

MINUTES
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St., Pontiac, Illinois

Regular Meeting
7:00 p.m.

October 6, 2022

The meeting came to order at 7:09 pm

Members Present: Joe Stock, Neil Turner, Joan Huisman, William Flott, and Dave Randolph

Others Present: Jesse King, Charles Schopp, Brian Pflibsen, Ryan Magnoni, Seth Uphoff, Kiersten Sheets, Delores Noe, Susan Spaniol-Fujinaga, Jason Kovalcik, Michelle Proksa, Michael Follmer, Rebecca Taylor, Kathy Arbogast, and Bob Weller

Members Absent: Richard Kiefer and Richard Runyon

Approval of the Agenda:

Chair Huisman noted the agenda for this meeting with a proposed amendment to move SU-12-22 to the top. William Flott moved, seconded by Dave Randolph that the agenda for this October 6, 2022 meeting be approved as amended.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon –	Absent – No Vote
Flott –	Yes	Stock –	Yes
Randolph-	Yes	Turner –	Yes
Huisman -	Yes		

Approval of Minutes:

Chair Huisman noted the minutes of the August 25, 2022 and September 1, 2022 ZBA meetings. Neil Turner moved, seconded by Joe Stock that both sets of minutes be approved as presented.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon –	Absent – No Vote
Flott –	Yes	Stock –	Yes
Randolph-	Yes	Turner –	Yes
Huisman -	Yes		

Business to be reviewed:

Case SU-12-22 – Grani’s Acres

This zoning case pertained to the review of a proposed special use to allow for property located in an AG, Agriculture, District to host an event venue, decoration & practical use item rental, and limited camping during the “Prairie Dirt Classic” located in unincorporated Fairbury.

The assistant zoning administrator noted to board members that the applicant in this case requested that the matter be tabled for 90 days at the planning commission meeting on Monday and therefore is scheduled to be on the agenda for meetings in January.

Case SU-5-22 – USS Man Solar

This zoning case pertained to the continued review of a special use request to allow for the development of a 4 MW solar farm in an AG, Agriculture, District located near Manville.

The assistant zoning administrator provided an overview of the case to board members.

Ryan Magnoni, a representative of this case, was present at the meeting and provided testimony. Ryan provided larger maps of the project to board members.

There was a question about whether the project was going to allow sheep inside of the project. Ryan explained that they are considering allowing sheep to graze the project during its operational life after construction.

There was then a question about where the edge of the timber is in relation to the project. Ryan explained that the project doesn’t reach the timber and the timberline was then clarified to board members.

There was then discussion about Susan Spaniol-Fujinaga’s property. Ryan stated that since the last meeting, they have moved the southern border of the project back an additional 35 feet so that the project’s border is now approximately 135 feet from the road right-of-way. Ryan explained that this was done in an effort to further help Susan with her concerns.

A question about the access road location was then asked which was clarified by Ryan. A follow-up question about the access road and its ability to reach the entirety of the project was then asked. Ryan explained that the entirety of the project would be able to be accessed from the single access road.

There was then discussion about the additional documents that were submitted to determine if they were sufficient. There was then discussion about interconnection with ComEd and why the project was not in the queue. Ryan explained that it was no longer required by the state to be in the queue

and that it is a large investment to get into the queue with no guarantee that the project will be selected for funding.

There was a question raised as to whether or not the style of fencing proposed by the applicant would satisfy the zoning ordinance and what other options of fencing there are. After some discussion, it was determined that the proposed fencing would be sufficient.

There was then a question about the tile map that was provided which was discussed and clarified by Ryan.

A discussion about the particular solar panels that the project intended to use then took place. Ryan explained that they have not purchased the solar panels yet since they have not been approved to construct the project since it is such a large investment. Ryan pointed out that on the site plan map, the specs of solar panels they have purchased in the past were listed in the top corner.

The decommissioning plan was then discussed and determined that there had been no changes to it.

The floor was then open for public comment.

