

Piatt County Zoning Board of Appeals

October 25, 2018

Minutes

The Piatt County Zoning Board of Appeals met at 7:00 p.m. on Thursday, October 25, 2018 in Courtroom #1 of the Courthouse. Chairman Loyd Wax called the meeting to order. The roll was read and Nusbaum announced there was a quorum. Attending were: Wax, Jerry Edwards, Jim Harrington, Kyle Lovin, States Attorney Dana Rhoades, Assistant States Attorney Elizabeth Dobson and Keri Nusbaum.

County Board members in attendance were: Al Manint, Ray Spencer, Robert Murrell, Renee Freundt, and Dale Lattz.

MOTION: Jim Harrington made motion, seconded by Kyle Lovin, to approve the minutes from August 23, 2018 as written. On voice vote, all in favor, motion carried.

New Business:

Wayne Seifert has applied for a variation to sell a 2.4 acre tract of land zoned AC located at 1414 River Bend Lane, White Heath for residential use. Wayne Seifert was sworn in, and told the ZBA members he would like to sell part of the 6.4 acre tract he owns. He previously had this tract and more adjacent land in tree farm production.

Janet Gurga was sworn in. She owns property across the street and has concerns that if this is approved it is a slippery slope. She has concerns that others on the road could divide their property as well.

Elizabeth Masters was sworn in. She lives next door to the subject property. She bought her property 2 ½ years ago and wants the integrity of the neighborhood to be maintained. She doesn't want the character of the neighborhood to be changed. They are worried about damage to the lane. They have a private lane agreement. Wax had some questions for her. There are 11 or 12 homes in the area, but it is not a platted subdivision. There are no covenants or restrictions. There is no homeowners association.

Nick Donnelly has the same concerns. Lee Gurga was sworn in. He is concerned about changes in the character of the neighborhood. He says the lane agreement is voluntary, and one homeowner has refused to join in. He is worried that a new homeowner would also refuse to chip in.

Edwards asked Nusbaum how many times this property had been divided. It was divided when the property was sold to Mr. Seifert. There was verbiage on the deed placing conditions, but there were no restrictions or covenants filed.

The board considered the variation factors.

VARIATION ZONING FACTORS- Seifert

1. Will the proposed use compete with the current use of the land?
The ZBA agreed (4-0) that the proposed use would not compete with the current use.
2. Will the proposed use diminish property values in surrounding areas? (2-2)
Two ZBA members felt there was potential to diminish property values,
Two members said the proposed use would not diminish property values.

3. Would a denial of the variance promote the health, safety and general welfare of the public?
The ZBA agreed (4-0) that there is no evidence a denial would promote the health, safety or general welfare of the public.
4. Would denying the variance create a hardship for the landowner?
The ZBA agreed (4-0) that denying the variance would create an inconvenience for the landowner.
5. Would granting the variance create a hardship for the surrounding property owners? The ZBA agreed (4-0) that surrounding homeowners believe there could be a hardship created.
6. Is the property suitable for its current use?
Yes. The ZBA agreed (4-0) that the property is suitable.
7. Is the property suitable for the proposed use?
Yes. The ZBA agreed (4-0) that the property is suitable.
8. Is there a community need to deny the variance?
The ZBA agreed (4-0) that the immediate neighbors have voiced objection to the variance, and believe there is a need to deny.
9. Is the subject property non-productive with its current use?
The ZBA agreed (4-0) that the property is not currently in production.
10. Would a granting of this variance compete with the Piatt County Comprehensive Plan?
The ZBA vote was (2-2). Two members felt it does compete as the property is zoned A-1 and it is not 20 acres. Two felt it did not. They believe it does not compete as it is a rural subdivision.

MOTION: Jim Harrington made motion to recommend approval of the variation to the County Board. Seconded by Kyle Lovin. Roll was called. Harrington - Yes; Lovin- Yes; Edwards- No; Wax- Yes. The motion carried 3-1.

The County Board will consider this matter at their November 14, 2018 meeting.

SUP for Boat and RV Storage

Phillip Van Swol applied for a Special Use Permit for a Boat and RV storage facility on 5 acres of A1 land located at 2798 N 1500 East Road, Mahomet IL. Mr. VanSwol was sworn in. He already has a building on the property, and wishes to add a second building 45' x 104' for boat and RV storage. He will extend the existing gravel drive to serve the new building. There were no objectors. The zoning board members considered the zoning factors.

SUP Factors – Van Swol

1. The existing uses and zoning of nearby property.
The ZBA agreed (4-0) that there is a mix of some homes, businesses, and agriculture.
2. The extent to which property values are diminished by the zoning restrictions imposed.
The ZBA agreed (4-0) that there is no evidence that property value will be diminished.
3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public.

