

## **Piatt County Zoning Board of Appeals**

December 20, 2018

### **Minutes**

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, December 20, 2018 in Room 104 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, Dan Larson, Jim Harrington, Assistant States Attorney Elizabeth Dobson, Assistant States Attorney Tamara Waggoner and Keri Nusbaum.

County Board members in attendance were: Ray Spencer, Randy Shumard, Shannon Carroll and Dale Lattz.

**MOTION:** Larson made motion, seconded by Harrington, to approve the minutes from November 15, 2018 as written. On voice vote, all in favor, motion carried.

### **New Business:**

On November 28, 2018 329 Frontier Piatt, LLC, a subsidiary of Borrego Solar Systems, Inc. acting for KC Herm Land LLC applied for a Special Use Permit for a 4 MW Ground mounted Community Solar Farm for property zoned A1 Agriculture located at 2240 N 375 East Road, Deland, Illinois.

Chairman Loyd Wax announced the procedures to be followed. Those presenting for the applicant will be given a total of 30 minutes, and the adjacent land owner/objector will be given 30 minutes. Any persons wishing to speak who are not adjacent landowners will be limited to 5 minutes.

Alex Farkes of Borrego Solar was sworn in. He acknowledged that they have been through the hearing process before and gave a brief overview of Borrego Solar, a family owned company, ranked in the top 3 nationally. He reviewed the site plan, glare studies, property value study results. He said the sound study indicates you would hear sound only at the fence line. The site is proposed to be located at twenty times the required setback and is located 2000 feet from the Swartz residence.

James Coyle, engineer for Borrego Solar was sworn in. After meeting with the drainage district, the drain tile plan was revised. Farkes reviewed the real estate tax benefits to the county should the permit be approved and the project completed. The school would receive approximately \$14000 more per year. The County would receive approximately \$3000 in additional tax revenue per year. Mike Massie, attorney for Borrego Solar discussed project including impacts to the land and consumers. He said solar should be treated as a resource, both energy and a resource to the land owner. He proposed conditions to be placed by the Zoning Board. Edwards asked if the transformer would make noise only when the sun was shining, and that was answered "Yes" by Mr. Farkes.

Kevin Nolan, attorney for the Swartz family and Millennia Park was sworn in. He had issues with the notice, said there should be rules and bylaws of the ZBA, the decommissioning plan is not sufficient, the irrevocable letter of credit has not been submitted, and drainage easements were not addressed. He said the drainage agreement should be in writing before it is approved. He said there is no information available on the effect of a solar farm on farm ground sales. He believes use and enjoyment of neighboring properties could be impacted.

Jack Swartz was sworn in. He was a commissioner in attendance at the meeting with the drainage district. He said there could be some benefit to the drainage, but final details were not confirmed. He said the district will not approve until all details are agreed to.

Ken Hermann was sworn in, speaking for himself and his family. They own the farm where the project is proposed. The family has owned the property for 150 years and he is the 6<sup>th</sup> generation farming this property. He said they would not do anything to hurt the productivity or value of the land. He believes the improved drainage would benefit themselves and the neighbors. The extra tax revenue would benefit the county.

Jeff Swartz was sworn in. He referenced a letter submitted in August by himself and his wife, and said their position has not changed.

Loyd Wax read letters which had been submitted. Phillip Floyd, an adjacent property owner, voiced no objections and if the drainage repairs are completed as proposed it would help resolve his drainage problems. Kevin Nolan submitted a letter detailing his client's objections. Sue Hermann wrote a letter in support. Jon Seevers, a drainage contractor, wrote to say the proposed drainage improvement plan would be a great improvement to the landowner's upstream. Chris Hermann submitted articles referred from Jamie Jones, Soil Conservationist.

Harrington asked some questions regarding the site plan of Farkes.

### **Factors – 329 Frontier Piatt LLC**

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public?

The zoning board voted 4-0 that it does. Wax said he believes most of the time it does, but not always.

2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity?

The Zoning board discussed. Edwards – it's a possibility; Wax- it's possible it could be injurious, but as proposed, not likely. Larson and Harrington – yes it could be injurious. There is concern from the neighbors and drainage concerns.

3. Will granting the special use diminish property values of other property within the immediate vicinity?

Edwards and Wax – No; Harrington and Larson-Yes, values could be impacted. (2-2)

4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)?

The ZBA agreed 4-0 there are no access issues, but 2 members believe there is a drainage issue which would need to be addressed.

5. Would the special use, if granted, be in harmony with the overall comprehensive plan of the county?

The ZBA agreed (4-0) that the special use would be in harmony with the comprehensive plan.

6. Would the special use, if granted, compete with or impede the existing zoned uses of other property within the zone?  
The ZBA voted (3-1) that it would not impede. Harrington said it would compete with the current use of the ground but would not impede.
7. Would the special use, if granted, create a hardship on other landowners within the zone?  
The ZBA agreed (4-0) that it would not be a hardship.
8. Would denying the special use create a hardship on the applicant?  
The ZBA agreed (4-0) it would not create a hardship.
9. Is the subject land suitable for the special use and is the subject land suitable for the current zoned use?  
The ZBA voted (2-2) the land is not suitable. The ZBA agreed (4-0) that the land is suitable for the current zoned use.
10. Would the special use, if granted, have a harmful impact upon the soil?  
The ZBA agreed (4-0) that it would not be harmful.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
The LESA score is 218.6. The ZBA agreed (4-0) that the land would not be permanently out of production.

**MOTION:** Edwards made motion; seconded by Larson to recommend approval to the County Board with the following conditions: SUP will run with the ownership of the land; if there is a change in ownership of the array or the land, the county will be notified; the arrays will be placed as represented on the site plan provided; A detailed decommissioning plan as required by Article X of the Piatt County Zoning ordinance will be presented to the County Board. Evidence of liability coverage shall be submitted prior to the issuance of a building permit. Said liability coverage shall be a general liability policy covering bodily injury and property damage with limits of at least \$2 million per occurrence and \$2 million in the aggregate. The ordinance of the County Board granting a Special Use Permit shall not be valid for more than two (2) years from the date of such ordinance approval unless the building permit and the erection or alteration of the building is started or the use is commenced within such time period. Application may be made for an extension of the time prior to commence the authorized Special Use. Extensions in the Special Use schedule for One (1) year periods may be recommended by the Zoning Board of Appeals and granted by the County Board. If the County Board so stipulates when acting favorably on a Special Use Application, the Zoning Board of Appeals may be delegated the authority of granting extensions in the building schedule for periods of time not to exceed a total of one (1) year each. Prior to the issuance of a Building Permit, applicant must provide a fully executed Drainage Agreement between Applicant and the Dewitt Special Drainage District to the County Zoning Administrator. Applicant shall install a vegetative screening buffer around the southern and eastern portions of the perimeter of the project area.

Roll was called: Harrington – No; Larson- No; Edwards – Yes; Wax- Yes. (2-2)

Public Comments: Farkes expressed appreciation to the Zoning board.

**MOTION:** Harrington made motion, seconded by Larson to adjourn. All in favor and the meeting adjourned at 3:04 p.m.

Respectfully submitted,

Keri Nusbaum  
Piatt County Zoning Officer