

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

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

**DATE: March 2, 2023 PLACE: Shields-Carter Meeting Room
1776 East Washington Street
Urbana, IL 61802**

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

MEMBERS ABSENT: None

STAFF PRESENT: John Hall, Susan Burgstrom, Isaak Simmers

OTHERS PRESENT: Kiera Gavin, Susanne Smith, Anthony Grilo, Lindsay Vahling, Bruce Vahling, Anthony Donato, Rosie Doward, Kyle Emkes, Wes Taylor, Jennifer Zang

1. Call to Order

The meeting was called to order at 6:32 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 – January 26, 2023

Mr. Randol moved, seconded by Mr. Wood, to approve the January 26, 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

Case 079-S-22

Petitioner: Anthony Donato, d.b.a. IAG Investments LLC

Request: Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.

Location: A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township

1 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is
2 located west of the veterinary clinic with an address of 3003 East Windsor Road,
3 Urbana.
4

5 Case 080-S-22

6 Petitioner: Anthony Donato, d.b.a. IAG Investments LLC
7

8 Request: Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts
9 (MW), including access roads and wiring, as a second principal use as a County Board
10 Special Use Permit and including the following waivers of standard conditions (other
11 waivers may be necessary):
12

13 Part A: A waiver from providing a Decommissioning and Site Reclamation
14 Plan that includes cost estimates prepared by an Illinois Licensed Professional
15 Engineer prior to consideration of the Special Use Permit by the Board, per
16 Section 6.1.1 A.3.
17

18 Part B: A waiver from locating the PV Solar Array less than one-half mile
19 from an incorporated municipality and within the contiguous urban growth
20 area of a municipality per Section 6.1.5 B.(2)a.
21

22 Part C: A waiver for locating 32 feet from a non-participating existing
23 dwelling on a lot that is 10 acres or less in area in lieu of the minimum required
24 separation of 240 feet between the solar farm fencing and the property line,
25 per Section 6.1.5 D.(3)a.
26

27 Part D: A waiver from submitting a Roadway Upgrade and Maintenance
28 Agreement prior to consideration of the Special Use Permit by the Board, per
29 Section 6.1.5 G.(1).
30

31 Part E: A waiver from providing a Noise Analysis prior to consideration of the
32 Special Use Permit by the Board, per Section 6.1.5 I.(3).
33

34 Location: A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township
35 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is
36 located west of the veterinary clinic with an address of 3003 East Windsor Road,
37 Urbana.
38

39 Case 081-V-22

40 Petitioner: Anthony Donato, d.b.a. IAG Investments LLC
41

42 Request: Authorize the following variance for the data center proposed as a Special Use Permit
43 in related case 079-S-22:
44

45 Part A: Authorize a variance for 2 parking spaces in lieu of the minimum
46 required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.
47

48 Part B: Authorize a variance for no loading berth in lieu of the minimum
49 required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

1 Location: **A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township**
2 **19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is**
3 **located west of the veterinary clinic with an address of 3003 East Windsor Road,**
4 **Urbana.**
5

6 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
7 the witness register for that public hearing. He reminded the audience that when they sign the witness
8 register, they are signing an oath.
9

10 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
11 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
12 show of hands from those who would like to cross-examine, and each person will be called upon. He said
13 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the
15 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
16 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request
17 prior to introducing evidence.
18

19 Anthony “Tony” Grilo, 103 N Thomas St. Thomasboro, IL, said they were just returning to the Windsor
20 Road case that they discussed at the last meeting. He said last time they kind of left it as most of the issues
21 were decided upon. He said one of the big hang-ups was the neighbor, A&E Animal Hospital, and the
22 concern over noise from the data center, as well as the inverters. He said they did get the noise analysis
23 back and met with the folks at A&E, as well as their attorney, a couple different times to review the noise
24 analysis together as well as have the sound engineer in on that meeting. He said that was so the A&E
25 Animal Hospital folks could get their questions answered and feel comfortable with the project. He said
26 he believed at this point that they were here to confirm what he was saying, and they know he wasn’t
27 lying. He said everything should be good. He said there is a berm. He asked if everyone received a copy
28 of the new site plan. He said there was a surplus of dirt on the property right now from the former
29 landowner because he used it as a dump site. He said they were originally going to be removing that, but
30 he proposed the idea of putting a berm surrounding A&E Animal Hospital’s property to help with
31 visibility, as well as sound. He said they liked that idea and so the noise analysis was done assuming a
32 seven-foot berm would be installed around that property. He said that would significantly reduce any noise
33 concerns and he said that was cool. He said what he was hoping for was that the Board could add a
34 condition. He said there was still a discussion to lay out the long-term consideration of their property and
35 the noise and so that would probably turn into an annual noise study, or some different amount of time to
36 get the answers we need and kind of have an agreement on what they would like him to do to rectify
37 situations, as well as holding him to a little more of a strict standard than what the county noise regulations
38 entail. He said they were basically good with it if they get that condition in there. He said he never did
39 hear back from the City of Urbana regarding the roadway use agreement. He said he tried but they never
40 got back to him. He said it was the same department that had the Oaks Road project, and he said the
41 response for that project was basically they will do an inspection before and they would do one after, and
42 if there were any damages done then he would be responsible for them. He said he was assuming the same
43 situation here. He said he thinks that was it.
44

45 Mr. Elwell thanked Mr. Grilo and asked if there were any questions from the Board or Staff.
46

47 Mr. Wood asked if they were going to have vegetative screening as well as the berm on top of that.
48

49 Mr. Grilo said yes, sorry he should have expanded on that. He said they were going to leave the vegetative

1 screening there and there was already a set of trees that were mostly on their property. He said they were
2 going to add another set of trees next to their trees and then put the berm. He said and again, that was their
3 decision whether they wanted to have the berm next to their trees or wanted his trees next to their trees.
4 He said they wanted vegetation, berm, then his fence, then his panels.

5
6 Mr. Elwell asked if there were any other questions from the Board. He said he was not always the sharpest
7 tool in the shed, but he just Googled what was 60 dBA and Google said it was the volume of a normal
8 conversation.

9
10 Mr. Grilo said yes, that was one of the things that was hard for all of us to wrap our heads around. He said
11 they get the noise analysis, and it says approximately 44 dBA is what they were going to hear at their
12 property line, and we did not know what that meant exactly. He asked if that was like him whispering in
13 their ears or was it shouting. He just did not know. He said that was one of those things they were all
14 trying to work on together was to try and get them to understand what those levels actually are and go
15 from there.

16
17 Mr. Wood said they were running 55-60 dB in the room right now.

18
19 Mr. Grilo said he was loud though.

20
21 Mr. Wood said that score was according to the NIOSH Sound Level Meter Application on his phone. He
22 said he did have a technical question because they were doing two solar projects tonight. He said the issue
23 he had when reviewing both was this project was producing about 6 MW on about 20 acres and the other
24 one was producing about 5 MW on about 40 acres. He did not understand the difference and asked if
25 maybe Mr. Grilo or Ms. Gavin could answer that question.

26
27 Mr. Grilo said he could not because he has not had the chance to look at their plans. He said it could be a
28 lot of different factors. He said it could be the panel capacity. He said they were using 550-watt panels
29 and it was possible their panels might be smaller wattages. He said they may have larger row spacing. He
30 said it could be a combination of things.

31
32 Mr. Wood said he understood that could change to some extent, but when you double the acres, that is a
33 big change with a big difference. He said this was for his own curiosity and he was wondering how that
34 was possible.

35
36 Mr. Bates said he was familiar with the area but was not sure which way the land falls. He asked if the
37 berm would have any disruption to surface water drainage for either side of the property.

38
39 Mr. Grilo said the design engineer put in the contours on a different site plan and decided that it would
40 not have an impact based on that. He said he did not realize the topography was not present on this drawing
41 and apologized.

42
43 Mr. Elwell asked if there were any more questions from the Board or Staff. Seeing none, he asked if
44 anyone would like to cross-examine this witness. Seeing no one, he thanked Mr. Grilo for speaking. He
45 said he was going to butcher Dr. Vahling's name and was just going to call her Dr. Lindsay. He asked her
46 to please state her name and address before commencing with her testimony.

47
48 Dr. Lindsay Vahling, 3003 E Windsor Rd. Urbana, IL 61802, said she was the owner of the veterinary
49 hospital. She said she was going to use the terminology that Mr. Grilo was using as well because she did

1 not know what the official is here for the Board. She said it was true that they were in an agreement with
2 them that as long as certain conditions could be met with the noise they would be in approval with the
3 project. She said they were working to set their noise standards for that location which will probably be
4 different than the Illinois Pollution Control Board's recommendation. She said they have been in talks and
5 are working with the sound engineer and that has been going very well. She said they plan on coming to
6 an agreement with them in the next couple of weeks at the most. She said she would like to speed this
7 along. She said the routine testing was in addition to setting that standard and they were also in talks about
8 that. She also wanted to include if there was any infrastructure change then they would have a noise
9 analysis done again following the construction. She said new panels, different panels, anything like that
10 would be tested again to make sure it was being maintained in the acceptable range we want it at. She said
11 they would have a reasonable give and take where they were asking the sound engineer to give them that
12 reasonable dBA, set at 42 or whatever it was set at and if 44 would be okay. She said they wanted to
13 understand what the reasonable limit would be there. She said she has appreciated Mr. Grilo and his
14 willingness to work with them and they were excited to get him going on his development.

15

16 Mr. Elwell said thank you and asked if there were any questions from the Board or Staff.

17

18 Mr. Wood asked if they have a kennel there as well.

19

20 Dr. Vahling said yes, they do, and it actually backs up to the berm right along the back side there.

21

22 Mr. Wood asked if the noise from the kennel would drown out any noise from the solar panels.

23

24 Dr. Vahling said it may for about thirty minutes, but the noise was not continuous.

25

26 Mr. Elwell said one thing they would do as the ZBA would be to apply special conditions to cases. He
27 said it sounded like to him that Dr. Vahling was in agreement that there should be some on-going testing,
28 or when there was a difference in equipment. He said they needed to get a little more specific in regard to
29 stuff like that if they were to continue with this case and vote tonight. He asked what Dr. Vahling's
30 expectations were for any on-going testing and things such as that.

31

32 Dr. Vahling said what they were discussing now was what Mr. Grilo suggested when he said annual
33 testing. She said and again, anytime there was any change in infrastructure. She asked if that answered his
34 question.

35

36 Mr. Elwell said yes if that was what A&E Animal Hospital was comfortable with.

37

38 Dr. Vahling said yes, that was what they were looking for right now.

39

40 Mr. Herbert asked Mr. Elwell if he was trying to ask at what limit. He said what was the purpose of doing
41 any testing if there was no qualification of level.

42

43 Mr. Elwell said right, that was going to be his follow up question to Mr. Grilo.

44

45 Mr. Bates said they had mentioned standards more stringent than those required by the Illinois Pollution
46 Control Board, but he did not really catch a number. He said to Mr. Herbert's and Mr. Elwell's point if
47 they had numbers and special condition verbiage then they could probably move forward with the case.