Susan Spaniol-Fujinaga then spoke as an interested party in this matter. Susan discussed how she anticipates having trouble selling her property and that she had already spoken to one potential buyer who told her that they would not be interested in purchasing the property knowing that a solar farm would potentially be built around the property. Susan further explained she would not like to be surrounded by a solar farm. Susan further explained that she has not seen a site plan for this project yet which is when the assistant zoning administrator provided her with a large format map that was provided by Ryan Magnoni.

Delores Noe then spoke as an interested party in this matter. Delores explained that she purchased her property which borders the project to the East about 2 years ago and that if she would have known that a solar farm would be built right next to it, she would not have purchased the property.

Jason Kovalcik then spoke as an interested party in this matter. Jason explained that him and his wife like to sit outside and enjoy the sunsets from their yard and if this project were to be constructed, they would no longer be able to do that due to the height of the panels. Jason further stated that his wife is sensitive to the dander that would be caused by sheep roaming the project and that if sheep were allowed to roam the project, they would potentially need to move. Jason added that he is not against solar energy, but that it needs to be somewhere that it's not next to residences.

Michelle Proksa then spoke as the property owner in this case. Michelle explained that she did a lot of research on allowing sheep to graze the property and feels that it would be beneficial for the soil. Michelle also added that taking the soil out of production for the life of the project would improve the soil over the years for her daughter who would ultimately inherit the property. Michelle added that the project would be a benefit to the local taxing bodies.

There was then a question about what is currently being grown in the field. Michelle stated that the field is split between corn and soybeans currently.

Michelle then added that with the money she will receive from hosting the solar farm, she plans to use some of the money to work with the department of natural resources to improve the timber on the north side of the property.

Delores Noe then chose to make a closing statement by asking board members if they would like to live next to a solar farm and asked them to consider that when making their decision.

Ryan Magnoni then made a closing statement by thanking the board for their time and reiterated that this project is a big investment in the county and that it would improve the soil for future use. Further, Ryan added that the company would ensure that it is a good neighbor to all of those around and asked the board for their recommendation of approval since they have met all of the ordinance requirements.

There was then further discussion among board members about the fencing around the project and that language should be added to the conditions that fencing be compliant with the zoning ordinance. There was additional discussion about a condition of screening for Delores Noe's property and it being mentioned by the applicant that Delores does not want the screening. It was suggested that language be added to that condition to account for the possibility of dropping the screening requirement for Delores if she speaks with the zoning office and tells them that she does not want it.

With there being no further questions or discussion, Neil Turner moved, seconded by Dave Randolph that this zoning case be recommended for approval to the county board.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon –	Absent – No Vote
Flott –	Yes	Stock –	Yes
Randolph-	Yes	Turner –	Yes
Huisman -	Yes		

Case SU-10-22 – Oxeye Solar

This zoning case pertained to the review of a proposed special use to allow for the development of a 4 MW solar farm in an AG, Agriculture, District located in unincorporated Pontiac near Rowe.

The assistant zoning administrator provided an overview of the case to board members.

Seth Uphoff, an attorney representing this case, then introduced himself and the project.

Kiersten Sheets then provided an in-depth presentation of the project with the assistance of Seth by covering site specific specifications, screening, tax revenue, and other topics regarding the project.

Michael Follmer, the landowner of the project, then spoke on behalf of the applicants. Seth questioned Michael about the soil quality of the subject property and Michael explained that the field had poor soil quality and was not as productive as other farm property he owns.

Andrew Lines then presented as an expert witness on behalf of the applicants as an expert witness regarding property values. Andrew's presentation covered his credentials and the body of work that he and his company have done regarding solar farms and appraisals of properties around solar farms. Andrew concluded that with this particular property and other solar farm sites they have studied, they have found no consistent negative impact to property values.

There was then a question to Andrew about whether or not they have done studies where a property is surrounded on three sides by a solar farm. Andrew stated that they have and that one property they studied up north was sold for a county record per square footage that was surrounded by a solar farm. Andrew concluded that they have not found a negative impact to properties surrounded by solar farms either.

