c. Establish a separation of 150 feet from the nearest edge of any**
5 **component of the PV SOLAR FARM and the nearest point on**
6 **the outside wall of an OCCUPIED COMMUNITY BUILDING**
7 **or NON-PARTICIPATING DWELLING.**
8 **d. Establish that the financial assurance for PV SOLAR FARMS**
9 **will be based on the requirements in the Agricultural Impact**
10 **Mitigation Agreement.**
11 **e. Add other new standard conditions consistent with Public Act**
12 **102-1123.**
13

14 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
15 the witness register for that public hearing. He reminded the audience that when they sign the witness
16 register, they are signing an oath.
17

18 Mr. Hall said following the guidance that the Board gave Staff at the May 25th meeting, tonight we have
19 two different Findings of Fact. He said one is formatted for recommending approval and one is formatted
20 for recommending denial. He said Attachment D is the version of the proposed amendment that Staff
21 hopes you recommend either way. He said we've made some changes in the recent public hearings and
22 we have new attachments that compare the current ordinance with this new revised version of the
23 amendment. He said they just need to decide which recommendation they are going to make. He said Staff
24 has actually made the facts in both Findings as similar as they can; both Findings review Case 037-AT-
25 22, which is a text amendment that we've done in the past couple of years. He said there was a lot of
26 information in that text amendment hearing. He said they had a comment suggesting that not including
27 that information would be like losing it, and they felt it would have been a wasted effort, so we've included
28 that in both Findings whether you recommend approval or recommend denial. He said there's only a few
29 places where the information in the Findings differs between the recommendation and the denial. He said
30 we can go through that if the Board wants.
31

32 Mr. Elwell thanked Mr. Hall and asked if there were any questions from the Board.
33

34 Mr. Wood said on the mile and a half from a municipality for PV solar farms, there's no requirement for
35 that in the State law as far as he knows, is that correct.
36

37 Mr. Hall said that's correct.
38

39 Mr. Wood said we have it in there, but then underneath that you have a number of different reasons where
40 you can have variances for that. He asked why you would go through that process.
41

42 Mr. Hall said that is based on our current ordinance, and that current ordinance was based on complaints
43 that the County Board received from municipalities following the first round of solar farms. He said Staff
44 spent time working with municipal staffs to get to that language so that if you're going to seek a waiver
45 from not being allowed to be in the mile and a half, there's a specific process you have to go through. He
46 said this is the process that municipalities wanted, so that's why that's in there.
47

48 Mr. Wood asked Mr. Hall if he thinks there's a risk of that being challenged, that they have to go through
49 that process to get it.

1 Mr. Hall said he can't imagine why there might be.

2

3 Mr. Elwell asked if it would be a challenge from the petitioner.

4

5 Mr. Wood said yes, the petitioner.

6

7 Mr. Hall said there may be a slight risk and it's that same slight risk that is because this amendment right
8 now is much more expansive than the first one we proposed – that's why we call it the less restrictive
9 version. He said it only makes changes to our current ordinance based on the Public Act 102-1123. He
10 said the State's Attorney has said yes, there is some risk in that, but they felt the risk was so small that
11 they wouldn't be opposed to the County Board going with that language. He said in other words, it's not
12 a huge risk, but obviously there is some. He said he hopes that explains it.

13

14 Mr. Wood said partly. He said he guesses from the petitioner's standpoint, if it's not mandated by the
15 State and for some reason the Board decides to deny a variance for that, that would be grounds for the
16 petitioner to go ahead and file a complaint he would assume, whatever the reason that it might be the
17 Board might decide to vote against that. He said he just thinks it puts you at risk if you do that. He said
18 we know how litigious this society is.

19

20 Mr. Hall said okay, likewise are you concerned about the risk from the other elements that are in this
21 amendment that are not in the Public Act.

22

23 Mr. Wood said not to the same extent. He said going on to another point that he was concerned about,
24 does the State mandate that on a decommissioning process that the net salvage value be included in that.