48

49 Mr. Elwell said he agreed with that.

1 Dr. Vahling said they did not have exact numbers yet. She said what they received from the sound study
2 was 42 dBA was the general level overall and so they were going to look to be somewhere around that.
3 She said but as they were saying earlier, she did not know exactly what 42 dBA sounded like, so they
4 were still kind of in the middle of the research process. She said she did feel they would be able to come
5 to an agreement with the developer that was reasonable.
6

7 Mr. Elwell said if they went ahead with this case and came to the Final Determination, everything they
8 were talking about needed to be in the case itself. He said if they did not have exact numbers then they
9 would be kicking this case down to the next possible date.
10

11 Dr. Vahling said she understood that, and she did not think they have exact numbers just yet. She said
12 they had estimates but not exacts.
13

14 Mr. Elwell asked if it was his understanding that Dr. Vahling would not be comfortable with the Board
15 moving forward with this case today without having exact numbers.
16

17 Dr. Vahling said she felt that she would be okay with it because they have spoken with the developers and
18 Mr. Grilo has been very reasonable so far. She said she sees no reason why that should change, but if the
19 Board requested specifics, then she would do that. She said she knew that Mr. Grilo was sort of in a time
20 crunch to get things done and they were trying to work reasonably with him as well.
21

22 Mr. Elwell asked if there were any other questions from the Board or Staff.
23

24 Mr. Anderson asked if she felt antagonized by Mr. Grilo.
25

26 Dr. Vahling asked antagonized how.
27

28 Mr. Anderson said suppose the dBA raises to an objectionable level but Mr. Grilo disagreed.
29

30 Dr. Vahling asked if Mr. Anderson was asking what they would do from there. She said that was a great
31 question and she did not know the answer. She said she was hoping they were going to agree on everything.
32 She said they received about four or five days to represent the resting dBA sounds on Windsor Road as it
33 sits now. She said there was a couple of daytime and nighttime samples included in the study and so far
34 from what the estimate shows, the sound would be about 20 dBA lower than what the ambient sound was
35 already on Windsor Road. She said they were feeling hopeful that they were not going to hear much in
36 general. She asked if that answered Mr. Anderson's question.
37

38 Mr. Anderson said yes.
39

40 Mr. Elwell asked if there were any other questions from the Board. He asked if anyone would like to cross-
41 examine the witness. Seeing no one, he asked if anyone else would like to testify in this case. Mr. Elwell
42 wanted to clarify that Mr. Emkes and Mrs. Zang mistakenly signed the Witness Register for the wrong
43 case. Mr. Emkes confirmed that was true.
44

45 Mr. Grilo said his hope was that they would add a special condition that basically said the permit could
46 not be issued until Mr. Hall or Ms. Burgstrom receive a signed agreement from A&E Animal Hospital
47 saying they agreed with what the petitioner wanted to do, and the permit would be dependent on that
48 agreement. He asked if that seemed reasonable.
49

1 Mr. Elwell asked Mr. Hall if the Board ever had a “good neighbor” type special condition such as this.
2

3 Mr. Hall said no, but he appreciated Mr. Grilo trying to word something that would really not set a standard
4 tonight but leave it up to the two parties to establish a standard and then give Staff some documentation
5 of that. He said but the condition he believed would also be annual testing of the noise.
6

7 Mr. Grilo said that was what they were leaning towards at this point. He said he did not think they decided
8 100% but they were leaning toward annual testing of noise levels at their property.
9

10 Mr. Hall said from day one they never liked drafting conditions at the public hearing. He said that was the
11 position we would be in tonight. He said this to him seemed like a rather complicated condition, so as the
12 Zoning Administrator he would be uncomfortable with acting tonight. He said of course they would do
13 whatever the Board wants.
14

15 Mr. Wood said he would be uncomfortable with drafting something that was not specific. He said he
16 thinks that was what they were asking about there now was an agreement between two parties. He said he
17 felt that agreement between two parties really needs to remain with the two parties and was not something
18 he felt the Board or Staff wanted jurisdiction over.
19

20 Mr. Hall said as he understood the proposed condition, they would agree to a noise limit and somehow it
21 had to be documented that both sides agree. He said presumably there would be an agreement on annual
22 testing and the first time they did not get testing they would get a complaint and follow up on that. He said
23 that was easy to enforce. He said if they ever received complaints in the future that the noise level was not
24 being followed then they would follow up on that, perhaps even going so far as to have a noise study done
25 to document what the noise level is. He said after all there is supposed to be one every year, so it sounded
26 like a reasonable thing. He said it was just getting the nuts and bolts down on paper is not something he
27 likes to do at a public hearing.
28

29 Mr. Grilo said he thought the rules already stated that if they received a complaint about noise then the
30 County does a noise study that he had to pay for.
31

32 Mr. Hall said that Mr. Grilo would have to pay for it if there was a violation.
33

34 Mr. Grilo said oh, okay. He said to him that sounded like just making a complaint once a year. He said he
35 felt like that was already done so it would not make a substantial difference.
36

37 Mr. Herbert asked if there was a way to draw the condition up hinging on a signed agreement received
38 later. He asked if Mr. Hall was saying there was no good way to do that.
39

40 Mr. Hall said he felt it could be done but when you do that in a public hearing like this you would probably
41 not do a good job. He said the idea of basing the condition on an agreement between these two parties is
42 doable as long as it was well documented. He said of course if they never got that agreement then we
43 could never issue a permit.
44

45 Mr. Herbert said right, he was just trying to prevent kicking the can down the road. He said he felt they
46 had a full schedule coming up as it is.
47

48 Mr. Grilo said he kind of compares this to his Oaks Road project where the drainage district did not have
49 the easement agreement and the Staff basically made his permit contingent on receiving that documented

1 agreement from the drainage district. He said he kind of simplified it in his head to basically that. He said
2 he felt that it could be the same here.

3
4 Mr. Randol said he did not think the ZBA had to be happy with the agreement between them, so if the
5 ZBA just made it as a special condition that they must submit a copy of the agreement before the final
6 permit is issued then it would be kind of the same thing as the drainage district issue that they were not
7 involved in that. He said therefore we would not need to be involved in their personal agreement either.

8
9 Mr. Elwell said he was convinced that if this were the first time that this happens between this petitioner
10 and Dr. Vahling, if he could think of anyone to come to an agreement it would most likely be them. He
11 said for him personally he would like specifics but did agree with not wanting to kick the can down the
12 road as well. He said he could easily be swayed one way or the other. He asked how the Board would like
13 to proceed. He asked if anyone would like to cross-examine the witness. Seeing no one, he asked if anyone
14 would like to testify in this case.

15
16 Mr. Herbert asked Mr. Grilo if that was a fair agreement from his point of view.

17
18 Mr. Grilo said he agreed with what was being said and they were very close to coming to an agreement
19 anyway. He said they would have had one today, but the noise analysis came in later than they were both
20 expecting. He said the analysis was favorable and the new berm addition solved a lot of the concerns. He
21 said he did not foresee any issue with coming to an agreement with the Vahlings.

22
23 Mr. Elwell said this was a little off topic but asked if Mr. Grilo could describe the shed, or some sort of
24 sound mitigation that was proposed for this project. He said he needed help with his memory.

25
26 Mr. Grilo said the data center they were proposing had the dry cooler outside which was comparable to
27 an outdoor A/C unit. He said they placed that at the southwest corner of the building so that it had the full
28 building to block that sound. He said most of the sound that was impacting their property came from the
29 set of inverters that were closest to their property, still not very close, and that was the sound that they
30 needed to most mitigate. He said because of the orientation, other locations he put in sound dampening
31 walls around the inverters, but it was not going to be that easy to do at this location. He said that was why
32 he proposed the berm because they had to move the dirt anyway, and that berm did what he was trying to
33 accomplish with the sound anyway.

34
35 Mr. Elwell said thank you sir and asked if there were any other questions from the Board or Staff. Seeing
36 none, he asked how the Board would like to proceed. He asked how the Board felt about just having an
37 agreement signed between both parties.

38
39 Mr. Wood said he would be fine with that. He said the alternative was defaulting back to if there was an
40 issue with noise then they would file a complaint and they would go through that whole process of dealing
41 with the complaint and stuff like that. He said he did not know that one was any different or better than
42 the other. He said he did not have a problem with putting that agreement between them in there. He said
43 40 dBA at that line really is very small. He said there was not a lot of noise there and was sure the dogs
44 were going to take care of that with their barking. He said he felt it would be pretty simple to add some
45 language there to make that a condition.

46
47 Ms. Burgstrom said she drafted a condition but wanted to defer to Mr. Hall to make sure he gets what he
48 wants because he is the Zoning Administrator.

49

1 Mr. Elwell asked if he should move to the proposed special conditions, read those, and then Mr. Hall at
2 that point would be able to give his thoughts on any new special conditions.

3
4 Mr. Hall said yes.

5
6 Mr. Elwell informed the petitioner he was going to be reading from page 20 of 27 of Attachment C.

7
8 **PROPOSED SPECIAL CONDITIONS**

9
10 **The following special conditions are proposed for Special Use Permit in Case 079-S-22**

- 11
12 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
13 **proposed special use until the petitioner has demonstrated that the proposed Special**
14 **Use complies with the Illinois Accessibility Code.**

15
16 The special condition stated above is required to ensure the following:

17 **That the proposed Special Use meets applicable State requirements for**
18 **accessibility.**

19
20 Mr. Elwell asked if he agreed.

21
22 Mr. Grilo said yes.

- 23
24 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until**
25 **the petitioner has demonstrated that any new or proposed exterior lighting on the**
26 **subject property will comply with the lighting requirements of Section 6.1.2.**

27
28 The special condition stated above is required to ensure the following:

29 **That the proposed use is in compliance with the Zoning Ordinance.**

30
31 Mr. Elwell asked if he agreed.

32
33 Mr. Grilo said yes.

- 34
35 **C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
36 **authorizing occupancy of the proposed buildings until the Zoning Administrator has**
37 **received a certification of inspection from an Illinois Licensed Architect or other**
38 **qualified inspector certifying that the new buildings comply with the following codes:**
39 **(A) the current edition or most recent preceding edition of the International Building**
40 **Code, and (B) the current edition or most recent preceding edition of the National**
41 **Electrical Code NFPA 70.**

42
43 The special condition stated above is required to ensure the following:

44 **New commercial buildings shall be in conformance with Public Act 96-704.**

45
46 Mr. Elwell asked if he agreed.

47
48 Mr. Grilo said yes.

49
50 Mr. Elwell said thank you. He asked Mr. Hall if he had the language for D.

1 Mr. Randol said they should have letter D as the agreement between the two parties.

2
3 Ms. Burgstrom said these were the special conditions for Case 079-S-22 for the Data Center versus the
4 other Case 080 which was for the solar array. She said maybe the condition that the Board was talking
5 about would be more appropriate under the solar arrays Case 080 and the conditions there.

6
7 Mr. Elwell entertained a motion to move to the Summary Draft Findings of Fact for Case 079-S-22 and
8 Case 081-V-22.

9
10 **Mr. Herbert moved, seconded by Mr. Wood, to move to the Summary Draft Findings of Fact for**
11 **Case 079-S-22 and Case 081-V-22. The motion carried by voice vote.**

12
13 Mr. Elwell informed the petitioner he was going to be reading from Summary Draft Findings of Fact for
14 Case 079-S-22 and Case 081-V-22 from page 22 of 27 of attachment C.

15
16 **FINDINGS OF FACT FOR CASES 079-S-22 AND 081-V-22**

17 From the documents of record and the testimony and exhibits received at the public hearing for zoning
18 cases 079-S-22 and 081-V-22 held on January 26, 2023, and March 2, 2023, the Zoning Board of Appeals
19 of Champaign County finds that:

20
21 **1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this**
22 **location because:**

23
24 Mr. Wood said the requested Special Use Permit IS because the petitioner has already purchased the
25 property, and the requirement is it needs to be adjacent to necessary power infrastructure for that size of
26 facility.

27
28 **2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
29 ***HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}***
30 **be injurious to the district in which it shall be located or otherwise detrimental to the public**
31 **health, safety, and welfare because:**

32 **a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance**
33 **location has *{ADEQUATE / INADEQUATE}* visibility because:**

34
35 Mr. Wood said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
36 visibility because traffic volumes are not expected to increase significantly since there will not be
37 employees visiting the site on a regular basis, and a notice was sent to the City of Urbana, and no comments
38 have been received, as well as to the Township Supervisor and the Township Road Commissioner, and
39 no comments have been received.

40
41 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:**

42
43 Mr. Herbert said emergency services availability is ADEQUATE because the subject property is located
44 approximately 5.9 road miles from the Philo Fire Station and the Fire Chief was notified of these cases,
45 and no comments have been received.

