

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

Regular Meeting
7:00 p.m.

May 4, 2023

The meeting came to order at 6:07 p.m.

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

Others Present: Zoning Administrator Jesse King, Assistant Zoning Administrator Trish Merlino, Devin Birch (Austin Engineering), Justin Swinford (IL American Water), Todd Garrells, Steve Garrells, David Masching, Attorney Nick Standiford, Paul Bottum (Cultivate Power), Nico Galletout, Sean Hickey (Kimley Horn), Rebekah Fehr, Andy Bauman, Jason Waldschmidt, Julie Fosdick, and William Whitney

Members Absent: Neil Turner

Approval of the Agenda:

Huisman noted the agenda, Flott moved seconded by Runyon that the agenda be approved as presented. **Motion carried with roll call vote of all ayes.**

Approval of Minutes:

Huisman moved approval of the minutes to the next meeting.

Business to be reviewed:

Case V-1-23 – Illinois American Water

This case pertained to a request for a variance in lot width requirements to allow for a road frontage lot width of 30 feet instead of the ordinance required 150 feet.

King gave an overview of the case to board members.

Birch and Swinford then gave a brief presentation on the project and explained that the existing water tower that serves the City of Pontiac is nearing the end of its useful life and that they must begin the process of constructing a new one to prevent a disruption in service. They explained that they cannot replace the water tower in its current location. They also explained that they are leaving room for future development of the nearby subdivisions where they plan to construct the new water tower.

A board member asked if 30 feet would be enough to get equipment through. The applicants stated that it would be. A board member then inquired as to what the timeframe for construction would be. Swinford explained that they are planning to put the project out for bids in 2024 and have the water tower into service in 2025. There was then a question as to what the capacity of the new tank would be. Swinford explained that the existing tank is around 550,000 gallons and that the new one would be about 800,000 gallons.

Huisman then opened up the floor for questions from the audience.

Whitney asked how many houses that the water tower would serve. Swinford wasn't sure, but stated that it would serve the City of Pontiac. Whitney then asked how long the company was aware that the existing tower has been needing to be replaced. Swinford stated that they became aware last year after reviewing their comprehensive plan. Whitney then asked how long the existing tower could continue to be in service. Swinford stated that the existing tower likely could serve for another 5-10 years, but that a new tower needs to be constructed before the existing one fails so that there is no disruption in service. Whitney also asked if the existing property is currently farmed. Swinford stated that it is.

Todd and Steve Garrells then both voiced their concerns about the effect this proposed water tower would have on the flooding situation for the area where their business is located that already floods.

Randolph made a motion, seconded by Runyon that this case be approved. **Motion carried with a unanimous roll call vote of all ayes.** Ayes: Stock, Flott, Kiefer, Runyon, Randolph, Huisman. Absent: Turner.

Case V-2-23 – Masching

This case pertained to the review of a proposed variance to allow for a setback from the county roadway of 12 feet instead of the required 40 feet.

King gave an overview of the case to board members.

Masching was present as the applicant and owner of the property. Masching explained that some of his neighbors have talked to him about the request at that they don't have any issues with it and that the township road commissioner didn't have any issues with it either.

There was a question by a board member as to why he couldn't have the addition on the other side of the building where there is more room. Masching explained that if he put it over there, he would need to drive his farm equipment onto the county road to get around to the other side of the property due to the limited space. Masching stated that having the addition on this side would allow him to turn into his property from the shed.

There was then discussion about the footprint of the proposed addition between the board and Masching.

A board member then asked if there would be any issues with visibility down the roadway when leaving the property if the addition were to be built. Masching stated that there would not be.

Runyon moved, seconded by Randolph that this case be approved. **Motion carried by a roll call vote of all ayes.** Ayes: Stock, Flott, Kiefer, Runyon, Randolph, Huisman. Absent: Turner.

Case SU-14-22 – Allium Solar

This zoning case pertained to the review of a proposed special use to allow for the development of a 5 MW solar farm in unincorporated Pontiac.

King gave an overview of the case to board members.

Attorney Standiford then gave an overview of the new materials that were submitted to the county since the last time the case was presented to the ZBA.

Bottum then presented the new materials that were submitted to the county since the last hearing which included a drain tile survey, an updated site plan, and an executed Agricultural Impact Mitigation Agreement.

Hickey then discussed the drain tile survey and explained that no trenching was done to complete the survey and that a more invasive tile mapping process would be done prior to construction. Hickey also broke down the decommissioning estimate and explained it to the ZBA. Additionally, Hickey explained the planting of pollinator friendly vegetation and stated that the planting of that vegetation would decrease the amount of runoff from rainfall from that area.

A board member then asked if the decommissioning estimate is the same as the one that was previously submitted. The applicant stated that it is. There was then a question about the status of the interconnect agreement and it was confirmed that they have been approved for the interconnection with ComEd.