- The ZBA agreed (4-0) that property values will not be diminished.
4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.
The ZBA agreed (4-0) that no hardship would be imposed.
 5. The suitability of the Applicant's property for the zoned purpose.
The ZBA agreed (4-0) that the property is suitable for the zoned purpose.
 6. The length of time the Applicant's property has been vacant as presently zoned.
The ZBA agreed (4-0) that the property is not vacant as zoned.
 1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community?
The ZBA agreed (4-0) that granting the SUP would not be detrimental.
 2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood?
The ZBA agreed (4-0) that there is no evidence that granting the SUP would be injurious or diminish and impair property values.
 3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district?
Yes, it will not impede. The ZBA agreed (4-0) that there is no evidence that granting the SUP would impede normal and orderly development or improvement of surrounding property.
 4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted?
Yes. The ZBA agreed (4-0) that there are adequate facilities, road, and drainage.
 5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted?
Yes. The ZBA agreed (4-0) that there are adequate measures.
 6. Does the SUP conform to the regulations of the zoned district?
The ZBA agreed that the SUP does not conform, which necessitates the request for SUP.
 7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use.
Yes. The ZBA agreed (4-0) that the SUP conforms and there appears to be a demand for the service.
 8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan?
Yes. The ZBA agreed (4-0) that the SUP does not compete, and as there are similar uses in the area, it does not compete.

MOTION: Jerry Edwards made motion to recommend approval to the County Board. Seconded by Kyle Lovin. Roll was called. Edwards – Yes; Lovin-Yes; Harrington-Yes; Wax- Yes. Motion carried. The county board will consider the matter at their November 14, 2018 meeting.

SUP for Solar Energy System/Solar Farm:

329 Frontier Piatt, LLC applied for a Community Solar Farm on A1 land owned by KC HERM LAND CO. located at 2240 North 375 East 2200 North Road, Deland IL. This item was heard at the August ZBA meeting and tabled at the request of the petitioner. Alex Farkes of Borrego Solar was sworn in by Chairman Loyd Wax. He noted that they are aware of all requirements of the County and State, including the AIMA agreement with the State of Illinois, and they will comply with all requirements. He feels with all of the meetings they've had over the last 2 months has improved their project, however not everyone can be made happy. The site is over 1600 feet from the road, 19 times the required setback.

Tom Huddleston and Jon SeEVERS were sworn in. They are drainage contractors. They presented the drainage plan for the proposed site. They believe surface drainage will be improved by the plan. Each drain tile has been probed and GPS located. They presented their study. The plan for the site includes upgrading the existing 12” drain tile to an 18” ADS Polypropylene pipe and installing a 4’ manhole with a high capacity grate to replace the failed catch basin.

Pat McGarr was sworn in and presented the data from her studies regarding how solar farms affect property values. Her data shows no positive or negative affect and the same rate of appreciation as properties not near solar farms.

Phil Floyd was sworn in. He said he is satisfied with the drainage plan. He asked the ZBA if they are certain the AIMA requirements were met. Nusbaum explained that the IL Dept. of Ag will not issue an AIMA until the state permits are issued. He is concerned about State requirements. States Attorney Rhoades explained the County will review for county requirements, and the State requirements will be reviewed by the State. He thinks both entities should have the same requirements. Mike Masse, the attorney for Borrego Solar read the requirements Mr. Floyd was questioning, and explained the requirements by the state and how they relate to the County permit.

Kevin Nolan, an attorney for Jeff and Rebecca Swartz took the floor. He asked for clarification from States Attorney Rhoades and Chairman Wax regarding procedure. He questioned the representatives from Borrego regarding the grade to the site from the Swartz residence. He also questioned the models used, the data used in the models, the specifications of the panels, and the sound of the project.

Kip Smith of Borrego was sworn in to answer the questions. Nolan questioned the drainage contractor, (Huddleston) who said that they were following the advice of the attorney and representative of the drainage district.

The meeting went into recess for approximately 10 minutes.

Mr. Nolan continued. He said the farmland should not be used for solar. He believes a fire hazard would exist with a solar farm.

Jack Swartz was sworn in. He said he was representing concerns of the drainage district. He presented a letter from a drainage tiler. He doesn’t think the proposed drain tile work is adequate. He said the representatives of the district have had limited contact with representatives of Borrego.

Jeff Swartz was sworn in. He lives approximately 1625 feet from the proposed site. He reminded the ZBA of the letter he and his wife submitted in August. They have since met with representatives of Borrego, and they are worried about property values, inadequate screening, and glare.

Elijah Smith was sworn in. He encouraged the solar providers to use a pollinator friendly mix.

Ken Hermann was sworn in. He is a part owner of Frontier Farms. He said the farm used to be small fenced fields for livestock, so water is pushed places where it wasn’t before. The ‘impediment’ Jeff Swartz referenced is a natural rise and has always been here.