46
47 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses because:**
48

1 Mr. Wood said the Special Use WILL be compatible with adjacent uses because the subject property is
 2 surrounded by agriculture, with a veterinary clinic to the north and a dwelling to the northeast that is
 3 approximately 375 feet from the data center.
 4

5 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* because:**
 6

7 Mr. Randol said the surface and subsurface drainage will be ADEQUATE because no part of the subject
 8 property is located within a mapped floodplain and a Storm Water Drainage Plan and detention basin will
 9 be required if more than 16% of the subject property is impervious area, including gravel, buildings, and
 10 solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.
 11

12 **e. Public safety will be *{ADEQUATE / INADEQUATE}* because:**
 13

14 Mr. Herbert said public safety will be ADEQAUTE because as stated before, the subject property is
 15 located approximately 5.9 road miles from the Philo Fire Station. He said the Fire Chief was notified of
 16 these cases, and no comments have been received and a notice was also sent to the Township Supervisor
 17 and Township Road Commissioner, and no comments have been received.
 18

19 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:**
 20

21 Mr. Wood said the provisions for parking will be ADEQAUTE because there is no significant increase in
 22 traffic expected for the data center.
 23

24 **g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed
 25 improvements *{because*}*:**
 26

27 Mr. Randol said the property IS WELL SUITED OVERALL for the proposed improvements because the
 28 site can be safely and soundly accommodated using simple engineering and common, easily maintained
 29 construction methods with no unacceptable negative effects on neighbors or the general public.
 30

31 **h. Existing public services *{ARE/ARE NOT}* available to support the proposed
 32 SPECIAL USE without undue public expense *{because*}*:**
 33

34 Mr. Herbert said existing public services ARE available to support the proposed SPECIAL USE without
 35 undue public expense because no additional public services are necessary for the proposed development.
 36

37 **i. Existing public infrastructure together with the proposed development *{IS/IS NOT}*
 38 adequate to support the proposed development effectively and safely without undue
 39 public expense *{because*}*:**
 40

41 Mr. Wood said the existing public infrastructure together with the proposed development IS adequate to
 42 support the proposed development effectively and safety without undue public expense because no new
 43 public infrastructure is required for the proposed development and therefore WILL NOT be injurious to
 44 the district.
 45

46 **3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED*
 47 *HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the
 48 DISTRICT in which it is located.**
 49

1 Mr. Wood said the requested Special Use Permit DOES conform to the applicable regulations and
2 standards of the district in which it is located.

3
4 **3b. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED
5 HEREIN} {DOES / DOES NOT} preserve the essential character of the DISTRICT in which
6 it is located because:**

7 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all relevant
8 County ordinances and codes.**
9

10 Mr. Wood said the Special Use will be designed to CONFORM to all relevant County ordinances and
11 codes

12
13 **b. The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**
14

15 Mr. Randol said the Special Use WILL be compatible with adjacent uses.

16
17 **c. Public safety will be {ADEQUATE / INADEQUATE}.**
18

19 Mr. Randol said public safety will be ADEQAUTE and therefore DOES conform to the applicable
20 regulations and standards of the district in which it is located.

21
22 **4. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED
23 HEREIN} {IS / IS NOT} in harmony with the general purpose and intent of the Ordinance
24 because:**

25 **a. The Special Use is authorized in the District.**

26 **b. The requested Special Use Permit {IS/ IS NOT} necessary for the public convenience
27 at this location.**
28

29 Mr. Herbert said the requested Special Use Permit IS necessary for the public convenience at this location.

30
31 **c. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS
32 IMPOSED HEREIN} is so designed, located, and proposed to be operated so that it
33 {WILL / WILL NOT} be injurious to the district in which it shall be located or
34 otherwise detrimental to the public health, safety, and welfare.**
35

36 Mr. Wood said the requested Special Use Permit WILL NOT be injurious to the district in which it shall
37 be located or otherwise detrimental to the public health, safety, and welfare.

38
39 **d. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS
40 IMPOSED HEREIN} {DOES / DOES NOT} preserve the essential character of the
41 DISTRICT in which it is located.**

42 Mr. Wood said the requested Special Use Permit DOES preserve the essential character of the district and
43 therefore IS in harmony with the general use and purpose and intent of the Ordinance.

44
45 **5. The requested Special Use IS NOT an existing non-conforming use.**

46
47 **6. Regarding the variance:**

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

4
 5 Mr. Randol said the special conditions and circumstances DO exist because the proposed data center will
 6 be monitored remotely and will have only occasional visits by employees for maintenance and therefore
 7 there is limited need for parking and no need for a loading berth whatsoever.

- 8
 9 **b. Practical difficulties or hardships created by carrying out the strict letter of the**
 10 **regulations sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise**
 11 **permitted use of the land or structure or construction because:**

12
 13 Mr. Herbert said the practical difficulties or hardships created by carrying out the strict letter of the
 14 regulations sought to be varied WILL prevent reasonable or other permitted use of the land or structure or
 15 construction because without the proposed variance, the petitioner would have to utilize area set aside for
 16 the proposed PV SOLAR ARRAY for parking and loading berth areas.

- 17
 18 **c. The special conditions, circumstances, hardships, or practical difficulties {DO / DO**
 19 **NOT} result from actions of the applicant because:**

20
 21 Mr. Randol said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 22 from the actions of the applicant because the petitioner does not anticipate visitors or deliveries at this site.

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

26
 27 Mr. Wood said the requested variance IS in harmony because again, the petitioner does not anticipate
 28 visitors or deliveries at this site, and they do not expect many employee visits because the data center will
 29 be monitored remotely.

- 30
 31 **e. The requested variance {WILL / WILL NOT} be injurious to the neighborhood or**
 32 **otherwise detrimental to the public health, safety, or welfare because:**

33
 34 Mr. Randol said the requested variance WILL NOT be injurious because a notice of the proposed variance
 35 was sent to relevant jurisdictions, and no comments have been received from anyone.

- 36
 37 **f. The requested variance {~~SUBJECT TO THE PROPOSED CONDITION~~} {IS / IS NOT}**
 38 **the minimum variation that will make possible the reasonable use of the**
 39 **land/structure because:**

40
 41 Mr. Wood said the requested variance IS the minimum variation that will make possible the reasonable
 42 use of the land/structure because the petitioner would have to reduce the size of the proposed PV solar
 43 array if they have to provide more parking and a loading berth.

- 44
 45 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**
 46 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
 47 **PARTICULAR PURPOSES.**

48
 49 Mr. Elwell entertained a motion to accept the Summar of Evidence, Documents of Record, and Findings
 50 of Fact as amended.

1 Mr. Wood moved, seconded by Mr. Randol, to accept the Summary of Evidence, Documents of
2 Record, and Findings of Fact for Case 079-S-22 and Case 081-V-22 as amended. The motion carried
3 by voice vote.

4
5 Mr. Elwell entertained a motion to move to Final Determination for Case 079-S-22.

6
7 Mr. Wood moved, seconded by Mr. Herbert, to move to Final Determination for Case 079-S-22. The
8 motion carried by voice vote.

9
10 Mr. Elwell informed the petitioner that he was going to be reading from page 26 of 27 from attachment
11 C.

12
13 **FINAL DETERMINATION FOR CASE 079-S-22**

14 Mr. Wood moved, seconded by Mr. Roberts, that the Champaign County Zoning Board of Appeals
15 finds that, based upon the application, testimony, and other evidence received in this case, the
16 requirements of Section 9.1.11B. for approval *HAVE* been met, and pursuant to the authority
17 granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

18
19 The Special Use requested in Case 079-S-22 is hereby *GRANTED WITH SPECIAL CONDITIONS*
20 to the applicant, Donato Solar – Urbana LLC, to authorize the following:

21
22 **Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.**

23
24 Mr. Elwell requested a roll call vote.

25
26 The vote was called as follows:

27 **Randol- Yes Roberts- Yes Anderson- Yes Herbert- Yes**
28 **Elwell- Yes Wood- Yes Bates- Yes**

29
30 Mr. Elwell entertained a motion to move to Final Determination for Case 081-V-22

31
32 Mr. Bates moved, seconded by Mr. Randol, to move to Final Determination for Case 081-V-22. The
33 motion carried by voice vote.

34
35 Mr. Elwell informed the petitioner that he was going to be reading from page 27 of 27 from attachment
36 C.

37
38 **FINAL DETERMINATION FOR CASE 081-V-22**

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

44
45 **The Variance requested in Case 081-V-22 is hereby *GRANTED* to the applicant, Anthony**
46 **Donato, d.b.a. IAG Investments LLC, to authorize the following variance in the AG-2**
47 **Agriculture Zoning District:**

1 **Authorize the following variance for the data center proposed as a Special Use Permit in**
2 **related case 079-S-22:**

3
4 **Part A: Authorize a variance for two parking spaces in lieu of the minimum required 10**
5 **parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.**

6
7 **Part B: Authorize a variance for no loading berth in lieu of the minimum required 1**
8 **loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.**

9
10 Mr. Elwell requested a roll call vote.

11
12 The vote was called as follows:

13 **Randol- Yes Roberts- Yes Anderson- Yes Herbert- Yes**
14 **Elwell- Yes Wood- Yes Bates- Yes**

15
16 Mr. Elwell informed the petitioner he was going to be reading from page 36 of 53 of Attachment D.

17
18 **The following special conditions are proposed for Special Use Permit in Case 080-S-22**

19
20 **PROPOSED SPECIAL CONDITIONS**

21
22 **The following special conditions are proposed for Special Use Permit 080-S-22:**

- 23
24 **A. The approved site plan consists of the following documents:**
25 **• Site Plan sheets received March 2, 2023.**

26
27 The special condition stated above is required to ensure the following:

28 **The constructed PV SOLAR ARRAY is consistent with the special use permit**
29 **approval.**

30
31 Mr. Elwell asked if he agreed.

32
33 Mr. Grilo said yes.

- 34
35 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
36 **issue a Zoning Compliance Certificate on the subject property until the lighting**
37 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

38
39 The special condition stated above is required to ensure the following:

40 **That exterior lighting for the proposed Special Use meets the requirements**
41 **established for Special Uses in the Zoning Ordinance.**

42
43 Mr. Elwell asked if he agreed.

44
45 Mr. Grilo said yes.

- 46
47 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
48 **proposed PV SOLAR ARRAY until the petitioner has demonstrated that the**
49 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.

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

That the land affected by PV SOLAR ARRAY is restored to its pre-construction capabilities.

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

E. A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.

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

The Special Use Permit complies with Ordinance requirements and as authorized by waiver.

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

F. The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR ARRAY:

- 1. Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
- 2. Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
- 3. An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A3” by Moody’s or a rating of “A-” by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**

- 1 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
- 2 **including any access road that conforms to the relevant Natural Resources**
- 3 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
- 4 **Professional Engineer.**
- 5
- 6 5. **Documentation regarding the seed to be used for the pollinator planting, per**
- 7 **6.1.5 F.(9).**
- 8
- 9 6. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 10
- 11 7. **Any updates to the approved Site Plan per the requirements provided in**
- 12 **Section 6.1.5 U.1.c.**
- 13

The special condition stated above is required to ensure the following:
The PV SOLAR ARRAY is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

18 Mr. Elwell asked if he agreed.

20 Mr. Grilo said yes.

- 22 **G. A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior**
- 23 **to going into commercial production of energy. Approval of a Zoning Compliance**
- 24 **Certificate shall require the following:**
- 25 1. **An as-built site plan of the PV SOLAR ARRAY including structures, property**
- 26 **lines (including identification of adjoining properties), as-built separations,**
- 27 **public access road and turnout locations, substation(s), electrical cabling from**
- 28 **the PV SOLAR ARRAY to the substations(s), and layout of all structures**
- 29 **within the geographical boundaries of any applicable setback.**
- 30
- 31 2. **As-built documentation of all permanent soil erosion and sedimentation**
- 32 **improvements for all PV SOLAR ARRAY including any access road prepared**
- 33 **by an Illinois Licensed Professional Engineer.**
- 34
- 35 3. **An executed interconnection agreement with the appropriate electric utility as**
- 36 **required by Section 6.1.5 B.(3)b.**
- 37

The special condition stated above is required to ensure the following:
The PV SOLAR ARRAY is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

42 Mr. Elwell asked if he agreed.

44 Mr. Grilo said yes.

- 46 **H. The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with**
- 47 **the following specific requirements that apply even after the PV SOLAR ARRAY**
- 48 **goes into commercial operation:**
- 49 1. **Maintain the pollinator plantings and required visual screening in perpetuity.**

- 1 2. **Cooperate with local Fire Protection District to develop the District’s**
- 2 **emergency response plan as required by 6.1.5 H.(2).**
- 3
- 4 3. **Cooperate fully with Champaign County and in resolving any noise complaints**
- 5 **including reimbursing Champaign County any costs for the services of a**
- 6 **qualified noise consultant pursuant to any proven violation of the I.P.C.B.**
- 7 **noise regulations as required by 6.1.5 I.(4).**
- 8
- 9 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 10
- 11 5. **Submit annual summary of operation and maintenance reports to the**
- 12 **Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
- 13
- 14 6. **Maintain compliance with the approved Decommissioning and Site**
- 15 **Reclamation Plan including financial assurances.**
- 16
- 17 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 18 **hotline on a monthly basis and take all necessary actions to resolve all**
- 19 **legitimate complaints as required by 6.1.5 S.**
- 20

The special condition stated above is required to ensure the following:
Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR ARRAY.