25

26 Mr. Hall said yes.

27

28 Mr. Wood said that answers that question, because if it weren't, he doesn't see why we would go through
29 that process and allow ourselves to be at risk and not having the cash at some point in time when you
30 actually need it and who knows what the salvage value is going to be. He said it kind of puts you in a
31 position where you're at risk to the marketplace for something like that and he's sure that anyone that goes
32 bankrupt any lawyer can hang you out to dry for a long time if you end up in that position where you just
33 don't have the cash to go through the decommissioning process. He said but if the State mandates it, then
34 that's what it has to be. He said that was his only concern, the risk involved of having that mile and a half.
35 He said it makes you look like you're going to allow it but you have to jump through these particular
36 hoops to do that. He said if the Board decides that you can't jump through those hoops or they deny it for
37 some reason, whatever the reason is, then he would think it would put you at risk. He said he guessed
38 we'll see how it goes.

39

40 Mr. Elwell asked if there were any other thoughts.

41

42 Mr. Wood said on the PV solar section, which he thinks may also apply to the wind farm section, on
43 Attachment G, page 8, there is a note in there that says, "a separation of at least 500 feet between
44 substations and transmission lines greater than 34.5 kVA to adjacent dwellings and residential districts."
45 He asked if that is only if it's above ground.

46

47 Mr. Hall said it is his understanding that lines of that voltage would only be above ground.

48

49 Mr. Wood said he didn't know if they could bury it or not.

1 Mr. Hall said again, that’s in our current ordinance.

2

3 Mr. Elwell asked if there were any further thoughts from the Board.

4

5 Mr. Wood asked if the one they’re voting on Exhibit A, the less strict interpretation. He asked if that is
6 something that is basically what this recommend enactment is.

7

8 Mr. Hall asked for clarification on Exhibit A.

9

10 Mr. Wood said it says Exhibit A: Proposed Amendment dated 08/17/23, less strict interpretation.

11

12 Mr. Hall said that is the version that Staff recommends go with either recommendation to approve or
13 recommendation to deny. He said that is the less strict version.

14

15 Mr. Wood said okay.

16

17 Mr. Elwell asked if anyone would like to testify in this case. Seeing no one, he entertained a motion to
18 close the Witness Register for Case 086-AT-23.

19

20 **Mr. Bates moved, seconded by Mr. Wood, to close the Witness Register. The motion carried by**
21 **voice vote.**

22

23 Mr. Elwell asked how the Board would like to proceed.

24

25 Mr. Herbert asked if this would come to a straw poll as to which version we choose.

26

27 Mr. Hall said you could do a straw poll, because once you make a final determination, that settles it.

28

29 Mr. Herbert said essentially where we’re standing right now, we need to pick which road we’re going
30 down and then that’s moving forward. He asked how we get to that.

31

32 Mr. Elwell said his thought process is we pick one, have a motion to approve it, if it fails it fails, if not,
33 then that’s the one we work on.

34

35 **Mr. Herbert moved to make a recommendation of denial.**

36

37 Mr. Hall asked Mr. Bates if that was an actual motion, not just a straw poll.

38

39 Mr. Herbert said if that fails, then we’re to the other one, so yes, that would be an actual motion to
40 recommend denial.

41

42 **Mr. Randol seconded Mr. Herbert’s motion to recommend denial.**

43

44 Mr. Elwell requested a roll call vote.

45

46 The vote was called as follows:

47	Randol - Yes	Roberts - Yes	Anderson - Yes	Herbert - Yes
48	Elwell - Yes	Wood - Yes	Bates - Yes	

49

1 The motion carried by roll call vote.

2

3 7. New Public Hearings

4

5 Case 105-V-23

6 Petitioner: Ed & Denise Sexton

7

8 Request: Authorize a variance for a proposed 5-acre lot in lieu of the maximum allowed 3 acres
9 in area for a lot with soils that are best prime farmland in the AG-1 Agriculture
10 Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

11

12 Location: Part of a 70-acre tract and part of a 55.44-acre tract totaling 5 acres in the Northwest
13 Quarter of Section 10, Township 21 North, Range 9 East of the Third Principal
14 Meridian in Rantoul Township, surrounding the 4.7-acre lot with an address of 2876
15 CR 1500E, Rantoul.

