

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
1776 E. Washington Street
Urbana, IL 61801

DATE: September 26, 2019 **PLACE: John Dimit Meeting Room**
1776 East Washington Street
TIME: 6:30 p.m. **Urbana, IL 61802**

MEMBERS PRESENT: Tom Anderson, Frank DiNovo, Ryan Elwell, Marilyn Lee, Jim Randol

MEMBERS ABSENT: Larry Wood

STAFF PRESENT: Connie Berry, John Hall

OTHERS PRESENT: Kelly Pfeifer, Tami Fruhling-Voges, Robert Illyes, John Peterson, Scott Szymoniak, Tom Clarkson

1. Call to Order

The meeting was called to order at 6:30 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 for that public hearing. He reminded the audience that when they sign the witness register, they are signing an oath.

3. Correspondence

None

4. Approval of Minutes

None

5. Continued Public Hearing

None

6. New Public Hearings

1 Mr. Elwell entertained a motion to re-arrange the agenda and hear Case 953-V-19 prior to Cases 945-AT-19,
2 946-AT-19, 947-AT-19 and 948-AT-19.

3
4 **Mr. DiNovo moved, seconded by Ms. Lee, to re-arrange the agenda and hear Case 953-V-19 prior to**
5 **Cases 945-AT-19, 946-AT-19, 947-AT-19 and 948-AT-19. The motion carried by voice vote.**

6
7 Mr. Elwell call Cases 945-AT-19 and 946-AT-19 concurrently.

8
9 **Case 945-AT-19 Petitioner: Zoning Administrator Request: Amend the requirements for a**
10 **photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by**
11 **adding the following requirements for any proposed PV solar farm that is located within 1.5 miles of a**
12 **municipality: A. Increase the minimum required time for municipal review by adding the following:**
13 **1. Require the Zoning Administrator to send notice to any municipality located within 1.5 miles of a**
14 **proposed PV solar farm prior to the start of a public hearing, in addition to any notice otherwise**
15 **required. 2. Require the public hearing at the Zoning Board of Appeals (ZBA) for the PV solar farm**
16 **to occur at a minimum of two ZBA meetings that are not less than 28 days apart unless the 28-day**
17 **period is waived in writing by any relevant municipality. 3. Require the Zoning Administrator to**
18 **notify said municipality of the ZBA recommendation after the close of the public hearing. 4. If the**
19 **Environment and Land Use Committee (ELUC) makes a preliminary determination to accept the**
20 **ZBA recommendation, the PV solar farm shall remain at ELUC for a maximum 30-day municipal**
21 **comment period until the next ELUC meeting, unless the municipal comment period is waived in**
22 **writing by any relevant municipality. B. Require municipal subdivision approval for any PV solar**
23 **farm land lease exceeding five years when required by any relevant municipal authority that has an**
24 **adopted comprehensive plan. C. Amend Section 8.2.3 to allow any PV solar farm authorized prior to**
25 **the effective date of this amendment and that is in the process of being repaired to not lose its zoning**
26 **right to operate. D. Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective**
27 **date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use**
28 **Permit, provided that the Special Use Permit for the solar farm has not expired.**