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

- I. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

The special condition stated above is required to ensure the following:
Conformance with Policy 4.2.3 of the Land Resource Management Plan.

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

- J. **Within one year of residential development (i.e. construction of a dwelling) within 1,000 feet of the south and east sides of the PV SOLAR ARRAY, the owner of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2) of the Zoning Ordinance.**

The special condition stated above is required to ensure the following:
To ensure that a screen is planted in the event that anticipated future residential development does occur on adjacent land.

Mr. Elwell asked if he agreed.

1 Mr. Grilo said yes.

2

3 Mr. Elwell asked Ms. Burgstrom if they were going to add a “K”.

4

5 Ms. Burgstrom wrote a proposal on the projector screen for the room to see.

6

7 Mr. Elwell asked if Hall agreed with the language that was proposed or if he would like to add anything
8 to it.

9

10 Mr. Hall said he had three extra conditions. Ms. Burgstrom assisted Mr. Hall in writing the proposed
11 conditions on the projector screen for the room to see.

12

13 **K. The petitioner shall submit a copy of an agreement to the Zoning Administrator**
14 **regarding the noise limit for the Special Use that is agreeable to and signed by both**
15 **parties Elain Ltd (dba A&E Animal Hospital) /UP Real Estate LLC or subsequent**
16 **owners and IAG Investments LLC or subsequent owners as part of the application**
17 **for a Zoning Use Permit.**

18

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

20

That the parties establish a noise limit that is agreeable to both.

21

22 Mr. Elwell asked if he agreed.

23

24 Mr. Grilo said yes.

25

26 **L. The noise limit established in the noise agreement between the petitioner and Elain**
27 **Ltd (dba A&E Animal Hospital) /UP Real Estate LLC or subsequent owners shall be**
28 **enforced by the County the same as for the IPCB noise limit in section 6.1.5 I. of the**
29 **Zoning Ordinance.**

30

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

32

That the noise limit is enforceable by the County.

33

34 Mr. Elwell asked if he agreed.

35

36 Mr. Grilo said yes.

37

38 **M. An annual noise study shall be conducted and the results shall be submitted to the**
39 **Zoning Administrator and Elain Ltd (dba A&E Animal Hospital) /UP Real Estate**
40 **LLC or subsequent owners to document that the Special Use remains compliant with**
41 **the noise agreement.**

42

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

44

That there is annual compliance with the agreement.

45

46 Mr. Elwell asked if he agreed.

47

48 Mr. Grilo said yes. He thanked Mr. Hall for getting those conditions added.

49

1 Mr. Elwell entertained a motion to move to Findings of Fact for Case 080-S-22.

2
3 **Mr. Randol moved, seconded by Mr. Wood, to move to Finding of Fact for Case 080-S- 22. The**
4 **motion carried by voice vote.**

5
6 Mr. Elwell informed the petitioner he was going to be reading from page 41 of 53 from Attachment D.

7
8 **FINDINGS OF FACT FOR CASE 080-S-22**

9 From the documents of record and the testimony and exhibits received at the public hearing for zoning
10 case 080-S-22 held on January 26, 2023 and March 2, 2023, the Zoning Board of Appeals of Champaign
11 County finds that:

12
13 **1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
14 ***HEREIN* *{IS / IS NOT}* necessary for the public convenience at this location because:**

15
16 Mr. Wood said the requested Special Use Permit IS necessary for the public convenience at this location
17 because the State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25%
18 of the State's energy coming from renewable sources by the year 2025, and the Illinois Future Energy
19 Jobs Act requires installation of 3,000 MW of new solar capacity by the year 2030.

20
21 **2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
22 ***HEREIN* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}***
23 **be injurious to the district in which it shall be located or otherwise detrimental to the public**
24 **health, safety, and welfare because:**

25
26 **a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance**
27 **location has *{ADEQUATE / INADEQUATE}* visibility.**

28
29 Mr. Randol said the street has ADEQAUTE traffic capacity and the entrance location has ADEQAUTE
30 visibility because traffic volumes are not expected to increase significantly other than during construction
31 of the project and no comments have been received from the City of Urbana, which has maintenance
32 jurisdiction over East Windsor Road. He also said a notice was also sent to the Township Supervisor and
33 the Township Road Commissioner, and no comments have been received.

34
35 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:**

36
37 Mr. Wood said the emergency services availability is ADEQAUTE because the subject property is located
38 within the Philo Fire Protection District and is approximately 5.9 road miles from the Philo Fire Station
39 and the Fire Chief was notified of these cases, and no comments have been received.

40
41 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:**

42
43 Mr. Herbert said the Special Use WILL be compatible because the proposed PV solar array will not be
44 disruptive to surrounding agriculture.

45
46 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

47
48 Mr. Randol said the surface and subsurface drainage will be ADEQUATE because no part of the subject
49 property is located within a mapped floodplain and will therefore have to comply with the Special Flood

1 Hazard Areas Ordinance. He said a Storm Water Drainage Plan and detention basin will be required if
 2 more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack
 3 posts, per the Storm Water Management and Erosion Control Ordinance.
 4

5 **e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:**
 6

7 Mr. Wood said public safety will be ADEQAUTE because the subject property is located approximately
 8 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of this case, and no comments have
 9 been received and a notice was also sent to the Township Supervisor and Township Road Commissioner,
 10 and no comments have been received.
 11

12 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:**
 13

14 Mr. Herbert said the provisions for parking will be ADEQAUTE because the PV solar array does not
 15 require parking and there is no significant increase in traffic expected for the proposed development.
 16

17 **g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed
 18 improvements *{because*}*:**
 19

20 Mr. Randol said the property IS WELL SUITED OVERALL for the proposed improvements because the
 21 site is reasonably well-suited in all respects and has no major defects.
 22

23 **h. Existing public services *{ARE/ARE NOT}* available to support the proposed
 24 SPECIAL USE without undue public expense *{because*}*:**
 25

26 Mr. Herbert said existing public services ARE available to support the proposed Special Use without
 27 undue public expense because no additional public services are necessary for the proposed development.
 28

29 **i. Existing public infrastructure together with the proposed development *{IS/IS NOT}*
 30 adequate to support the proposed development effectively and safely without undue
 31 public expense *{because*}*:**
 32

33 Mr. Wood said existing public infrastructure together with the proposed development IS adequate to
 34 support the proposed development effectively and stately without undue public expense because no new
 35 public infrastructure is required for the proposed development and therefore WILL NOT be injurious to
 36 the district.
 37

38 **3a. The requested Special Use Permit *{DOES / DOES NOT}* conform to the applicable
 39 regulations and standards of the DISTRICT in which it is located, subject to approval of the
 40 requested waivers.**
 41

42 Mr. Wood said the requested Special Use Permit DOES conform to the applicable regulations and
 43 standards of the district in which it is located, subject to approval of the requested waivers.
 44

45 **3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED
 46 HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which
 47 it is located because:**
 48

- 1 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all relevant**
 2 **County ordinances and codes.**

3
 4 Mr. Randol said the Special Use will be designed to CONFORM to all relevant County ordinances and
 5 codes.

- 6
 7 **b. The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**

8
 9 Mr. Randol said the Special Use WILL be compatible with adjacent uses.

- 10
 11 **c. Public safety will be {ADEQUATE / INADEQUATE}.**

12
 13 Mr. Randol said public safety will be ADEQUATE and therefore DOES preserve the essential character
 14 of the district in which it is located.

- 15
 16 **4. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
 17 **HEREIN} {IS / IS NOT} in harmony with the general purpose and intent of the Ordinance**
 18 **because:**

- 19
 20 **a. The Special Use is authorized in the District.**

- 21
 22 **b. The requested Special Use Permit {IS/ IS NOT} necessary for the public convenience**
 23 **at this location.**

24
 25 Mr. Wood said the requested Special Use Permit IS necessary for the public convenience at this location.

- 26
 27 **c. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
 28 **IMPOSED HEREIN} is so designed, located, and proposed to be operated so that it**
 29 **{WILL / WILL NOT} be injurious to the district in which it shall be located or**
 30 **otherwise detrimental to the public health, safety, and welfare.**

31
 32 Mr. Wood said the requested Special Use Permit is so designed, located, and proposed to be operated so
 33 that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the
 34 public health, safety, and welfare.

- 35
 36 **d. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
 37 **IMPOSED HEREIN} {DOES / DOES NOT} preserve the essential character of the**
 38 **DISTRICT in which it is located.**

39
 40 Mr. Wood said the requested Special Use Permit DOES preserve the essential character of the district and
 41 therefore IS in harmony with the general purpose and intent of the Ordinance.

- 42
 43 **5. The requested Special Use IS NOT an existing nonconforming use.**

- 44
 45 **6. Regarding necessary waivers of standard conditions:**

46
 47 Mr. Elwell asked if there were any comments on number 6 from the Board and if anyone would be apposed
 48 to approving Item 6 *en masse*.

1 Mr. Wood said they were all going to be regarding the waivers and of course those were all going to be
 2 satisfied prior to issuing the permit.

3
 4 **Mr. Wood moved, seconded by Mr. Randol, to accept Item 6 as presented *en masse*. The motion**
 5 **carried by voice vote.**

6
 7 Per Section 7.15 of the Champaign County ZBA Bylaws, “waivers may be approved individually or *en*
 8 *masse* by the affirmative vote of a majority of those members voting on the issue and shall be incorporated
 9 into the Findings of Fact with the reason for granting each waiver described”.

10
 11 **A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and**
 12 **Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed**
 13 **Professional Engineer prior to consideration of the Special Use Permit by the Board:**

14
 15 **(1) The waiver *{IS/ IS NOT}* in accordance with the general purpose and intent of**
 16 **the Zoning Ordinance and *{WILL/ WILL NOT}* be injurious to the**
 17 **neighborhood or to the public health, safety, and welfare because:**

18
 19 the petitioner will still need to provide this document prior to receiving a
 20 Zoning Use Permit.

21
 22 **(2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar**
 23 **to the land or structure involved, which are not applicable to other similarly**
 24 **situated land and structures elsewhere in the same district because:**

25
 26 some details such as cost estimates are not available until closer to
 27 construction.

28
 29 **(3) Practical difficulties or hardships created by carrying out the strict letter of**
 30 **the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or**
 31 **otherwise permitted use of the land or structure or construction because:**

32
 33 some details such as cost estimates are not available until closer to
 34 construction.

35
 36 **(4) The special conditions, circumstances, hardships, or practical difficulties *{DO***
 37 ***/ DO NOT}* result from actions of the applicant because:**

38
 39 some details such as cost estimates are not available until closer to
 40 construction.

41
 42 **(5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL***
 43 ***CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible**
 44 **the reasonable use of the land/structure.**

45
 46 **B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less**
 47 **than one-half mile from an incorporated municipality and within the contiguous**
 48 **urban growth area of a municipality:**

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(1) The waiver *{IS/ IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL/ WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because:

relevant jurisdictions have been notified of these cases, and no comments have been received.

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

the City of Urbana is aware of the proposed project and no comments have been received.

(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because:

without the waiver, the project could not be constructed on the subject property.

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

the petitioner was not aware of this requirement when they purchased the land for the project.

(5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:

without the waiver, the project could not be constructed on the subject property.

C. Regarding Part C of the proposed waivers, for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line:

(1) The waiver *{IS/ IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL/ WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because:

Relevant jurisdictions have been notified of these cases, and no comments have been received.

Neighboring property owners have been notified of these cases, and no comments have been received.

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

There is a mature evergreen tree line surrounding the dwelling that serves as a visual barrier, and the petitioner proposes to add evergreen screening on the north side of the PV SOLAR ARRAY.

(3) **Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because:**

Without the waiver, a significant number of solar panels would have to be removed.