There was then a question about the project's status on an interconnect agreement with ComEd. The interconnection agreement was shared with the board and clarified as to their interconnection status with ComEd.

Rebecca Taylor, a representative from the Livingston County Soil & Water District, then provided testimony. Rebecca presented the natural resource information report to the board by covering various topics regarding soil quality, wetlands, vegetation, and other things. Rebecca concluded that the project would have a "low impact" to agriculture.

Seth Uphoff then gave a closing statement by covering the ZBA code and solar ordinance. Seth explained to board members how his client's project conforms with all requirements and asked the board for the recommendation of approval to the county board.

With there being no further discussion, William Flott moved, seconded by Joe Stock that Case SU-10-22 be recommended for approval to the county board.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon –	Absent – No Vote
Flott –	Yes	Stock –	Yes
Randolph-	Yes	Turner –	Yes
Huisman -	Yes		

Case ZT-2-22 – Livingston County Board

This zoning case pertained to a proposed zoning text amendment to implement a temporary moratorium on solar farm applications.

The assistant zoning administrator provided an overview of the zoning case.

Chair Huisman noted language that appeared to be unclear in subsection “c” about a date being mentioned for the moratorium not applying to solar farm applications received before that date, but no date except for the moratorium end date being mentioned. There was then discussion amongst the board members about confusion on the language of the proposed moratorium.

After some discussion, it was determined that subsection “c” of the proposed moratorium appeared to be unnecessary and should be removed since it appeared to say the same thing that subsection “a” was saying. The board felt that subsection “c” is unnecessary because subsection “a” did not include a mention of an unclear date that would not apply to new solar farm applications which is mentioned in subsection “c”.

Bob Weller then spoke as a representative of the county board and asked whether or not the language of the moratorium that is being presented to the board members tonight was the same language that was presented to the county board at their meeting when they voted to start the text amendment. The assistant zoning administrator clarified that the language that was being presented tonight was the language that was sent to him by the executive director of the board and that it should be the same language.

There was then discussion as to what options the zoning board of appeals had for making a recommendation on this matter. There was mention of making a motion to recommend approval with the removal of subsection “c” of the proposed moratorium.

A motion was made by William Flott to recommend approval of the zoning text amendment with the removal of subsection “c”

After further discussion, it was determined that it would be best to make a recommendation on the moratorium language as presented.

William Flott then withdrew his motion.

William Flott then made a motion, seconded by Neil Turner to recommend approval of case ZT-2-22.

This motion failed by a roll call vote.

Kiefer –	Absent – No Vote
Flott –	No
Randolph-	No
Huisman -	No

Runyon – Absent – No Vote
Stock – No
Turner – No

Other Business:

The assistant zoning administrator reminded board members of their upcoming wind farm hearing on October 20th at 6:30 PM.

The zoning administrator also reminded board members about the reviews coming up of all of the previously approved solar farm cases and requested that they be allowed to testify virtually since most of them would be coming from out of state. Chair Huisman agreed to let them testify virtually.

The assistant zoning administrator informed board members of other zoning cases coming up in November.

Findings of Fact and Decision:

William Flott moved, seconded by Joe Stock, that the Findings of Fact and Decision be approved except for Grani’s Acres.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon – Absent – No Vote
Flott –	Yes	Stock – Yes
Randolph-	Yes	Turner – Yes
Huisman -	Yes	

Public Comment:

Seth Uphoff thanked the board members for their time.

Bob Weller thanked the board members for their time and diligence.

Report of Officers: None

General Discussion:

There was discussion amongst board members about how the EDF Renewables wind farm hearings were going.

Adjournment:

The chair then asked for a motion to adjourn. William Flott moved, seconded by Neil Turner, that this meeting be adjourned.

This motion carried by a roll call vote.

Kiefer –	Absent – No Vote	Runyon – Absent – No Vote
Flott –	Yes	Stock – Yes
Randolph-	Yes	Turner – Yes
Huisman -	Yes	

This meeting was adjourned at 10:31 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

Jesse J. King, Assistant Administrator
Livingston County Regional
Planning Commission