29
30 **Case 946-AT-19 Petitioner: Zoning Administrator Request: Amend the requirements for a photovoltaic**
31 **(PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the**
32 **following requirements for any proposed PV solar farm that is located within 1.5 miles of a**
33 **municipality: A. Increase the minimum required separation between a PV solar farm and a**
34 **municipal boundary from 0.5 mile to 1.5 miles. B. Increase the minimum required time for municipal**
35 **review by adding the following: 1. Require the Zoning Administrator to send notice to any**
36 **municipality located within 1.5 miles of a proposed PV solar farm prior to the start of a public**
37 **hearing, in addition to any notice otherwise required. 2. Require the public hearing at the Zoning**
38 **Board of Appeals (ZBA) for the PV solar farm to occur at a minimum of two ZBA meetings that are**
39 **not less than 28 days apart unless the 28-day period is waived in writing by any relevant municipality.**
40 **3. Require the Zoning Administrator to notify said municipality of the ZBA recommendation after the**
41 **close of the public hearing. 4. If the Environment and Land Use Committee (ELUC) makes a**
42 **preliminary determination to accept the ZBA recommendation, the PV solar farm shall remain at**
43 **ELUC for a maximum 30-day municipal comment period until the next ELUC meeting, unless the**
44 **municipal comment period is waived by any relevant municipality. C. Require municipal subdivision**
45 **approval for any PV solar farm land lease exceeding five years when required by any relevant**
46 **municipal authority that has an adopted comprehensive plan. D. Amend Section 8.2.3 to allow any**
47 **PV solar farm authorized prior to the effective date of this amendment and that is in the process of**

1 **being repaired to not lose its zoning right to operate. E. Add new Section 8.2.4 to allow any PV solar**
2 **farm authorized prior to the effective date of this amendment to be constructed pursuant to the**
3 **standard requirement of a Zoning Use Permit, proved that the Special Use Permit for the solar farm**
4 **has not expired.**

5
6 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
7 witness register for that public hearing. He reminded the audience that when they sign the witness register,
8 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was
9 no one.

10
11 Mr. Elwell asked the petitioner if he would like to make a statement regarding his requests.

12
13 Mr. John Hall, Zoning Administrator, stated Cases 945-AT-19 and 946-AT-19 are due to a letter that the
14 Chairman of the Environment and Land Use Committee received on November 5, 2018, from the Mayors of
15 the Villages of St. Joseph and Rantoul and the Village Presidents of Savoy and Mahomet and endorsed by
16 the Village Presidents of Ogden and Sidney, requesting re-evaluation of Zoning Ordinance requirements for
17 solar farms. He said that Cases 945-AT-19 and 946-AT-19 are very similar with the only difference that
18 Case 946-AT-19 includes a full one-and-one-half mile separation between a proposed solar farm and a
19 municipal boundary. He said that if staff continues to receive community solar applications, they are
20 expected to be within a municipal extra-territorial jurisdiction area because that is where the substations are
21 located. He said that staff is not recommending this text amendment because staff expects for those things to
22 be denied due to the increased one-and-one-half mile separation and would anticipate waivers to be parts of
23 any PV solar farm that is proposed. He said that Case 946-AT-19 is the text amendment that meets all of the
24 requests of the letter that was received in November 2018 and Case 945-AT-19 provides everything except
25 for the one-and-one-half mile separation. He said that the net effect of Case 945-AT-19 is that it would add
26 some time to the review of a proposed solar farm, but it is unclear as to how much more time it would add
27 because the County has never had a community solar farm approved in one public hearing and he would be
28 surprised to ever have that occur. He said that the end effect of Case 945-AT-19 and Case 946-AT-19 is to
29 guarantee that if a solar farm is within one-and-one-half miles from a municipality there has to be at least
30 two ZBA meetings, and he really does not see that being a change from what actually happens now. He said
31 that the cases also require municipal subdivision approval if there is a lease exceeding five years, and every
32 solar farm that was reviewed by this Board had a lease which exceeded five years. He said that no
33 municipality raised an issue with the lease requirement, and there are some municipalities in the County that
34 would want to see a subdivision approval along with that and it would be required for any other use, so it is
35 not really a change from practice and it really isn't even a stiffening of the requirements because the Zoning
36 Ordinance already requires that in Section 13 if a municipality requests it. He said that Parts C. and D. are to
37 make sure that no serious nonconformities are created with the existing solar farms that have already been
38 approved, although none of those have been constructed yet, but Parts C. and D. are important parts to this
39 amendment.

40
41 Mr. DiNovo asked Mr. Hall to indicate who the previously mentioned letter was from.