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

The petitioner was not aware of this requirement when they purchased the land for the project.

(5) **The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:**

D. Regarding Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board:

(1) **The waiver *{IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because:**

the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.

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

The petitioner is in discussion with the City of Urbana regarding this requirement and needs more time.

(3) **Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because:**

the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.

1
2 (4) The special conditions, circumstances, hardships, or practical difficulties *{DO*
3 */DO NOT}* result from actions of the applicant because:

4
5 the petitioner is in discussion with the City of Urbana regarding this requirement
6 and needs more time.

7
8 (5) The requested waiver *IS* the minimum variation that will make possible the
9 reasonable use of the land/structure.

10
11 7. ***THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE***
12 ***COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE***
13 ***PARTICULAR PURPOSES.***

14
15 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the
16 Findings of Fact as amended.

17
18 **Mr. Roberts moved, seconded by Mr. Wood, to adopt the Summary of Evidence, Documents of**
19 **Record, and the Findings of Fact as amended. The motion carried by voice vote.**

20
21 Mr. Elwell informed the petitioner that he was going to be reading from page 50 of 53 from Attachment
22 D.

23
24 **FINAL DETERMINATION FOR CASE 080-S-22**

25 **Mr. Wood moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals**
26 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
27 **requirements for approval of Section 9.1.11B. *HAVE* been met, and pursuant to the authority**
28 **granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, recommends that:**

29
30 **The Special Use requested in Case 080-S-22 be *GRANTED WITH SPECIAL CONDITIONS* to**
31 **the applicant, Donato Solar – Urbana LLC, to authorize the following as a Special Use on land**
32 **in the AG-2 Agriculture Zoning district:**

33
34 **Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW),**
35 **including access roads and wiring, in the AG-2 Agriculture Zoning District as a second**
36 **principal use as a County Board Special Use Permit and including the following waivers of**
37 **standard conditions (other waivers may be necessary):**

38
39 **Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that**
40 **includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to**
41 **consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.**

42
43 **Part B: A waiver for locating the PV Solar Array less than one-half mile from an**
44 **incorporated municipality and within the contiguous urban growth area of a**
45 **municipality per Section 6.1.5 B.(2)a.**

46
47 **Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot**
48 **that is 10 acres or less in area in lieu of the minimum required separation of 240 feet**
49 **between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.**

Part D: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).

Mr. Elwell requested a roll call vote.

The vote was called as follows:

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

Mr. Elwell congratulated Mr. Grilo on receiving his four affirmative votes on all three of his cases and that Staff should be in touch soon with next steps.

Mr. Grilo thanked the Board and appreciated the Board’s flexibility in drafting special conditions on the spot.

Mr. Wood moved, seconded by Randol, to take a short break. The motion carried by voice vote.

Case 074-S-22

Petitioner: Medanos Solar LLC, via agent Kiera Gavin

Request: Authorize a Community PV Solar Farm with a total nameplate capacity of 5 megawatts (MW), including access roads and wiring, in the AG-1 and AG-2 Agriculture Zoning Districts, and including the following waivers of standard conditions:

Part A: A waiver for a distance of 0 feet between a PV Solar Farm and a municipal boundary in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5 B.(2)a. of the Zoning Ordinance.

Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3. of the Zoning Ordinance.

Part C: A waiver for not entering into a Roadway Upgrade and Maintenance Agreement or waiver therefrom with the relevant local highway authority prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G. of the Zoning Ordinance.

Part D: A waiver for not completing consultation with the State Historic Preservation Officer of the Illinois Department of Natural Resources prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 K. of the Zoning Ordinance.

Part E: A waiver for a separation distance of 115 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).

Location: A 48.64-acre tract in the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter and part of a 197.02-acre tract in the east

1 **half of Section 4, Township 18 North, Range 14 West of the Second Principal Meridian**
2 **in South Homer Township, and commonly known as farmland owned by Terry Wolf**
3 **on the north side of CR 1100N (County Highway 15) northeast of the Village of Homer,**
4 **Illinois.**

5
6 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
7 the witness register for that public hearing. He reminded the audience that when they sign the witness
8 register, they are signing an oath.

9
10 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
11 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
12 show of hands from those who would like to cross-examine, and each person will be called upon. He said
13 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the
15 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
16 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request
17 prior to introducing evidence.

18
19 Kiera Gavin, business address P.O. Box 14055 Chicago, IL 60614, thanked the Board for their time
20 tonight. She said she was back with an updated version of the proposed site plan for the Medanos Solar
21 Project. She said she was happy to bring these updates based on the requests and input from the Village
22 of Homer. She said she was going to walk through the changes briefly. She said first, based on the
23 comments and conversation last time, they incorporated vegetative screening along the southern portions
24 of the fence line of the property. She said there were some turns on the fence and so they chose to include
25 that on the full edge to edge of the southern facing portions. She said they also incorporated the noise
26 fence, or noise screening, around the inverters. She said it will be a composite fence that is slatted, no gaps
27 between the slats, to add an additional noise break to the already anticipated low noise volumes that
28 neighbors will experience. She said she did submit an update to their noise study that included more
29 granular intervals of the decibel levels below 45. She said the numbers they see were without the noise
30 fence and was the base line with the inverters, so with the noise fence those numbers would be even lower.
31 She said she knew that was something the Village of Homer wanted to be sure of. She said finally they
32 did get good news and quick feedback from Ameren that they were willing to accommodate their requested
33 pole change to move the five poles, three of their poles and two Ameren poles, north on the property to
34 be adjacent to the baseball field. She said from there, Ameren will install three to four overhead poles to
35 connect from where that set of equipment is to the existing overhead line. She said those will all be along
36 the west side of the access road and to accommodate that they moved the access road back to the original
37 proposed location since both the project and Ameren need access to maintain the equipment on those
38 poles. She said she would wrap up there. She said they did many iterations of this site plan and hopefully
39 accommodated a lot of the input from the town and neighbors, and she thought this was the best possible
40 outcome in terms of limiting the impacts of the project on surrounding properties and land uses. She
41 thanked the Board for their time and was happy to take any of their questions, but she does hope and
42 request their support of the project tonight. She did forget but she wanted to pass the mic to Ms. Burgstrom
43 for one comment.

44
45 Ms. Burgstrom said she wanted to correct her mistake that she made last meeting on February 16, 2023,
46 regarding Public Act 102-1123 which was recently signed by Governor Pritzker. She said she had made
47 the statement that both solar and wind farms were going to be restricted from being within one point five
48 miles of municipalities and as it turns out she did not read slowly enough, but it is just wind farms that

1 were going to be limited to being outside one point five miles. She said solar farms will be allowed within
2 one and a half miles of municipalities. She said she wanted to make that clarification.

3
4 Mr. Elwell asked if there were any questions from the Board.

5
6 Mr. Wood asked if the Champaign County Zoning Ordinance was the reason for this case’s variance then.

7
8 Ms. Burgstrom said that was correct.

9
10 Mr. Elwell asked Mr. Hall if he told him the parcel that the roadway was on was still in the Village of
11 Homer’s jurisdiction.

12
13 Mr. Hall said yes.

14
15 Mr. Wood said he had a follow-up question. He asked if Champaign County has the half mile thing, does
16 that override the State or does the State not provide any guidance with respect to that at all.

17
18 Ms. Burgstrom said the State did not provide guidance within that half mile trigger that the County
19 happened to have in our Zoning Ordinance, so for the moment that still stands.

20
21 Mr. Elwell asked Mr. Wood if he got his solar panels questions answered.

22
23 Mr. Wood said kind of. He said he did not know what the difference was. He said he was just curious as
24 to why it took twice as many acres to produce the same amount of energy for all practical purposes. He
25 said perhaps Ms. Gavin can elaborate on that.

26
27 Ms. Gavin said yes, she would probably have a similar answer to the previous applicant. She could not
28 speak to their layout and design, but she did think a difference they discussed was their use of single access
29 tracker versus fixed tilt panels, so she did think the single access trackers did take up a little more of a
30 footprint, and then also given the prevalence of drainage tiles present on the property. She said they want
31 to be as cognizant of this in this kind of early-stage layout the potential that they might have to shift panels
32 or avoid certain areas where they might be impacted by those tiles.

33
34 Mr. Elwell said thank you and asked if there were any questions from the Board or Staff. He asked if
35 anyone would like to cross-examine the witness.

36
37 Suzanne Smith, 2797 CR 1200N Homer, IL, said she was unable to make the last public hearing because
38 her father was in the ER, but she was glad to be there tonight and she thanked the Board for letting her
39 ask a few questions. She said she appreciated the upgrades that the petitioners were interested in providing
40 since this was their community’s back yard. She said she lived along the north side of the section.

41
42 Mr. Elwell said they would give time for testimony, but this time was only for cross-examination.

43
44 Mrs. Smith okay, that was fine. She asked if they had a plan yet as to what kind of plants will make up the
45 vegetative screening.

46
47 Ms. Gavin said they did not have the specific outline of exactly what plants they will be, but they will be
48 an evergreen tree variety and in compliance with the ordinance, so some of those elements will be planted
49 with the minimum of five feet in height, multirow such that there’s 50% coverage within the two years.

1 Mrs. Smith wanted to confirm if it was the southern edges where the vegetation was going to be located.
2
3 Ms. Gavin said that was correct.
4
5 Mrs. Smith said that she knew that sometimes when she plants trees, they can die so she was wondering
6 if there was a multiyear plan for their plantings in case they don't make it.
7
8 Ms. Gavin said that was a great question. She said there were procedures in place that if a plant does die
9 then it would be required to be replaced. She said that was outlined in the ordinance as well.
10
11 Mrs. Smith said that was great, thank you. She asked if the slatted composite fence was going to be durable
12 for the entire life of the project.
13
14 Ms. Gavin said yes. She said they had to decide between wood or composite and determined that the
15 composite would be more durable. She said the fence could be an element of their ongoing maintenance.
16 She said their site will be routinely inspected and that could very well be an element of that check as well.
17 She said she believed that for their project to continue to be in compliance with the site plan approved by
18 the Board that the noise fence needed to be maintained.
19
20 Mrs. Smith said great, thank you. She said those were all her questions regarding Ms. Gavin's testimony.
21
22 Mr. Elwell asked Ms. Smith if she would like to testify in this case.
23
24 Mrs. Smith said she did have a few comments if she could have a few minutes. She said she would not
25 take up a lot of their time.
26
27 Mr. Elwell said he would walk the sign-up sheet over to her for Ms. Smith to sign.
28
29 Mrs. Suzanne Smith, 2797 CR 1200N Homer, IL, said she lived on a farm a little to the north of the
30 proposed site. She said her husband was a sixth-generation farmer and they farmed the north part of that
31 section. She said she was the president of Stand Up to Coal. She said they were a coalition of people that
32 spent the past thirteen years fighting a proposed coal mine that would have been very close to Homer. She
33 said she was very much aware of the coal industry and their issues and was very much an advocate for
34 renewables and was very hopeful that could be a solution to our energy and pollution in the future. She
35 said IDNR did terminate their permit for the coal mine and Homer will not have a coal mine like she is
36 sure they were aware of when they were making these plans for the solar farm. She just hoped they would
37 take time to learn about it because solar was a very new industry. She said having been through the coal
38 mine issue she realized that it was important to be knowledgeable about these things. She said what she
39 noticed in their area is that they were being inundated with renewable projects from wind and solar both
40 primarily. She said she was not sure the CO2 pipeline will become a part of their community either, but it
41 was certainly out there being discussed. She said as such she hoped their zeal to achieve the CEJA goals
42 and maybe the infrastructure ideas that were brought up by Mr. Wood tonight that they do take time to
43 make sure they understand and were thorough about these things. She said these decisions that can be
44 made can be sometimes undesirable for the communities where these projects go. She said she appreciated
45 the Board's concern and their time they take to understand these issues. She said renewables seem like a
46 good thing, but it is an industry like any other and she wants to make sure that it was done in the best way
47 possible. She asked if the Zoning Ordinance said the standard set back for a solar farm was a half mile.
48 She said she could leave that as a comment because it was her understanding that it was. She said she was
49 not familiar with why they were asking for the waiver for the distance to be zero. She said she spoke to

1 the Mayor of Homer, and it was her understanding that it was originally a setback of 240 feet and they
2 made an agreement for 480 feet as the setback. She said she was not sure if that was the current plan. She
3 said she appreciated that Champaign County had very good ordinances for these solar projects and when
4 we go into waivering things like setback requirements and decommissioning plans she becomes
5 concerned. She assumes like many that these ordnances were established for good reasons like the health
6 and safety of the community. She said this was going right behind the Homer Community Building and
7 places like that were important to small town communities like Homer. She said she appreciated the
8 Board's consideration when deciding on moving forward with this project. She said there was a landfill
9 one time that was proposed for their community that was stopped. She said there was a coal mine that they
10 found out last year that it was successfully stopped. She said there were a lot of people in their area that
11 take the long view, maybe because it was an area with multigenerational farmers living there. She said the
12 decommissioning of this site will probably happen after most of our lifetimes but that was important to
13 consider. She said right now it was her understanding that there was no recycling facility in Illinois and
14 that the closest one was in Ohio. She said it was her hope that there would be a very thorough
15 decommissioning plan. She said they did not want the mess from the landfill, certainly did not want the
16 mess from the coal mine, and they do not want to be left with a mess from a retired solar array when it is
17 no longer functional. She said her community may be small, but they were a vital part of Champaign
18 County. She thanked the Board for their time.