Sandra Smith was sworn in and had questions pertaining to Special Use permits.

The ZBA considered the Zoning factors.

SUP FACTORS – 329 Frontier Piatt LLC

1. The existing uses and zoning of nearby property.
The ZBA agreed (4-0) that the use and zoning of nearby property is agriculture mainly farmground.
2. The extent to which property values are diminished by the zoning restrictions imposed.
The ZBA agreed (4-0) that values are not diminished by current zoning restrictions imposed.
3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public.
The ZBA agreed (4-0) there is no change of property values, so this does not apply

4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.
The ZBA agreed (4-0) there is no change as currently zoned.
5. The suitability of the Applicant's property for the zoned purpose.
The ZBA agreed (4-0) that the property is suitable for the agriculture purpose.
6. The length of time the Applicant's property has been vacant as presently zoned.
The ZBA agreed (4-0) that the property has not been vacant. It is farm ground.
1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community?
The ZBA agreed (4-0) that it could be considered detrimental.
2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood?
The ZBA voted (2-2) that granting the SUP would not be injurious. Two members felt it could impair property values.
3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district?
The ZBA voted (3-1) that granting the SUP would not impede the normal orderly development and improvement of surrounding property for permitted uses.
4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted?
The ZBA voted (4-0) that if the drainage is improved there are adequate facilities.
5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted?
The ZBA agreed (4-0) that there are adequate measures for ingress and egress.
6. Does the SUP conform to the regulations of the zoned district?
The ZBA agreed (4-0) that it does not conform or an SUP would not be required.
7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use.
The ZBA voted (3-1) that the SUP conforms in all other respects, and due to the state requirement for renewable energy, is a necessity. One member felt there was not a specific need for this project.
8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan?
Chairman Wax noted that solar energy was referenced in the Comprehensive plan, with notes that it would be cost prohibitive.
It appears to be in harmony with the comprehensive plan.
The ZBA voted (3-1) that it does not compete, and is in harmony.

MOTION: Jerry Edwards made motion to recommend approval of the SUP to the County Board. The motion was seconded by Kyle Lovin. Roll was called. Edwards – Yes; Lovin- Yes; Harrington- No; Wax – Yes. The vote was 3-1 and the motion carried.
The matter will be considered by the County Board on November 14.

SUP for Solar Energy System/Solar Farm:

Madden Creek Solar, LLC applied for a Special Use Permit for a Community Solar Farm on A1 land located at 2840 N 1500 East, Mahomet. This was heard at the August ZBA meeting and was tabled at the request of the petitioner. Ben Adamich presented the proposal of Geronimo Energy for an up to 4

MW project. They have been meeting with adjacent land owners, and proposed to slightly change the footprint of the site, adding another row of plant screening and replace the existing road for the Sunrise Terrace subdivision upgraded to the conditions which Blue Ridge Township would accept. They have agreed to address the failed drainage pipe as well. He submitted 4 letters of support from Sunrise Terrace residents. Geronimo asks to make the road and agreements with the subdivision residents' part of the condition of the Special Use permit.

Jerry Edwards spoke with Rob Harper (Blue Ridge highway commissioner) today, and he has not guaranteed acceptance of the road by Blue ridge Township.

Tal Holmes was sworn in. He lives across the road in Champaign County. He said he has not been contacted by the company. He is concerned about property values, and contacted local realtors. They told him two realtors thought the value would be impacted by approximately 5-10 thousand dollars. All three thought having a solar farm would not be a positive selling point. He is concerned about surface drainage. He asked about the LESA score which is 244.

Chris Doenitz was sworn in. He owns property in Champaign County across the road. He is the Mahomet Township road commissioner, and feels Geronimo has tried to circumvent him by using the other road. He said Borrego Solar did a good job presenting their solutions with drainage experts, and he thinks Geronimo should do the same.

Doug Gerrib was sworn in. He represents the residents of Sunrise Terrace. The residents support the Solar farm application with the conditions of the drainage, additional screening and the road repair. He said originally the residents were not in support, but after several conversations with Ben Adamich and representatives of Geronimo they are all in support. The additional screening and the fact that they will repair the road to township specs are all positives. They are also concerned that the landowner will put something worse there if this is not approved.

The ZBA discussed the zoning factors.

Madden Creek Solar LLC (10-25-18)

1. The existing uses and zoning of nearby property.
The ZBA agreed (4-0) that the nearby properties are agriculture, commercial, and residential.
2. The extent to which property values are diminished by the zoning restrictions imposed.
The ZBA agreed (4-0) that property values are not diminished by the zoning restrictions imposed.
3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public.
The ZBA agreed (4-0) that there is no reduction, and it is not applicable.
4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.
The ZBA agreed (4-0) that there is some inconvenience currently to the adjoining landowners due to lack of drainage and neglect of the property. The property is currently being farmed.
5. The suitability of the Applicant's property for the zoned purpose.
The ZBA agreed (4-0) that the property is suitable.