42
43 Mr. Hall stated that the letter was signed by the Mayors of the Village of St. Joseph and Rantoul and the
44 Village Presidents of Savoy and Mahomet and endorsed by the Village Presidents of Ogden and Sidney.

45
46 Mr. DiNovo asked if there is already a provision in the Ordinance that requires a subdivision.
47

1 Mr. Hall stated that Section 13 of the Zoning Ordinance requires that any construction or use has to be in
2 compliance with the *Illinois Plat Act*, Champaign County Subdivision Regulations, or municipal subdivision
3 regulations.

4
5 Mr. DiNovo stated that Mr. Hall is referring to Section 13.2.A.4 of the Zoning Ordinance.
6

7 Ms. Lee stated that she appreciated Mr. Geil's comments regarding all municipalities, townships, and all
8 relevant municipal authorities that have an adopted comprehensive plan. She said that a municipality or
9 township that does not have an adopted comprehensive plan should not be excluded, because they would not
10 have any rights for protest.

11
12 Mr. Hall stated that is already required for any zoned municipality, but in regard to the land lease, that is only
13 for municipalities with an adopted comprehensive plan because they are the only ones with subdivision
14 jurisdiction. He said that subdivision jurisdiction cannot be given to a municipality that does not have an
15 adopted comprehensive plan. He said that the amendment already does what Ms. Lee is requesting.
16

17 Ms. Lee stated that she understands the subdivision requirements. She asked how long after receipt of an
18 application would a municipality be notified, is it a certain number of business days.
19

20 Mr. Hall stated that the amendment is not that detailed, but if the Board desires to specify a certain number
21 of days for notification, then that text could be added. He said that he would not want to see the requirement
22 for sending out notice to be one or two days, but if the Board would like to place a time limit on the notice,
23 then he would recommend one week.
24

25 Ms. Lee stated that some people from municipalities complained during the solar farm hearings that they
26 received their information at the same time as the Zoning Board members. She asked if there was a better
27 way to inform the public prior to the meeting.
28

29 Mr. Hall stated that we would not be doing the public a favor by providing documents prior to sending them
30 to the ZBA, because documents change on a daily basis and it is what goes to the ZBA that the public should
31 be concerned about. He said that a municipality generally understands that what they see now may be
32 different by the time it goes to the ZBA, but the general public is not aware of those significant differences.
33 He said that the Board can change anything that they want within the amendment, but he would recommend
34 that the Board not change that part of it, because once the public receives bad information it is like a forest
35 fire, and it can never be extinguished.
36

37 Mr. DiNovo asked Mr. Hall to indicate what part of the unincorporated area of the county falls within the
38 one-and-one-half mile extra territorial jurisdiction.
39

40 Mr. Hall believes that it is between 40 and 50%.
41

42 Mr. DiNovo asked Mr. Hall if was aware of any substations that were outside of any one-and-one-half mile
43 extra territorial jurisdiction.
44

45 Mr. Hall stated that he is not aware of all substations, especially not all substations that have 3-phase lines.
46

1 Mr. DiNovo asked if ELUC raised this question before obtaining input from someone in the solar industry.

2
3 Mr. Hall stated that ELUC made a specific request that staff notify the people who are supportive of solar
4 farms so that they could provide comments, and Ms. Burgstrom has done that. He said that this text
5 amendment was sent to this Board by the skin of its teeth and there was a majority of ELUC who were not
6 interested in running this test amendment, and that is why Cases 945-AT-19 and 946-AT-19 are two
7 different cases. He said that he does not know what to expect from the County Board, but he wanted to
8 provide the County Board as much flexibility as possible with as much clarity as possible. He said that this
9 discussion at ELUC was very intense, no loud voices or shouting, but a majority of the Committee was not
10 supportive of Cases 945-AT-19 or 946-AT-19. He said that when he finally explained the great likelihood of
11 a municipal protest for either Case 945-AT-19 or 946-AT-19 if neither goes forward with a positive
12 recommendation, the Committee decided to run both cases so that the County Board could determine an
13 approval or denial.