19

20 Mr. Elwell asked if there were any questions from the Board or Staff.

21

22 Mr. Wood asked Ms. Smith if she had any idea how much the Village of Homer was going to receive in
23 property taxes because of this project.

24

25 Mrs. Smith said she did not. She said she was not nearly familiar with solar as she was with coal, so this
26 was kind of a new frontier for her. She said she has not had the time unfortunately to delve into it as much
27 as she would like with helping her father-in-law.

28

29 Mr. Wood said he did not know the exact amount either, but he knew it was going to have an impact.

30

31 Mrs. Smith said she knew of another project over in the Sidney area and they had presented themselves to
32 the Homer School Board where they asked for some waivers for their taxes. She said she was sorry she
33 did not have any more of the details on that, but she hoped that if that was to come then there would be
34 no waivers on that as well because it would be nice to see some financial benefit. She said it was important
35 to see that they sound good to start but want to make sure a lot of those benefits are not lost through the
36 development process. She said these companies were a business and there to make a profit like many
37 others.

38

39 Mr. Elwell clarified for Mrs. Smith that the parcel of the proposed construction was located on a parcel
40 directly adjacent to the Village of Homer's municipal boundary, so that was where the zero feet was
41 coming from.

42

43 Mrs. Smith said she did see that but was wondering if the Board could explain why they were not using
44 the half mile limit as dictated in the Ordinance.

45

46 Mr. Elwell said the petitioner said this was where they wanted the project so that was where the request
47 came from. He said the Board was there to deliberate on that choice.

48

49 Mrs. Smith said thank you very much and appreciated that clarification.

- 1 Mr. Elwell asked how the Board would like to proceed.
2
- 3 Mr. Wood asked the petitioner if this location was the only location they could have decent access to the
4 infrastructure needed to feed the power into the grid.
5
- 6 Ms. Gavin said yes, the site was optimal given their needs for access and interconnection proximity to the
7 substation.
8
- 9 Mr. Wood said that was part of Mrs. Smith's answer and part of the reason why the site is situated where
10 it is, otherwise, they could have probably moved it further north. He said they needed to be within
11 proximity of infrastructure that can accept that capacity.
12
- 13 Mrs. Smith asked if there were solar farms that were located further away. She asked if that was possible
14 or only due to budget constraints.
15
- 16 Mr. Elwell asked if that was distance from the Village or the substation.
17
- 18 Mrs. Smith said the substation. She said she was just curious because again, they were just trying to
19 maximize their profit, so it was in their best interest to make it as close to the substation as possible. She
20 said she was not sure if moving it farther back was going to be helpful to their community or not.
21
- 22 Mr. Elwell said submitting a new application could be cost and time prohibitive if they were to have to
23 submit another application with a new proposed location. He said that was why the petitioner took the
24 input from the village and the Board to their site plan proposal.
25
- 26 Mrs. Smith thanked the Board for the clarification and asked in the future that they be mindful of industrial
27 development on small rural communities. She said it might be worthwhile knowing why those restrictions
28 were in place to make sure that the health and safety of the public will not be impacted as much as possible.
29 She felt the quest for a renewable future in the State of Illinois was noble, but she just did not want to see
30 small rural communities get thrown under the bus to get there.
31
- 32 Mr. Elwell asked how the Board would like to proceed.
33
- 34 Mr. Bates asked if the changes that were made to the driveway was in communication with the Village of
35 Homer.
36
- 37 Ms. Gavin said this was the original access road location. She said they moved it when they thought they
38 were not able to move the pole locations. She posed two potential solutions regarding the pole comments
39 and the concern about the equipment and the one path forward was moving the poles and keeping the road
40 where it was. She said she has shared the updated site plan with the Mayor of Homer, and he said it was
41 a good compromise.
42
- 43 Mr. Elwell asked if they received any feedback from the village on the new site plan.
44
- 45 Ms. Burgstrom said no.
46
- 47 Mr. Bates asked if the new site plan was just presented to the Mayor or to the Village Board. He asked if
48 there has been time for that.
49

1 Ms. Gavin said she has just shared the site plan with the Mayor. She did not know if the whole Board has
2 seen it given the time frame. She said the pole change and the road was discussed and could forward the
3 email exchanges if the Board requested that.

4
5 Mr. Wood asked if all the prior concerns from the January hearing from the Village of Homer had been
6 reconciled as far as Ms. Gavin knew to some extent.

7
8 Ms. Gavin said she did send a letter to the Village Board addressing each of those points and then again
9 tried to take the opportunity during the February meeting in this forum to address how they hoped the
10 project was not bringing those impacts in. She said she felt the outcome of her testimony addressing those
11 points only leaving the three open concerns being the visual blight, thus the introduction of the vegetative
12 screening; the noise concern, thus the introduction of the fence; and lastly the moving of the poles and
13 equipment to the back of the property. She said she also submitted the property value impact study prior
14 to the last meeting which was another one of their points on that comment.

15
16 Mr. Wood said people put these things on the tops of their houses and their property values only go up.

17
18 Mr. Elwell said there was not enough data in this area to support an increase in value of a house with solar.

19
20 Mr. Wood said he knew that when he added his 10k system on his house they raised his property taxes,
21 and he was sure that when he sold his property it was going to be worth at least \$30,000 more.

22
23 Mrs. Smith said from the October 2022 issue of Prairie Farmer, there was an article on how solar impacts
24 farmland values and one of the comments that was made was from the section “How About the View.”
25 She said this was a Kirkland’s & Fishers Study which indicated that when there were adequate setback
26 requirements and vegetation planted to block views, the impact on local land values was negligible to
27 positive. She said she felt that these amenities were important as they look at farmland values.

28
29 Mr. Elwell asked Ms. Burgstrom if they need a copy of that study.

30
31 Ms. Burgstrom said no, the quote in the minutes should be sufficient.

32
33 Mr. Elwell asked how the Board would like to proceed.

34
35 Mr. Elwell informed the petitioner that he was going to be reading from the bottom of page 2 from
36 attachment M.

37
38 **PROPOSED SPECIAL CONDITIONS**

39
40 **The following special conditions are proposed for Special Use Permit in Case 074-S-22**

- 41
42 **A. The approved site plan consists of the following documents:**
43 **• Revised Site Plan received February 28, 2023.**
44

45 The special condition stated above is required to ensure the following:
46 **The constructed PV SOLAR FARM is consistent with the special use permit**
47 **approval.**
48

49 Mr. Elwell asked if she agreed.

1 Ms. Gavin said yes.

2

3 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
4 **issue a Zoning Compliance Certificate on the subject property until the lighting**
5 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

6

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

8 **That exterior lighting for the proposed Special Use meets the requirements**
9 **established for Special Uses in the Zoning Ordinance.**

10

11 Mr. Elwell asked if she agreed.

12

13 Ms. Gavin said yes.

14

15 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
16 **proposed PV SOLAR FARM until the petitioner has demonstrated that the proposed**
17 **Special Use complies with the Illinois Accessibility Code, if necessary.**

18

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

20 **That the proposed Special Use meets applicable state requirements for**
21 **accessibility.**

22

23 Mr. Elwell asked if she agreed.

24

25 Ms. Gavin said yes.

26

27 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**
28 **petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement**
29 **with the Illinois Department of Agriculture per the requirements established in**
30 **Paragraph 6.1.5 R. of the Zoning Ordinance.**

31

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

33 **That the land affected by PV SOLAR FARM is restored to its pre-construction**
34 **capabilities.**

35

36 Mr. Elwell asked if she agreed.

37

38 Ms. Gavin said yes.

39

40 **E. A signed Decommissioning and Site Reclamation Plan that has been approved by the**
41 **Environment and Land Use Committee is required at the time of application for a**
42 **Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the**
43 **Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois**
44 **Professional Engineer.**

45

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

47 **The Special Use Permit complies with Ordinance requirements and as**
48 **authorized by waiver.**

49

1 Mr. Elwell asked if she agreed.

2

3 Ms. Gavin said yes.

4

5 F. *(Note: not needed if a waiver is received)* **A Roadway Upgrade and Maintenance Agreement or waiver therefrom signed by the Village of Homer and approved by the Environment and Land Use Committee, shall be submitted at the time of application for a Zoning Use Permit.**

8

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

10 **To ensure full compliance with the intent of the Zoning Ordinance in a timely manner that meets the needs of the applicant.**

11

12 Mr. Elwell asked if she agreed.

13

14 Ms. Gavin said yes.

15

16 G. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:**

17

18 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-**

19

20 **year limited power warranty.**

21

22 2. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**

23

24 3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s or a rating of “A-” by Kroll’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**

25

26 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**

27

28 5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**

29

30 6. *(Note: not needed if a waiver is received)* **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**

31

32 7. **An agency action report from the State Historic Preservation Office regarding historic and archaeological resources review, as required by 6.1.5 K.**

33

34

35

36

37

38

39

- 1 8. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 2
- 3 9. **Any updates to the approved Site Plan from Case 074-S-22 per the Site Plan**
- 4 **requirements provided in Section 6.1.5 U.1.c.**
- 5

6 The special condition stated above is required to ensure the following:
7 **The PV SOLAR FARM is constructed consistent with the Special Use Permit**
8 **approval and in compliance with the Ordinance requirements.**

9

10 Mr. Elwell asked if she agreed.

11

12 Ms. Gavin said yes.

13

14 H. **A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**

15 **to going into commercial production of energy. Approval of a Zoning Compliance**

16 **Certificate shall require the following:**

- 17 1. **An as-built site plan of the PV SOLAR FARM including structures, property**
- 18 **lines (including identification of adjoining properties), as-built separations,**
- 19 **public access road and turnout locations, substation(s), electrical cabling from**
- 20 **the PV SOLAR FARM to the substations(s), and layout of all structures within**
- 21 **the geographical boundaries of any applicable setback.**
- 22
- 23 2. **As-built documentation of all permanent soil erosion and sedimentation**
- 24 **improvements for all PV SOLAR FARM including any access road prepared**
- 25 **by an Illinois Licensed Professional Engineer.**
- 26
- 27 3. **An executed interconnection agreement with the appropriate electric utility as**
- 28 **required by Section 6.1.5 B.(3)b.**
- 29

30 The special condition stated above is required to ensure the following:
31 **The PV SOLAR FARM is constructed consistent with the special use permit**
32 **approval and in compliance with the Ordinance requirements.**

33

34 Mr. Elwell asked if she agreed.

35

36 Ms. Gavin said yes.

37

38 I. **The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the**

39 **following specific requirements that apply even after the PV SOLAR FARM goes into**

40 **commercial operation:**

- 41 1. **Maintain the pollinator plantings in perpetuity.**
- 42
- 43 2. **Cooperate with local Fire Protection District to develop the District's**
- 44 **emergency response plan as required by 6.1.5 H.(2).**
- 45
- 46 3. **Cooperate fully with Champaign County and in resolving any noise**
- 47 **complaints including reimbursing Champaign County any costs for the**
- 48 **services of a qualified noise consultant pursuant to any proven violation of the**
- 49 **I.P.C.B. noise regulations as required by 6.1.5 I.(4).**

- 1 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 2
- 3 5. **Submit annual summary of operation and maintenance reports to the**
- 4 **Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
- 5
- 6 6. **Maintain compliance with the approved Decommissioning and Site**
- 7 **Reclamation Plan including financial assurances.**
- 8
- 9 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 10 **hotline on a monthly basis and take all necessary actions to resolve all**
- 11 **legitimate complaints as required by 6.1.5 S.**

The special condition stated above is required to ensure the following:
Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR FARM.

