

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

Regular Meeting
7:00 p.m.

February 9, 2023

The meeting came to order at 7:03 pm

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

Others Present: Jesse King, Bill Tolbert, Mark Johnson, Shari Johnson, Linda Dionne, Doug Sass, Jim Blackard, Nick Standiford, Paul Bottum, Emily Kahanic, Becky Taylor, Andy Bauman, Jason Waldschmidt, Julie Fosdick, William Whitney, Jake Aupperle, Kia Whitney, Jason Dixon, and Autumn Whitney

Members Absent: Richard Kiefer

Approval of the Agenda:

Chair Huisman noted the agenda for this meeting with an amendment to remove both zoning text amendments from the agenda. William Flott moved, seconded by Dave Randolph that the agenda for this February 9, 2023 meeting be approved as amended.

This motion carried by a roll call vote.

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

Approval of Minutes:

Chair Huisman noted the minutes of the December 8, 2022 meeting with a correction noted by the zoning administrator. Dave Randolph moved, seconded by Joe Stock that the minutes of the December 8, 2022 meeting be approved as amended.

This motion carried by a roll call vote.

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

Business to be reviewed:

Case SU-21-22 – Rooks Creek Acres Wedding and Events

This zoning case pertained to the review of a proposed special use to allow for a wedding/event venue in an AG, Agricultural, District on property located in unincorporated Pontiac.

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

The applicant and property owner, Jim Blackard, was present at the meeting as a representative of the case and gave a PowerPoint presentation that gave board members more in-depth information as to the plan for development of the venue.

There was a question by a board member seeking clarification on who maintains the point of ingress/egress to the venue. Jim explained that the road is maintained by the township.

William Tolbert then spoke as an interested party in this matter. William discussed him and his wife's history with their property that immediately adjoins the subject property to the East. William talked about his concerns for the intrusion to their privacy and peaceful nature of living in the country that would happen as a result of allowing a wedding venue to operate in their backyard. William further added that he used to manage a K of C hall and knows the problems that are associated with a public venue where alcohol is consumed and that he does not want those problems next to his house. William also stated that he has no confidence that Jim will do exactly what he is saying and that he believes that Jim will say one thing and do another. William also refuted Jim's statement that he would aim to preserve the natural beauty of the property by providing pictures to the board showing downed trees and explained that the Blackards removed 60 healthy Oak and Black Walnut trees for profit.

Mark and Shari Johnson then spoke as interested parties on this case. They explained that they agreed with the Tolbert's objections and stated that they would have no problem if there were only 1 or 2 events per year at the subject property, but did not like the idea of potentially having weddings out there every weekend. Mark stated that the Blackards continuously violate the covenants of the subdivision. He also echoed William's concerns about Jim saying one thing and doing another. A board member asked what the name of the subdivision was, Mark stated the name of the subdivision is Rooks Creek Subdivision. Mark then explained the issue of the driveway that runs between his and the Tolbert's property and that there was a misunderstanding with the bank who thought it was an easement when it is not. Mark stated that the Blackards constantly speed through that driveway. Mark then discussed the drainage issues that exist in the area and stated that Jim had approached him on that matter and talked about it with him. Lastly, the Johnsons conveyed their concerns about what impact a use of this nature would have on the value of their property.

Linda Dionne then spoke as an interested party. Linda stated that she is the developer and homeowner of the Johnson Subdivision that borders the subject property to the West. Linda

explained her concerns about the alcohol, drugs, noise, and trash that could become an issue with a use of this nature and stated that she is not in favor of this being passed.

Doug Sass then spoke as an interested party. Doug stated that he is just concerned about a use of this nature going into property that is zoned Agricultural. Doug urged the board to think objectively from both sides. Further, Doug stated that people should have the right to do what they want with their property, but when people buy property in the country where it's zoned Agricultural, the assumption is that it will remain that way.

Jim Blackard then gave a closing statement by responding to claims that were made. Jim explained that there are rules for denying zoning cases and he felt that his zoning case did not meet any of those thresholds for denial. Jim pointed out that people who live nearby have acknowledged that they received a copy of the PowerPoint he presented. Jim further posed that there has been no evidence presented that there will be a negative impact to property values. Jim stated that he used the money he received from logging out the property to pay for the down payment on the property. Chair Huisman was then discussing hours of operation with Jim and confirmed the proposed hours of operation and attempted to confirm that there would be no overnight stays. Jim stated that they would like to be able to offer the bride and groom the ability to stay at the venue the night of their wedding. Chair Huisman stated that it would be a violation of the hours of operation to allow that. There was then a question about parking RV's on the property to which Jim replied that there would not be camping by guests, but that he may park his personal RV on the property.

At 8:02 Chair Huisman called for a break to digest information that had been presented. The meeting reconvened at 8:10.

There was then further discussion about whether or not the subject property was part of the subdivision. Jim clarified that the subject property was not, but that this house was. The zoning administrator then explained that in conversations with the previous administrator, that this property was originally intended to be an expansion of the Rooks Creek

Mark and Shari Johnson then came back up to speak and were asked by the board if they knew that the subject property was not part of the subdivision when they bought their property. They stated that they did know that.