14
15 Mr. DiNovo asked Mr. Hall if a municipality would actually shoot themselves in the foot by protesting a
16 change that would benefit them.

17
18 Mr. Hall stated that, to be fair, when we worked on this at the Regional Planning Commission Technical
19 Committee, the City of Urbana staff made it very clear that they would not want to see an amendment that
20 was too restrictive, and that is where Case 945-AT-19 came from.

21
22 Mr. Elwell called Robert F. Illyes.

23
24 Mr. Robert F. Illyes, who resides at 810 East Elm, Champaign, stated that he is present tonight because the
25 Sierra Club Executive Committee discussed this solar farm issue and it was thought that someone should
26 attend the meeting and voice their concerns. He said that his main concern is that access would be lost to
27 substations and there should be some sort of process by which this access could happen. He said that he has
28 a map of Champaign County and has indicated the areas of the County which would be included in the one-
29 and-one-half mile offset, and it would include a lot of the County. He said that we need to make sure that
30 substation access is allowed to keep down costs for a solar farm. He said that there is something odd about
31 the layout on his map because many of the communities with the one-and-one-half mile setback are a lot of
32 little towns that were established along the railroad and are not growing, and he is not sure that the County
33 needs to be so scrupulous in establishing the one-and-one-half mile separation.

34
35 Mr. Elwell asked the Board and staff if there were any questions for Mr. Illyes.

36
37 Mr. Anderson stated that he is rather new to the Board and this is the first solar farm issue that has been
38 brought before the Board during his term. He said that there is some reason for the one-and-one-half mile
39 separation from small towns to the solar farms, but in order for him to make decent decisions about
40 variances, he must understand why there is a difference between a one-half mile and one-and-one-half mile
41 separation from the village or municipality. He asked if the separations are due to aesthetic or economic,
42 agricultural, or ecological differences. He said that he does not understand why the distances make a
43 difference.

44
45 Mr. Hall stated that there will be witnesses here tonight who would be glad to discuss the differences in their
46 minds. He said that state law gives municipalities who have adopted a comprehensive plan a one-and-one-

1 half mile jurisdiction around their boundary.

2

3 Mr. Anderson asked why the distance one-and-one-half mile was chosen.

4

5 Mr. Hall stated that he had no idea.

6

7 Mr. Anderson stated that one-and-one-half mile is further than one can see without binoculars.

8

9 Mr. Hall stated that it is further than one can see but it isn't as far as a municipal person can plan for. He
10 said that if you are looking out for a municipality, you want to make sure that it can grow in the area that is
11 desired, then a municipality may want more than one-and-one-half mile separation. He said that like
12 everything else in the law, the one-and-one-half mile separation was probably a compromise, but it is what it
13 is, and the Champaign County zoning jurisdiction goes right up to a municipal boundary and the municipal
14 planning jurisdiction goes out over that zoning jurisdiction, thus there are overlapping jurisdictions. He said
15 that it is very unfortunate, but Mr. Anderson missed a lot of valuable discussions at last year's solar hearings.

16

17 Mr. Anderson asked if the one-and-one-half mile jurisdiction makes an economic difference to the
18 municipality.

19

20 Mr. Hall stated that there is no economic difference immediately, but the village concerns go to the village's
21 ability to continue to grow unimpeded. He said that, as Mr. Illyes said, these are small villages for the most
22 part and the area of their extra-territorial jurisdiction is much greater than their municipal area, but these
23 small villages desire to continue to grow and they look at the County's zoning authority to put a solar farm
24 out there as a road block. He said that it is a fact that this Board took a lot of time on each of the solar farms
25 that were within one-and-one-half miles from a municipality to determine if the location was within a growth
26 area or not, and the ZBA found that none of the solar farms would create a significant block to the village's
27 growth. He said that, in one instance, the County Board disagreed with the ZBA and denied what this Board
28 had recommended for approval. He said that solar farm denial was one out of seven solar farm cases and all
29 were within the one-and-one-half mile area.