17 Mr. Elwell asked if she agreed.

19 Ms. Gavin said yes.

- 21 J. **The PV SOLAR FARM COUNTY Board SPECIAL USE Permit designation shall**
- 22 **expire in 10 years if no Zoning Use Permit is granted.**

The special condition stated above is required to ensure the following:
The PV SOLAR FARM is constructed in compliance with the Ordinance requirements.

28 Mr. Elwell asked if she agreed.

30 Ms. Gavin said yes.

- 32 K. **The owners of the subject property hereby recognize and provide for the right of**
- 33 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
- 34 **Resolution 3425.**

The special condition stated above is required to ensure the following:
Conformance with Policy 4.2.3 of the Land Resource Management Plan.

39 Mr. Elwell asked if she agreed.

41 Ms. Gavin said yes.

- 43 L. **Within the boundary of the solar farm, the petitioner shall:**
- 44 (1) **Complete a survey identifying all drainage tile and stake off all tile**
- 45 **encountered prior to construction;**
- 46 (2) **Replace or repair all privately owned underground drainage tile that are**
- 47 **identified and encountered consistent with both the Champaign County Storm**
- 48 **Water Management and Erosion Control Ordinance and with the Agriculture**
- 49 **Impact Mitigation Agreement; and**

1 **(3) No Zoning Compliance Certificate shall be authorized by the Zoning**
2 **Administrator until all required “as-built” drawings showing the location of**
3 **all drainage tile within the boundary of the solar farm have been filed with the**
4 **Illinois Department of Agriculture and the Champaign County Soil and Water**
5 **Conservation District.**
6

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

8 **To ensure conformance with all relevant requirements for replacement of**
9 **underground drainage tile within the area of the special use permit.**

10
11 Mr. Elwell asked if she agreed.

12
13 Ms. Gavin said yes.

14
15 **M. The petitioner shall maintain the privately owned underground drainage tiles within**
16 **the boundary of the solar farm for the lifetime of the special use permit including any**
17 **repairs that may be necessary for up to one year after decommissioning and site**
18 **reclamation.**
19

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

21 **To ensure maintenance of underground drainage tile within the area of the**
22 **special use permit for the lifetime of the special use permit.**
23

24 Mr. Elwell asked if she agreed.

25
26 Ms. Gavin said yes.

27
28 Mr. Elwell asked Ms. Burgstrom if there was enough time for village response or if no response was their
29 response.

30
31 Ms. Burgstrom said she just knows that Staff received this site plan only two days ago. She said she was
32 not exactly sure when the Village of Homer received it. She said she would not consider two days enough
33 time for the Village to make a response personally. She said given that they were not here tonight too
34 brings into question whether they could have been there to make a response or not.

35
36 Mr. Elwell asked the Board if they were comfortable moving forward on this without hearing from the
37 Village of Homer.

38
39 Mr. Bates said he was not. He said they already made the statement that they did not want it. He said he
40 understood that the timing was unique in this situation, but the mail could not have happened that quick.

41
42 Mr. Wood said he agreed.

43
44 Mr. Herbert said he agreed and would prefer the updated site plan to go in front of the Village Board and
45 wait for comments. He said the Mayor’s response just did not seem like enough.

46
47 Mr. Bates said they still may not respond, but we must give them the time.
48

1 Mr. Wood said personally he felt all the issues that were raised were settled in his mind. He asked what
2 they meant by pollinator cover, mostly flowers and stuff like that. He said that doesn't look bad to him.
3 He said they had a decommissioning plan, they responded to all of those, so he was satisfied with the
4 information. Mr. Wood said the half mile in the ordinance was designed 5 or 6 years ago, before he even
5 got on the Board. He said technology was changing so fast right now that 5 years from now you will
6 probably not even be able to recognize a solar system compared to what they were putting in today. He
7 said a half a mile might just be obsolete when it comes to those changes. He said there will be solar just
8 about everywhere.

9
10 Mr. Elwell asked if Mr. Wood would be comfortable moving forward on this case tonight.

11
12 Mr. Wood said yes.

13
14 Mr. Randol said he had mixed feelings about it because for one, he knew how the mail system worked;
15 terribly slow. He said on the other hand, they knew there was a meeting tonight. He said he knew that it
16 was not always easy to get everyone together to respond in two days being from a small town himself. He
17 said he does not think they should move forward tonight. He said he wanted to hear from the Village even
18 if they were not going to do anything different.

19
20 Mr. Elwell echoed Mr. Randol's comments and felt what the petitioner has done has met their concerns,
21 but he would feel more comfortable giving the Village of Homer more time to respond.

22
23 Mr. Wood asked if the village was notified that there was going to be a public hearing tonight.

24
25 Ms. Burgstrom said those who attended the last meeting were sent notifications about this meeting, yes.

26
27 Mr. Elwell asked the Board how they would like to proceed. He entertained a motion to extend the meeting
28 to 9:45PM.

29
30 **Mr. Randol moved, seconded by Mr. Wood, to extend the meeting to 9:45PM. The motion carried**
31 **by voice vote.**

32
33 Mr. Bates said a continuance to the next available time would be better if they were to give the opportunity
34 for the community to come and speak. He said he felt they could afford to wait a couple more weeks for
35 a project that could last twenty to fifty years.

36
37 Mr. Elwell asked if that was a motion.

38
39 Mr. Herbert asked if they could pick up where they left off at the next meeting or if they had to restart.

40
41 Mr. Elwell said they could just pick up where they left off after adding public testimony.

42
43 Mr. Wood suggested the 16th of March if that was all they needed to do.

44
45 Ms. Burgstrom said for what it was worth, the Village of Homer Board has met the second week of January
46 and second week of February, so she was assuming that was going to be the same for March. She did not
47 know what date that would be exactly but that would give the Village time if they got it on their agenda
48 to discuss things.

1 Ms. Gavin said she thinks they meet on Mondays.

2

3 Mr. Bates said he was not trying to drag it out. He said his intention was to get clarity and wanting to do
4 it right. He said there was multiple years of an investment here and he wanted to do what was best.

5

6 Mr. Elwell asked if March 16, 2023, was a good date for her.

7

8 Ms. Gavin said yes.

9

10 Mr. Elwell asked Ms. Burgstrom if she was okay with March 16, 2023.

11

12 Ms. Burgstrom said she was not going to give her opinion on that one.

13

14 Mr. Herbert asked if anything was missing from the Jenkins case on the 16th then can the Board just say
15 no meeting. He said they have heard that case three times already and every time he had to supply two,
16 three, or four things but missed more things. Mr. Herbert asked if they could tell Mr. Jenkins they will not
17 hear the case again until he's prepared.

18

19 Mr. Hall said the Board has the right to respond that way.

20

21 Mr. Herbert said he did not feel there was a need to have a meeting if they were missing information again,
22 for the third time.

23

24 Mr. Elwell said they just need to make sure they give him the opportunity to do that.

25

26 Mr. Herbert agreed, he just did not want to listen to it again for an hour and a half when he's still
27 unprepared.

28

29 Mr. Elwell said that sounded reasonable to him and wanted to make sure the Board's time was also being
30 respected.

31

32 **Mr. Bates moved, seconded by Mr. Roberts, to continue Case 074-S-22 to March 16, 2023. The**
33 **motion carried by voice vote.**

34

35 Ms. Gavin thanked everyone for their time.

36

37 Mr. Elwell thanked her for all the work she's done.

38

39 Mr. Herbert said he also appreciated all the work they put in to meeting the public's concerns, but a little
40 bit more time would be beneficial to everybody.

41

42 7. New Public Hearings

43

44 Case 085-V-23

45 Petitioner: **Wes Taylor**

46

47 Request: **Authorize a variance for adding 1.31 acres to a 3.9-acre lot that was approved in**
48 **Variance Case 015-V-21 for a total of 5.21 acres in lieu of the maximum allowed 3**
49 **acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture**

Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

1
2
3 Subject Property: **A 3.9-acre tract plus a 1.31-acre tract totaling 5.21 acres in the North Half of**
4 **the Southwest Quarter of Section 24, Township 17 North, Range 10 East of the**
5 **Third Principal Meridian in Raymond Township, with an address of 238 CR**
6 **2300E, Broadlands.**
7

8 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
9 the witness register for that public hearing. He reminded the audience that when they sign the witness
10 register, they are signing an oath.
11

12 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
13 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
14 show of hands from those who would like to cross-examine, and each person will be called upon. He said
15 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
16 state their name before asking any questions. He noted that no new testimony is to be given during the
17 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
18 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request
19 prior to introducing evidence.
20

21 Kyle Emkes, attorney at Law Firm Maatuka Al-Jeeti Emkes, LLC introduced co-council Jennifer Zang.
22 He said Mr. Taylor was enroute but they were there to present his case on his behalf. He asked that if he
23 does in fact join them that the proceeding still continue, and he is admitted to the testimony table and
24 allowed to be cross-examined by the Zoning Board.
25

26 Mr. Elwell said absolutely and asked Mr. Emkes to please state their office's address.
27

28 Mr. Emkes said their office address was 2101 Windsor Place Suite 2, Champaign, IL 61820.
29

30 Mr. Elwell said thank you, please proceed with your testimony.
31

32 Mr. Emkes said very good. He said Mr. Taylor previously acquired the 3.9-acre parcel from the same
33 individual he then later approached to purchase the 1.31-acre parcel. He said that 1.31 acre parcel due to
34 its physical characteristics the seller found difficult to farm the land. He said Mr. Taylor also found it
35 difficult to ascertain where the boundary of his 3.9-acre parcel actually ended, so care for his land and Mr.
36 Nonman's ability to farm was in question. He said in discussions it was arranged between the parties that
37 Mr. Taylor would offer to purchase the 1.31 acres allowing him to square off his 3.9-acre parcel. He said
38 that would allow Mr. Taylor to maintain his lot more efficiently and effectively while also allowing Mr.
39 Nonman to be able to square off and allow more efficient method for his farming operation. He said
40 carrying out the regulations would be unreasonable to the community as it would provide more difficulty
41 in Mr. Taylor taking care of his property and also Mr. Nonman has indicated that he does not have any
42 interest in removing the current concrete and debris that is located on the property. He said he had an
43 exhibit that he would also like to provide the Board members if he may. He said the exhibit he was
44 providing indicates, dating all the way back to 2005, there was an improved structure on the 1.31-acre
45 tract of land. He said that structure was then apparently demolished leaving a concrete pad that is partially
46 broken up, along with some additional debris that remained. He said they went back to 2005 in preparation
47 for today. He said at this point it was unknown how long that structure existed prior to 2005. He said while
48 it was certainly appreciated by both parties and probably no one more than Mr. Nonman as it relates to
49 other tracts of land and farming, Best Prime Farmland should be protected. He said he understood that