Richard Runyon then made a motion, seconded by Neil Turner that this zoning case be approved with the proposed conditions.

This motion failed by roll call vote.

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

During the vote, William Flott cited his reason for his “no” vote was due to the issues in the contract that Jim had proposed with regard to clients’ liability insurance by explaining that the owner of the property is responsible for what happens on the property. Dave Randolph agreed with Flott on that issue.

Case SU-14-22 – Allium Solar

This zoning case pertained to the review of a request for a special use to allow for a solar farm to be developed on property located in an AG, Agricultural, District in unincorporated Pontiac.

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

Nick Standiford, Paul Bottum, and Emily Kahanic were present at the meeting as representatives of this case.

Paul gave a PowerPoint presentation on the case that included information about the project such as the location, site plan, tax benefits, and an explanation of the project’s adherence to the county ordinance.

Nick then recapped the PowerPoint presentation to board members.

A board member then asked for clarification on where the entrance was located. It was explained that the entrance to the project was from the South from the county road.

A board member then asked for clarification on the setbacks of the project. Paul stated that the project is setback 50 feet from the property lines and 50 feet from the county road. The zoning administrator asked for further clarification since the setback from the front must be at least 100 feet per the county ordinance. Paul corrected himself and stated that it is setback 100 feet from the road.

There was then discussion about the decommissioning value report and how much would need to be submitted as financial assurance.

Timeline of construction was then discussed where Paul explained that construction was anticipated to be done by the end of 2024 and is on track to start in March or April of 2024.

There was then a question about whether any other approvals were still needed by the applicant. Paul stated that there is just some due diligence yet to be done prior to construction.

A question was then asked about how the subscription system works. Paul explained that if someone is subscribed to the project, a credit would appear on their electric bill.

A question was then asked about the plans for vegetation on the site. Paul explained that it would be native Illinois pollinators and that it would be in compliance with the Illinois Pollinator Act.

Changes to the decommissioning plan had been mentioned by Paul and a board member asked for clarification on that. Nick explained that there would not be any significant changes to the project as

it is being presented, but if there were, they would come back before the board to seek approval for those changes.

Interconnection was then discussed. Paul stated that there would be power poles added to the site to connect to the grid out by the county road, but that the power lines would be buried connecting the project to the road. There was also discussion on the location of the inverter inside of the project area.

A question about the service life was then asked to which Paul clarified that it is a total of 40 years where there is a 20-year lease along with four 5-year extension options.

Rebecca Taylor from the Livingston County Soil & Water District then presented the results of her Natural Resource Information Report which indicated that this project would have a “high impact” to agriculture. A board member asked Rebecca if she had studied the entire tract. Rebecca stated that she only analyzed an approximate 40-acre piece of the tract.

Andy Bauman then spoke as an interested party. Andy introduced himself and identified himself as a drainage district official in Eppards Point Township. Andy described the drainage issues that exist in the area of the proposed project and how that could be exacerbated by developing a solar farm. To demonstrate the drainage issues in the area, Andy provided board members with maps that illustrated existing drainage tiles in the area as well as how the area drains when there’s an excessive amount of water in the ground. Andy also emphasized that the subject property is very good soil and should not be taken out by a solar farm. Further, Andy discussed how the project is not consistent with the county’s comprehensive plan and that the applicant did not meet the section of the ordinance requiring submission of a map showing tile outlets and subsurface drainage tile.

There was then a question for Rebecca as to whether the compatibility to the county ordinance is always 20 out of 20 on the LESA score sheet as Andy had pointed out in his presentation. Rebecca stated that it is not always the case because it goes by the surrounding area. Rebecca added that a recent solar farm near industrial uses would not have a 20 out of 20 score. There was then a question if the “80” soil productivity score is high compared to other solar projects. Rebecca stated that it is one of the higher scoring ones that she has seen.

Jason Waldschmidt then spoke as an interested party. Jason explained the location of his home in relation to the project and discussed his concerns about water draining towards his house if the project were to be developed. Jason further explained that there is a shallow water table in the area and was concerned about well contamination if solar panels were to be damaged and then rain proceeds to fall onto them and leech harmful chemicals into his water. Jason further talked about his concern about future added on development near the project. Additionally, Jason mentioned that he is concerned about his property value decreasing and that he has not been shown any studies that address those concerns. Jason then stated that with the solar farm being developed to the West of his property, that he would no longer be able to enjoy sunsets with there being a solar farm in view. Lastly, Jason stated that there are many other areas in the county that would be a better location for a solar farm instead of this proposed property.

Julia Fosdick then spoke as an interested party. Julia informed board members that she does have solar panels on her property for her own personal use and described the issues she has experienced with them such as snow covering the panels as well as decreased productivity due to there being less sunny days. Julia further pointed out that a solar farm is not the most efficient way to generate electricity and that disposing of solar panels is an issue. A board member then asked Julia if she had looked into the disposal of solar panels before she got hers. Julia indicated that she did not.