30

31 Mr. DiNovo stated that in Illinois, municipalities that have adopted zoning ordinances can, by passing a
32 resolution of formal protest, effect any change to the County Zoning Ordinance, rezoning or text amendment
33 that affects land within one-and-one-half miles of their borders. He said that they do not have that power for
34 Special Use Permits or Variances, and in those cases a municipality is like any other citizen; they receive
35 notice and they have the right to participate in a public hearing. He said that in a case of a County Board
36 Special Use permit they have the right to communicate to the County Board, but they are in the same
37 position as any other citizen of Champaign County. He said that in the case of a rezoning, if a municipality
38 files a protest, the County Board can only enact that change by a $\frac{3}{4}$ majority vote and that has been proven to
39 be very difficult. He said that one of the issues that municipalities had is that they wanted to be able to
40 intervene with Special Use Permits the same way that the state gave them the ability to intervene on zoning
41 changes. He said that municipalities are used to being able to protest a rezoning and they are frustrated when
42 they are told that they cannot protest a Special Use Permit. He said that one of the reasons why the protest
43 rights apply to a rezoning is because they go way back to the County Enabling Act, which was way before
44 counties had the right to do Special Use Permits, and there is nothing to this day in the County Enabling Act
45 that says anything about Special Use Permits as counties were given the right to do that through a Supreme
46 Court case. He said that when the protest provision was written into the Zoning Ordinance, County Special

1 Use Permits were not an issue because they did not exist.

2
3 Mr. Hall apologized to Mr. Illyes for the Board and staff getting away from his comments, but there was a
4 question from one of the Board members which needed to be addressed.

5
6 Mr. Elwell asked the Board and staff if there were any questions for Mr. Illyes, and there were none.

7
8 Mr. Anderson stated that Mr. Illyes has obviously thought about these cases and he would appreciate his
9 input on approving variances within the one-and-one-half mile extra-territorial jurisdiction. He said that he
10 has a solar system at his house and it generally is very quiet, although he is not sure what a 10-acre solar
11 farm would sound like, and they may create a problem for the community. He said that aesthetically the
12 solar farm may not be as attractive as a corn field, and he is not sure what to think about this issue at this
13 time; he would appreciate more information about how they would affect small municipalities.

14
15 Mr. Randol stated that every issue is a case of its own and it has to be discussed individually and at length,
16 because what may work for one case may not work for another, which is why variances are available for
17 consideration.

18
19 Ms. Lee stated that part of this proposal is to give municipalities and small villages more time to respond to
20 solar farm cases.

21
22 Mr. Elwell asked the Board if there were any additional questions for Mr. Illyes.

23
24 Mr. DiNovo stated that Mr. Illyes resides in the City of Champaign, but he is also a resident and citizen of
25 Champaign County. He asked Mr. Illyes how he sees his interest in solar farms that are located in
26 unincorporated areas that may be near a small village or town. He asked Mr. Illyes to indicate his interest in
27 solar farms.

28
29 Mr. Illyes stated that he is concerned about zoning that makes sense. He said that one-and-one-half mile
30 separation may not be critical to a small town or village that is not growing, and someone may want to make
31 use of the land. He said that there are other communities that are definitely growing and should legitimately
32 have concern about these cases. He said that he would like to see this process being loose enough that the
33 Board can do what makes sense, and various other stakeholders should be consulted to determine a
34 reasonable solution.

35
36 Mr. Elwell asked the Board and staff if there were any additional questions for Mr. Illyes, and there were
37 none.

38
39 Mr. Elwell called Tami Fruhling-Voges to testify.