6. The length of time the Applicant's property has been vacant as presently zoned.
The ZBA agreed (4-0) that the property is not vacant it is being farmed.

1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community?
The ZBA agreed that there were some objections, and some supporters.

2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood?
The ZBA agreed (4-0) that there is a possibility that it could be injurious to the surrounding properties.

3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district?
The ZBA agreed (4-0) that it may impede due to surface water drainage issues, and could impede future residential development.

4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted?
The ZBA agreed (4-0) that there are adequate facilities except for the drainage.

5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted?
The ZBA agreed (4-0) that there would be adequate if the condition is met regarding the repair/replacement of the road.

6. Does the SUP conform to the regulations of the zoned district?
The ZBA agreed (4-0) that it does not, creating the need for the SUP.

7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use.
The ZBA voted (4-0) that there is no public necessity.

8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan?
The ZBA agreed that there is farmland taken out of production which technically competes, but the area is mixed use. They voted (4-0) that the SUP may compete with the plan.

MOTION: Jerry Edwards made motion, seconded by Jim Harrington to recommend approval to the County Board with conditions of replacing drain tile, repair the road to the specifications of Blue Ridge Township, address surface drainage issue, enter into an agreement with Blue Ridge Township, and receive access approval and agreement for access from Sunrise Terrace. Roll was called. Edwards – Yes; Harrington – No; Lovin-No; Wax- Yes.

SUP for Solar Energy System/Solar Farm:

ASD Monticello Solar LLC applied for a Special Use Permit for construction of a solar farm for property zoned A1 located at 1042 E 1500 North Road, Monticello, Illinois.

Kevin Foster of AMP Solar was sworn in and presented the plan for the 1.5 MW Solar garden to be located on property owned by James and Mare Payne. He went over the site, the company history, and what has been done to mitigate any concerns.

Joanna Shaffer was sworn in. She owns property directly adjacent. She is concerned about property values and what impact it would have on wildlife.

Mike Randall was sworn in. He has concerns about property values and fire hazard.

Colleen Killian was sworn in. She worries that her view of the country will be impacted negatively.

Joe Lieb was sworn in. He says the drainage in the area is a mess, and he is against this use of good farm ground.

There were 3 letters submitted from nearby landowners who are against the development.

The zoning board members asked about setbacks, the point of connection, and the truck route which would be used.

The ZBA discussed the zoning factors.

ASD Monticello Solar LLC (10-25-18)

1. The existing uses and zoning of nearby property.
The ZBA agreed (4-0) that the nearby property is farm ground.
 2. The extent to which property values are diminished by the zoning restrictions imposed.
The ZBA agreed (4-0) that values are not diminished.
 3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public.
The ZBA agreed (4-0) that there is no reduction and this is not applicable.
 4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.
The ZBA agreed (4-0) that there is no hardship to either the applicant or adjoining landowners.
 5. The suitability of the Applicant's property for the zoned purpose.
The ZBA agreed (4-0) that the property is suitable for the zoned purpose.
 6. The length of time the Applicant's property has been vacant as presently zoned.
The ZBA agreed (4-0) that this is not applicable.
1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community?
The ZBA agreed (4-0) that there is evidence that granting the SUP could be injurious.
 2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood?

The ZBA agreed (4-0) that granting the SUP could be injurious to the use and enjoyment. There is no evidence regarding property values.

3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district?
The ZBA agreed (4-0) that granting the SUP could impede the A1 usage.
4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted?
No. The ZBA agreed (4-0) that there are questions regarding the construction access roads proposed, and questions regarding drainage which are not addressed.
5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted?
Yes. The ZBA agreed (4-0) that there is adequate ingress and egress to the property and no congestion would be anticipated.
6. Does the SUP conform to the regulations of the zoned district?
NO. The ZBA agreed (4-0) that it does not conform, thus the need for SUP.
7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use.
The ZBA agreed (4-0) that there is not a demonstrated public need.
8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan?
The ZBA agreed (4-0) that while it may compete with the plan, it is in harmony with the goals.

MOTION: Jim Harrington made motion, seconded by Jerry Edwards to recommend approval to the Piatt County Board. Roll was called. Harrington – No; Edwards – No; Lovin – No; Wax- No. The motion did not carry.

Public Comments: None

MOTION: Kyle Lovin made motion, seconded by Jerry Edwards to adjourn. All in favor and the meeting adjourned at 11:55 p.m.

Respectfully submitted,

Keri Nusbaum
Piatt County Zoning Officer