1 was the position regarding the objection. He said in this case this was not Best Prime Farmland that was
2 being actively farmed and has not been actively farmed since at least 2005, as the exhibit indicates. He
3 said Mr. Nonman in selling this to Mr. Taylor indicated that he had no intentions of cleaning that up and
4 resuming farming. He said when the lot was purchased, Mr. Taylor purchased it in good faith believing
5 that he was adding to the 3.9 acres parcel that he had already received a variance for and that it complied
6 within the zoning requirements. He said additionally, Mr. Taylor has indicated that he was not acquiring
7 this particular tract to improve it in any way, shape, or form, but was simply wanting to undertake the
8 steps necessary to clean up the debris, remove it and restore it as his own tract of land, so he could continue
9 to maintain his property. He said in viewing the debris that exists there now, he views that right now to be
10 an unsightly issue and one that he in some ways would have wished he could have brought this up at the
11 time of the original purchase but he did not believe that it was going to be as much of an issue as it became
12 when he actually moved into the property after the home was built. He said as far as the Zoning Ordinance
13 protecting that agricultural land, the long-term goals would be that it would not return to the agricultural
14 tillage but would rather remain some form of grass or similar groundcover. He said access has not been
15 impacted by this purchase. He said County Road 2300 East does allow access to both Mr. Taylor and Mr.
16 Nonman. He said there has been no change to the firefighting purposes, traffic flow, drainage, odor,
17 smoke, fumes, or other potential issues, public health, safety, or welfare. He said albeit those were
18 probably going to be further addressed by the fact that Mr. Taylor intends to clean this up where Mr.
19 Nonman did not, removing that concrete and debris, as to Mr. Taylor does have children, this would
20 enhance the safety as well as the aesthetics of his particular property. He said Mr. Taylor also views that
21 the sale of this property does not negatively impact Mr. Nonman because it potentially staved off a dispute
22 between future landowners, or a subsequent landowner of either tract of land, since as the photos indicated
23 it was difficult to determine exactly where Mr. Taylor's property ends and where Mr. Nonman's property
24 begins. He said in this regard, most people as they look at it believe they own all the way up to the tilled
25 farm ground. He said that was not the case in this instance. He said Mr. Taylor seeks to clarify that in a
26 more common-sense approach that if he were to sell his land, he was able to sell his land to someone that
27 understands full and well that they own right up to the tilled area. He said that Mr. Nonman felt the same
28 way in staving off a future dispute over anybody that would acquire the farm ground, is that part of what
29 they purchased, or is that a potential trespass by the neighboring homeowner. He said by simply clarifying
30 this by squaring off the parcels and indicating exactly where the farming begins and the homestead, or
31 residential property, begins does benefit both parties in the future. He said it also helped aesthetically with
32 the potential resale value, and the community benefits by avoiding a potential future dispute between
33 neighboring landowners. Mr. Emkes said he would rest pending any questions that the Board may have.

34
35 Mr. Elwell thanked Mr. Emkes for his testimony and asked if there were any questions from the Board or
36 Staff.

37
38 Mr. Anderson asked how the structures were destroyed.

39
40 Mr. Emkes said the structure that was there appears to have been destroyed by Mr. Nonman sometime
41 prior to this sale that occurred. He said his client, Mr. Taylor, bought the property with the debris; no
42 structures were on the property.

43
44 Mr. Elwell asked if Mr. Taylor has already made the purchase.

45
46 Mr. Emkes said that was correct. He said this purchase was made for value between parties, closed and
47 then Mr. Taylor received notice of the violation.

48
49 Mr. Elwell asked Ms. Burgstrom what would happen if they kept both tracts separately pinned.

1 Ms. Burgstrom said if they were to keep the 1.3 acres separate it would be an illegal zoning lot and would
2 have to come into conformance at least in terms of average lot width to be a lot that could be built upon.
3 She said as it sits right now it was not buildable.

4
5 Mr. Elwell asked if that was just because the frontage.

6
7 Ms. Burgstrom said she was not sure if there were other things making the lot even less conforming.

8
9 Mr. Emkes asked if he could respond.

10
11 Mr. Elwell said sure.

12
13 Mr. Emkes said Mr. Taylor does not intend to improve this parcel, nor build over the boundary line of it,
14 but rather to simply remove the debris that exists and restore it to some form of nature, whether that be
15 grass or prairie grass or some sort of groundcover.

16
17 Mr. Elwell said his thoughts were when this case first came to us, part of the reason it was passed was
18 because it already was squaring off the property to better keep it good for farming and things like that. He
19 said now they were being told they have already made the purchase and the reason for that was to be
20 squared up to be better for farming. He said that was already done, so he felt this was kind of redundant
21 from where he was sitting.

22
23 Mr. Emkes said he could certainly understand and appreciate that position. He said squared in a sense but
24 when you see the actual aerial photo of this piece, square is not square in terms of use of the property. He
25 said he felt when the parties originally thought it was going to function better than it did, but then having
26 the two neighbors as Mr. Taylor trying to mow and trying to go and follow exactly where his property line
27 ends became more of a hassle. He said and then Mr. Nonman saying it was changing his farming practices
28 more than what he expected in terms of he was not going to farm that piece. He said their intention when
29 they bought it was they were going to know where they stand but that was not where they ended up being.
30 He said that was the dispute, if you could even call it that. An understanding was reached by the two that
31 if he was not going to take the steps to clean up the debris and farm all the way up there then Mr. Taylor
32 did not want to be running a tractor and mowing down the grass and hitting either concrete or debris. He
33 said something had to be reached and so growing up into prairie grass and weeds was not necessarily the
34 answer for either party. He said neither one of them want it that way but neither one of them wanted to
35 run a batwing through there, so it has been kind of a standoff between who was going to get in there and
36 clean it. He said neither party was using it and he thought there where if it was redundant it was redundant
37 in the sense they noticed there was essential property being wasted until this was resolved between the
38 two, and if Mr. Nonman had no intention of doing the work to clean it up then it was cheaper for both to
39 simply add it to Mr. Taylor's parcel and they'll move on. He said hindsight was 20/20 in this case and
40 talking to Mr. Taylor, he felt that if they could have explored this a little bit further, but Mr. Taylor was
41 not living there at the time. He said you pick a site and as you live there you notice things you didn't notice
42 before, that you would not have reason to notice until you were maintaining the property on a regular
43 basis. He said hindsight being 20/20 it was one of those situations where he thought if they were to go
44 back, he would gladly have negotiated to include this entire piece anyway.

45
46 Mr. Emkes said please note Mr. Taylor's appearance as well.

47
48 Mr. Elwell said good evening Mr. Taylor. He asked if there were any questions from the Board or Staff.

49

1 Mr. Emkes said if he may, Mr. Taylor was not delinquent in showing up on time. He said he had a showing
 2 this evening, so he was coming through on a final walkthrough situation where other people required his
 3 presence. He said it was not that he felt this meeting was not important.

4
 5 Mr. Elwell asked if there were any questions from the Board or Staff. He asked if anyone else would like
 6 to testify in this case.

7
 8 Wesley Taylor said his address was 238 CR 2300E Broadlands, IL 61816. He said first of all he would
 9 like to echo what Mr. Emkes just said. He apologized for his tardiness. He said as far as the zoning thing
 10 goes, when he bought the original parcel, he did not realize he needed to add it to their current variance.
 11 He apologized and said that was a misunderstanding on his part. He said when they bought the original
 12 parcel from Mr. Nonman, that 1.3 acres was attached to a field he farmed, but it was covered in debris and
 13 concrete. He said he thought that if they could look at the GIS it would show all that stuff on there. He
 14 said after they moved in, they realized it was going to be tough for him to farm it and was going to be
 15 tough for him to maintain it. He said it made an irregular property line on the south property where their
 16 two parcels met so he just proposed to Mr. Nonman to sell him that and he would take care of cleaning
 17 that up, which they have done. He said basically it was an effort to make both of their properties more
 18 appealing and easier for him to farm. He said the other thing too was the way that parcel was split up it
 19 was not all farmable anyway, so had he farmed it there was only the two outside corners that were farmable
 20 and everything else was basically a laydown area. He said it was very unsightly and was not a reflection
 21 on Mr. Nonman, but it just did not look great.

22
 23 Mr. Elwell asked if there were any questions from the Board or Staff. He asked if anyone would like to
 24 cross-examine this witness. He asked if anyone else would like to testify in this case. Seeing no one, he
 25 asked how the Board would like to proceed.

26
 27 **Mr. Wood moved, seconded by Mr. Herbert, to accept the Preliminary Draft and the Documents of**
 28 **Record and proceed with the summary draft Findings of Fact. The motion carried by voice vote.**

29
 30 Mr. Elwell informed the petitioner and his council that he was going to be reading from Attachment F,
 31 page 9 of 10.

32
 33 **FINDINGS OF FACT FOR CASE 085-V-23**

34 From the documents of record and the testimony and exhibits received at the public hearing for zoning
 35 case **085-V-23** held on **March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

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

40
 41 Mr. Randol said special conditions and circumstances DO exist because as shown on the 1973 aerial photo,
 42 the original farmstead included both the 3.9-acre lot and the additional 1.31 acres. He said no land is being
 43 removed from agricultural production and even if they did, the size of today's farm machinery would
 44 make it very difficult to get in and around the section that is filled with debris.

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

1 Mr. Herbert said the practical difficulties or hardships created by carrying out the strict letter of the
 2 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
 3 or construction because without the proposed variance, the land could not be maintained by Mr. Taylor.
 4

5 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}**
 6 **result from actions of the applicant because:**
 7

8 Mr. Wood said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 9 from actions of the applicant because as shown on the 1973 aerial photo, the original farmstead included
 10 both of those and the petitioner seeks to create a lot that maximizes the ease of tillage while minimizing
 11 the amount of change on the ground. He said and of course no ground if being taken out of agriculture.
 12

13 **4. The requested variance {IS / IS NOT} in harmony with the general purpose and intent of**
 14 **the Ordinance because:**
 15

16 Mr. Randol said the requested variance IS in harmony because there was not any land being taken out of
 17 agricultural production.
 18

19 **5. The requested variance {WILL / WILL NOT} be injurious to the neighborhood or**
 20 **otherwise detrimental to the public health, safety, or welfare because:**
 21

22 Mr. Herbert said the requested variance WILL NOT be injurious to the neighborhood because relevant
 23 jurisdictions have been notified of this case, and no comments have been received.
 24

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

28 Mr. Wood said the requested variance is the minimum variation that will make possible the reasonable
 29 use of land because it is the minimal amount of squared-off property so that Mr. Taylor can first of all
 30 clean up the debris that was there and also facilitate the farming operation as well.
 31

32 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**
 33

34 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the
 35 Findings of Fact as amended.
 36

37 **Mr. Wood Moved, seconded by Mr. Mr. Herbert, to adopt the Summary of Evidence, Documents**
 38 **of Record, and the Findings of Fact as amended. The motion carried by voice vote.**
 39

40 Mr. Elwell entertained a motion to move to Final Determination for Case 085-V-23.
 41

42 **Mr. Roberts moved, seconded by Mr. Herbert to move to Final Determination for Case 085-V-23.**
 43 **The motion carried by voice vote.**
 44

45 Mr. Elwell informed the petitioner that he was going to be reading from page 10 of 10 from Attachment
 46 F.
 47
 48
 49

FINAL DETERMINATION FOR CASE 085-V-23

Mr. Wood moved, seconded by Mr. Randol, 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 085-V-23 is hereby *GRANTED* to the petitioner, Wes Taylor, to authorize the following:

Authorize a variance for adding 1.31 acres to a 3.9-acre lot that was approved in Variance Case 015-V-21 for a total of 5.21 acres in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture 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- Yes	Roberts- Yes	Anderson- Yes	Herbert- Yes
Elwell- Yes	Wood- Yes	Bates- Yes	

Mr. Elwell said congratulations Mr. Taylor and wanted to let him know that he was the other offer put in when he purchased this house.

Mr. Taylor said oh, that was you. He said he was glad this still went well. He said he was nervous for about four months and now he understands why.

Mr. Elwell said absolutely. He said the Staff will be in contact with him soon.

Mr. Taylor thanked the Board for their time.

8. Staff Report - None

9. Other Business

A. Review of Docket

Mr. Anderson said he would like to commend Mr. Elwell on his reading out loud. He said it was nice and stable.

Mr. Elwell said even Moses got his information to the Pharaoh even if he was not as fluent as what his brother Aaron was. He said he was not perfect, but he did care. He asked if there were any absences coming up.

Mr. Bates said that week will possibly be spring break so he might not be there.

Mr. Elwell said okay. He entertained a motion to adjourn.

10. Adjournment

1 **Mr. Roberts moved, seconded by Mr. Bates, to adjourn. The motion carried by voice vote.**

2

3 The meeting adjourned at 9:38 PM

4

5 Mr. Elwell requested a roll call vote.

6

7 The vote was called as follows:

8 **Randol- Yes Roberts- Yes Anderson- Yes Herbert- Yes**

9 **Elwell- No Wood- Yes Bates- Yes**

10

11

12 **Respectfully Submitted**

13

14 **Secretary of the Zoning Board of Appeals**

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