16

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

20

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

28

29 Mr. Ed Sexton, 2876 CR 1500E, Rantoul, said that the biggest part of this case is that he wants to preserve
30 part of the family farm. He said his wife’s family farmed this land for over 100 years. He said he also
31 wants a little bit of a buffer; there’s a lot of development there on South Murray Road. He said there are
32 ball fields, a nursing home and a solar field. He said there was just an article in the Rantoul Press about
33 them wanting to develop the farm fields across from the ball field and he just wants a little more room to
34 preserve that family farm and himself from that. He said that no farmland is going to be taken out of
35 production. He said Pete and Darren Johnson have farmed all of the tillable land that he wishes to acquire
36 and they’re still going to farm. He said there is a small house on that part of it and the best he knows is
37 that’s the last house that his wife’s grandfather built and the last house that he lived in, which is right
38 across the pasture from the big house which is where they live. He said at this point they have no intention
39 of building anything or doing anything else with it; they just want a little bit more space.

40

41 Mr. Elwell thanked Mr. Sexton and asked if there were any questions from the Board.

42

43 Mr. Bates asked Mr. Hall if it presented an issue having two houses on one lot.

44

45 Mr. Hall said there is actually only one house per lot.

46

47 Mr. Bates said okay, so that would be a separate lot surrounding the existing lot.

48

49 Mr. Hall said yes.

1 Mr. Herbert asked Mr. Sexton if he was purchasing the five acres around his house.

2

3 Mr. Sexton said yes.

4

5 Mr. Herbert said he was kind of struggling looking at his plat map and asked if it is two different
6 landowners currently owning the surrounding land, and is Mr. Sexton buying off of each piece.

7

8 Mr. Sexton said yes. He said that Pete Johnson owns the north part of that, and he is also the purchaser of
9 the rest of the farm that is going to be sold, everything from the south out of his father-in-law's estate. He
10 referred to Attachment C showing an aerial view and said there's a yellow line that comes out to the east.
11 He said everything north of that line Pete and Darren Johnson already own and they're going to be
12 purchasing the rest of the farm. He said he would be incorporating the five acres out of both sides so he
13 can preserve the house.

14

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

16

17 Mr. Herbert asked Mr. Sexton if he made mention of what's tillable is going to remain tillable.

18

19 Mr. Sexton said that the farmland is not being taken out of production, it will still be farmed, it's in beans
20 now. He said he's talked about continuing to farm it, it's still going to be farmed in something at any time
21 in the future and he has no intention right now of taking it out of anything but farmland.

22

23 Mr. Wood said it looks like only about half of it is actually tillable. He said there are a lot of trees on there.

24

25 Mr. Sexton said yes, and the house is at the north end, and it actually makes a jog in the farmland that Pete
26 and Darren Johnson don't like. He said the Johnsons are wanting him to make sure he takes that part into
27 the five acres so they don't have to try to till that part.

28

29 Mr. Elwell asked if there were any questions from Staff. Seeing none, he asked if anyone would like to
30 cross-examine Mr. Sexton. Seeing no one, he asked if anyone else would like to testify in this case. Seeing
31 no one, he entertained a motion to close the Witness Register for Case 105-V-23.

32

33 **Mr. Bates moved, seconded by Mr. Randol, to close the Witness Register. The motion carried by**
34 **voice vote.**

35

36 Mr. Elwell asked how the Board would like to proceed.

37

38 **Mr. Randol moved, seconded by Mr. Roberts, to accept the Summary of Evidence and Documents**
39 **of Record and move to the Findings of Fact. The motion carried by voice vote.**

40

41 Mr. Elwell told Mr. Sexton that he would be reading from Attachment I, page 8 of 9.

42

43 **FINDINGS OF FACT FOR CASE 105-V-23**

44 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
45 **105-V-23** held on **August 17, 2023**, the Zoning Board of Appeals of Champaign County finds that:

46

47 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land or**
48 **structure involved, which are not applicable to other similarly situated land and structures**
49 **elsewhere in the same district because:**

1 Mr. Randol said special conditions and circumstances DO exist which are peculiar to the land or structure
 2 involved, which are not applicable to other similarly situated land and structures elsewhere in the same
 3 district because: the petitioners want to create a 5-acre buffer around their existing 4.7-acre property and
 4 no land will be removed from production.