There was then a further inquiry into the drain tile survey. Galletout explained the process of the drain tile survey and clarified that since they don't have control of the property yet, they do not do invasive studies to find drain tiles which would require trenching of the ground to locate them. A board member asked if they would use a local contractor for that type of work. Galletout explained that they would use GEI Consultants or Huddleston McBride.

There was then further discussion between the board and the applicants about the salvage value being greater than the decommissioning value. Hickey stated that the components inside of the panel are valuable which drive up the salvage value. Galletout added that all of the materials that makeup a solar panel have high scrap values. A board member stated that he would like to see a higher decommissioning figure. A board member then asked where the panels would be taken to be recycled if done today. The applicant stated that there is a recycling center near St. Louis that would be able to recycle the panels at this time.

Huisman then opened up the floor for questions.

Fehr asked the applicants how many manufacturing plants currently exist in the United States that can produce solar panels. Bottum stated that there are 3 or 4 and that one was recently approved for construction in Arizona. Fehr asked a follow up question as to what the names of the manufacturers were. Bottum named JA Solar and Questell Solar.

Attorney Standiford then told board members that his clients would be willing to get a second opinion on the decommissioning estimate if it was desired.

Bauman then asked the applicants if what they submitted was a water density map or a tile survey. The applicants responded that it was a tile survey. Bauman then asked if they believed that the survey was accurate. The applicants responded that it should be. Lastly, Bauman asked about the Waldschmidt's tile near their property that was not shown on the tile survey. Galletout explained that prior to construction, a more in-depth tile discovery would be done for a more accurate location of drainage tiles.

Waldschmidt asked how accurate the tile survey was. The applicants stated that it was likely about 80-90% accurate. Waldschmidt then asked if they came all the way up to property lines for their survey. The applicants stated that they did. Waldschmidt then asked when the tile survey was done. The applicants responded that it was done on April 7th.

Fosdick then inquired about an \$8 figure that was mentioned for the recycling of a solar panel and asked if that number could be reached at this time for salvage value. The applicants responded by saying that they would only know what they would get in salvage value if they were to actually take a solar panel for recycling and added that at the current time, the market average is \$8.

Whitney asked the applicants why they are not using the entire 152 acres. The applicants stated that they only needed enough acreage to develop a 5 MW project. Whitney asked if they were currently equipped to build the project. The applicants confirmed that they are. Whitney then asked about the company's engagement with nearby property owners to which the applicants named several nearby property owners that they have spoken with about the project. Whitney asked the applicants when the project would be sold off to a 3rd party. The applicants stated that there was no plan do that yet and that it is on a case-by-case basis. Whitney then asked who does the final inspection of the site and the applicants responded by saying that GEI Consultants do the final inspection. A board member then asked Whitney if he lived near or had any property near this project. Whitney stated that he does not.

Huisman then opened up the floor for public comment.

Bauman then provided a map of his drainage district and illustrated his concerns of the waterflow, flooding, and poor drainage that occurs in the area that may be worsened by the development of this proposed solar farm. Bauman further argued that the applicants failed to provide a proper drainage tile map or a map of surface water drainage patterns. A board member asked Bauman which

drainage district his is part of. Bauman stated that he is part of Eppards Point #2 drainage district. A question was then asked by a board member who owns the drainage tiles Bauman presented. Bauman stated that he believes the drainage district owns them. Lastly, Bauman was asked if he thinks the drainage will get worse to which Bauman stated that he believed it would.

Fosdick then voiced her concerns about the difficulty of mowing the project area and the potential fire hazard the project could pose if the vegetation gets too high.

Waldschmidt then discussed his concerns with the drainage in the area and the possibility of it being worsened by the project. Waldschmidt also pointed out his concern for the drainage tile map not being completely accurate.

Whitney then made a closing comment by arguing that the applicant's decommissioning estimate is problematic as well as the submitted drainage tile survey. Whitney added that the area clearly has water drainage issues as was testified by Bauman. Whitney then pointed out that JA Solar that was mentioned to be operating in the United States is actually a Chinese-based company. Whitney then closed by saying that the ZBA voted down this project before and that it was a clear decision this time to vote it down again.

Attorney Standiford then made a closing argument refuting the arguments that were made during public comment and challenged Bauman's expertise regarding the drainage issues and his argument that a solar farm would make it worse.

Huisman then called a break at 9:12 p.m.

Husiman called the meeting back to order at 9:23 p.m.

Randolph made a motion, seconded by Kiefer that this case be recommended for approval with the stipulation that a second opinion be sought prior to the case reaching the county board. **Motion carried unanimously by a roll call vote of all ayes.** Ayes: Stock, Flott, Kiefer, Runyon, Randolph, Huisman. Absent: Turner.

There was then a motion by Randolph, seconded by Stock that this meeting be recessed. **Motion carried unanimously by a roll call vote of all ayes.** Ayes: Stock, Flott, Kiefer, Runyon, Randolph, Huisman. Absent: Turner.

After discussion, it was determined that the meeting would be recessed until May 24, 2023 at 6 p.m.

This meeting was recessed at 9:36 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, Administrator
Livingston County Regional
Planning Commission