40
41 Ms. Tami Fruhling-Voges stated that she resides at 407 North Third St., St. Joseph, and she is the Mayor of
42 St. Joseph. She said that she would like to discuss the importance of the one-and-one-half mile extra-
43 territorial jurisdiction for St. Joseph, Ogden, Mahomet, Sidney, and Rantoul, and whether someone agrees or
44 disagrees with solar farms is a discussion that can occur on another day. She said that she grew up in St.
45 Joseph and she knows the changes that have occurred for the village, and that continued growth occurred at
46 different times. She said that when she was a child, she would have never dreamed that St. Joseph would be

1 as far out as it is now. She said that St. Joseph used to be a community of 1,200 residents and currently there
2 are 4,000 residents, and the village always receives requests from people who are wanting to remove
3 themselves from the larger cities and reside within the St. Joseph community, and at that point St. Joseph
4 may no longer be considered a small community. She said that there is room for growth and the biggest
5 concern that the Village of St. Joseph has is the one-and-one-half mile extra-territorial jurisdiction being
6 lowered to one-half mile, because that is not very far from their boundaries, and for a small village it is tough
7 and expensive to grow. She said that isn't like it was years ago, when there was a local developer who
8 developed the majority of the new subdivisions within the St. Joseph community, because the economy was
9 different and the developer contributed to a lot of the infrastructure, but that is not how it is any more, as it is
10 expensive to have growth in a community. She said that on the west side of St. Joseph, there is a river which
11 would make it difficult for growth in that direction, and on the east side of St. Joseph there is a railroad
12 which will be an issue for the rail trail because it will be costly for them to go through the railroad track and
13 that is the same issue that the Village would have regarding further infrastructure. She said that there are
14 substations located to the north and south of St. Joseph, and three solar farms were proposed to be located on
15 the north side of our community and all three solar farms were requesting variances to be closer than one-
16 half mile from the Village of St. Joseph's corporate boundary. She said that two of the three solar farms
17 were not selected in the state lottery and she does not know if or when those two solar farms will ever be
18 developed, but she does anticipate the lottery opening back up at some point. She said that between the two
19 solar farms that were approved, one was of lesser concern due to its proposed location, because it was near
20 the Sportsman's Club. She said that the reason why the Village Board protested all three solar farms was
21 because they didn't want to set a precedence indicating that they were picking and choosing one over the
22 other and thought that it was more important to be against all three. She said that the Village felt that they
23 should have some say over what occurs within their one-and-one-half mile jurisdictional area, as they have a
24 comprehensive plan that has changed a couple of times during her term because there are different ideas of
25 what is desired outside of their growth area. She said that she could remember when she would only have to
26 take a short walk to get to the other side of St. Joseph, and now you have to walk two miles to get to the
27 other side. She said that St. Joseph will grow at some point and the placement of a solar farm in two
28 directions that are the most feasible directions for the Village's growth is a concern. She said that if she had
29 been the mayor several years ago, she believes that St. Joseph would have been thinking ahead and the
30 utilities would have already been installed under the interstate and growth would already exist at the
31 interchange. She said that growth to the north will happen one day, and it will only take the ability to get the
32 infrastructure in place so that development can occur. She said that originally the previous developer owned
33 many of the properties and he anticipated that the growth of St. Joseph would occur to the north of the
34 interstate and two of the proposed solar farms were members of the developer's family who do not reside in
35 the area and desired to do something different with the subject property. She said that what occurs within
36 one-and-one-half miles of the Village of St. Joseph is important, and a solar farm is a huge obstacle for
37 future growth. She said that there are substations on the north and south sides, a river on the west side and
38 railroad to the east of St. Joseph, and the Village could be completely boxed in if solar farms are constructed
39 on both of those sides and there would be no potential for growth.