5
 6 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations
 7 sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of
 8 the land or structure or construction because:**

9
 10 Mr. Wood said practical difficulties or hardships created by carrying out the strict letter of the regulations
 11 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or
 12 construction because: without the proposed variance, the petitioners would have to get a Plat of
 13 Subdivision approved for a new lot to make the buffer on the south side. The new lot would likely then be
 14 taxed as a residential lot even though there is no desire or intent to sell the lot for development.

15
 16 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}
 17 result from actions of the applicant because:**

18
 19 Mr. Randol said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 20 from actions of the applicant because: the petitioner seeks to create a lot that forms a buffer from potential
 21 development while minimizing the amount of change on the ground.

22
 23 **4. The requested variance {IS / IS NOT} in harmony with the general purpose and intent of the
 24 Ordinance because:**

25
 26 Mr. Wood said the requested variance IS in harmony with the general purpose and intent of the Ordinance
 27 because: no land is being taken out of agricultural production.

28
 29 **5. The requested variance {WILL / WILL NOT} be injurious to the neighborhood or otherwise
 30 detrimental to the public health, safety, or welfare because:**

31
 32 Mr. Herbert said the requested variance WILL NOT be injurious to the neighborhood or otherwise
 33 detrimental to the public health, safety, or welfare because: relevant jurisdictions have been notified of
 34 this case, and no comments have been received.

35
 36 **6. The requested variance {IS / IS NOT} the minimum variation that will make possible the
 37 reasonable use of the land/structure because:**

38
 39 Mr. Randol said the requested variance IS the minimum variation that will make possible the reasonable
 40 use of the land/structure.

41
 42 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

43
 44 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
 45 of Fact as amended.

46
 47 **Mr. Wood moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of
 48 Record and Findings of Fact as amended. The motion carried by voice vote.**

1 Mr. Elwell entertained a motion to move to Final Determination.

2
3 **Mr. Herbert moved, seconded by Mr. Randol, to move to Final Determination. The motion carried**
4 **by voice vote.**

5
6 Mr. Elwell told Mr. Sexton that he would be reading from Attachment I, page 9 of 9.

7
8 **FINAL DETERMINATION FOR CASE 105-V-23**

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

14
15 **The Variance requested in Case 105-V-23 is hereby GRANTED to the petitioners, Ed & Denise**
16 **Sexton, to authorize the following variance:**

17
18 **Authorize a variance for a proposed 5-acre lot in lieu of the maximum allowed 3 acres in**
19 **area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning**
20 **District, per Section 5.3 of the Champaign County Zoning Ordinance.**

21
22 Mr. Elwell requested a roll call vote.

23
24 The vote was called as follows:

25 **Randol - Yes Roberts - Yes Anderson - Yes Herbert - Yes**
26 **Elwell - Yes Wood - Yes Bates - Yes**

27
28 **The motion carried by roll call vote.**

29
30 Mr. Elwell thanked the petitioner and said the Staff would be in touch.

31
32 **8. Staff Report – None**

33
34 **9. Other Business**

35 **A. Review of Docket**
36

37 Mr. Randol said before we go to that, can we ask a couple of the County Board members to give a
38 comment about Case 086-AT-23.

39
40 Mr. Hall said the State’s Attorney always advises County Board members to not comment at public
41 hearings; that way their options are open when it comes to the County Board.

42
43 Mr. Randol said thank you.

44
45 Mr. Elwell asked if there would be any absences coming up.

46
47 Mr. Wood and Mr. Roberts said they would not be at the August 31, 2023 meeting. Mr. Randol said
48 he might not be at the August 31, 2023 meeting.

1 **10. Adjournment**

2

3 Mr. Elwell entertained a motion to adjourn.

4

5 **Mr. Bates moved, seconded by Mr. Wood, to adjourn the meeting. The motion carried by voice vote.**

6

7 The meeting adjourned at 7:05 pm.

8

9 Respectfully Submitted,

10

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12 Secretary of the Zoning Board of Appeals

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