William Whitney then spoke as an interested party. William recapped previous testimony and pointed out that he felt that they presented solid arguments against the proposed project. William then argued that due to the length of the life of the project, he felt that the solar farm would never be decommissioned. Further, William argued that due to the state's goals to be fifty percent renewable energy by 2040, it wouldn't make sense that they would decommission this solar farm and that the farm ground will never return to farm ground.

Doug Sass then spoke as an interested party. Doug, again, urged board members to examine this case objectively. Doug then discussed how solar farms should be privately funded and not subsidized by state or federal entities. Doug then pointed out that 80 percent of all solar panels come from China and that it is not a good thing for the United States. Further, Doug spoke about what solar panels are made up of and that those materials are primarily controlled by China. Doug then related his concerns about property values. Lastly, Doug mentioned the 40-year life of the project and how the average life of solar panels is 25 years and how they progressively become less productive.

William Tolbert, 17055 N. 1112 East Rd., Pontiac, then spoke as an interested party in this matter. William pointed out that he would not like to have a solar farm in his backyard and that by approving all of these new green energy projects, that we are setting our future generations up with the problem of having to deal with the issues that come with disposing the solar panels and wind turbines. William urged the board members to consider the issue that is being created for future generations.

Jake Aupperle then spoke as an interested party in this matter. Jake introduced himself as a 6th generation farmer. Jake then began discussing the local schools and how they currently rank in the middle-lower level even with all of the additional funds that wind turbines and the landfill currently generate. Jake then proceeded to discuss the decommissioning figure and related his concerns with how inflation is accounted for in the estimate. Jake pointed out that the figure should be much higher if today's inflation rate is accounted for. Next, Jake discussed how he felt that re-evaluating the solar farm site every three years is too long due to all of the problems that solar panels have. Jake then talked about the issue of weeds and how they could grow on the solar farm site and then when there is significant rainfall, the weeds could spread to surrounding properties. Jake asked if the solar developer would compensate the surrounding owners for the additional costs of managing the increased amount of weeds that may develop as a result. Lastly, Jake discussed the trickle-down effect on the impact to agriculture that solar farms create which impact jobs and money lost in the

county due to less production of crops and the services that are associated with the production and harvesting of crops.

Kia Whitney then spoke as an interested party on this case. Kia talked about how she did research on the history of company through the Illinois Secretary of State and discovered that Cultivate Power has only been in business since May of 2022 contrary to the 35 years that Paul Bottum states about them being in business.

Jason Dixon then spoke as an interested party in this matter. Jason pointed out to board members that there is an overwhelming opposition to this project that have spoken that have made well-articulated arguments against the proposed solar farm. Additionally, Jason mentioned that the landowner of the subject property did not appear to be present at the meeting to speak in favor of the project. Jason urged board members to take that into consideration when making their decision.

Autumn Whitney then spoke as an interested party. Autumn informed members about the dangers of electro-magnetic frequencies to humans and animals alike and pointed out the increased number of deceased whales washing up on-shore out on the East coast. Autumn also mentioned a study from the Netherlands regarding the effect that EMF has on cows and that her family has cows. Autumn urged the board to vote no until there is more data on the effects that solar panels have.

Andy Bauman then made a closing statement by stating his concurrence with Jason Waldschmit's testimony regarding the effect on sunsets and the shallow water table that is in the area of the project.

Nick Standiford, an attorney representing the applicant then made a closing statement rebutting the testimony that had been presented by interested parties. Nick stated that the applicant will fix any tiles that are damaged during construction. Additionally, Nick stated that the amount of prime farm land that will be taken out of production for this project is a small percentage of the total prime farm land that exists in the county. Nick also reiterated that this is a temporary use and that the land will be returned to agriculture. Nick added that this solar project will benefit tax payers by helping them with their energy bills as well as provide increased funding to their schools. Nick also mentioned that mowing will be done on the site so that the solar panels remain unobstructed and continue to be productive. To address the fear of expansion, Nick stated that any new development would need to come back to the board for approval like what is currently occurring. Nick further pointed out that since the county has an ordinance on solar farms, it means that they allow for solar farms to be developed. In relation to the obstructed sunsets, Nick stated that sunsets can be obstructed by anything, not just solar farms. Nick further discussed the concerns raised about EMF and stated that the inverters on site generate the same amount of EMF that a household microwave does and that it is not going to kill cows.

Chair Husiman then called for a break at 10:44.

The meeting re-convened at 10:54.

Dave Randolph then made a motion, seconded by Neil Turner that zoning case SU-14-22 be approved.

This motion failed by a roll call vote.

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

Chair Huisman then stated that this would conclude business items for the night and that Beebalm Solar (Case SU-15-22) would be heard at a later date that surrounding property owners would be notified of.

Other Business:

The zoning administrator gave board members an update on Heritage Prairie’s anticipated open house and special use application submittal timeline.

Findings of Fact and Decision: None

Public Comment: None

Report of Officers: None

General Discussion: None

Adjournment:

Joe Stock then moved, seconded by Dave Randolph, that this meeting be adjourned.

This motion carried by a roll call vote.

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

This meeting was adjourned at 11:02 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