40
41 Ms. Fruhling-Voges stated that the argument has been voiced that the required infrastructure would be more
42 costly for the solar farm companies if they are forced to be locate further away from the existing substations,
43 and she understands that argument, but that issue of cost is true for St. Joseph. She said that the cost for
44 their municipality to extend their growth area would be increased substantially if they have to jump over a
45 40-acre solar farm for continued growth of the Village. She said that all of the infrastructure would be more
46 costly for their municipality because of the infrastructure, which includes roads, sidewalks, sewer, etc., that

1 would have to be constructed and installed around a solar farm and not under it due to the solar farm's
2 structural design. She said that what the Village of St. Joseph is requesting between the two amendments is
3 that the villages and municipalities are included in the conversation because they do have some say as to
4 what goes on outside of their boundaries. She said that the one-and-one-half mile jurisdictional area is not
5 overdoing it as far as having enough area to do some planning for future growth. She said that planning is an
6 important factor for the Village, and even though she has only been the Mayor of St. Joseph for two years,
7 she has been on the Board since 2005, and honestly, when she got on the Board, she knew very little about
8 planning and zoning and how important it is for the communities. She said that when she was on the
9 Regional Planning Commission Board and attended many of their workshops and meetings, she found that
10 planning is huge, and having a good comprehensive plan and goals for your community is a difference
11 between a community living or dying and planning should be a priority for every community. She said that
12 with the solar farms in mind, she feels that all of the communities, whether small or large, excluding
13 Champaign and Urbana because they have no substations within their extra-territorial jurisdiction and they
14 have more staffing to handle these situations better, should be included in this conversation. She said that
15 her staffing level at the Village of St. Joseph is very minimal, although she has had assistance from the
16 Village of Mahomet, and they have been very helpful regarding the proposed amendments. She said that she
17 contacted the Village Presidents of Sidney and Ogden to see if they had received the letters regarding the
18 proposed text amendment, and they were not aware that the letters had been sent because they do not have
19 the staffing to open their letter and put it on their desk for immediate review. She noted that most of the
20 mayors and presidents for small villages are not full-time employees because they have full-time jobs and
21 they do not have the staff to hold their hand and get through all of the paperwork and proposals that they
22 receive; they have to do it themselves. She said that as a mayor, she receives \$300 a month to be mayor,
23 although she spends 30 to 40 hours per week in that role, including attending meetings like the one she is
24 attending tonight. She said that the notifications from the County are important, because the small villages
25 and municipalities need to know what is being proposed and how it will affect their communities. She said
26 that she understands the solar farm's concern about cost, but the small villages and municipalities have the
27 same concern. She said that if the municipalities are included in the discussion for what the future holds, the
28 solar farm that was proposed within the Village of St. Joseph's extra-territorial jurisdiction area would have
29 given the Village an opportunity to figure out if an annexation agreement would be appropriate. She said
30 that currently, if a solar farm is outside of the boundaries for a municipality or village, they do not receive
31 any of the generated tax dollars, but if the municipalities and villages were part of the conversation, there
32 could be discussion regarding a possible annexation agreement so that those tax dollars are put back into the
33 community. She said that both governments should work together because the jurisdictions do overlap.

34

35 Mr. Elwell asked the Board and staff if there were any questions for Ms. Fruhling-Voges.

36

37 Mr. Anderson thanked Ms. Fruhling-Voges for her testimony, because he had hoped that someone would be
38 present tonight to address these cases and how they would affect their communities.

39

40 Ms. Fruhling-Voges stated that this is not a matter of being for or against solar farms, as that will always be a
41 debate. She said that the one-and-one-half mile separation proposal would be their choice, but they also
42 desire additional notifications and the ability to sit at the table to discuss the entire proposal that would affect
43 their entire community, and they need to be part of the conversation.

44

45 Mr. DiNovo stated that he does not know if Ms. Fruhling-Voges has had this discussion with their village
46 attorney, but if an annexation agreement is entered into, the Village of St. Joseph would have full jurisdiction

1 over the property. He asked Ms. Fruhling-Voges if a discussion occurred with the previous solar farm
2 petitioners regarding an annexation agreement.

3
4 Mr. Fruhling-Voges stated that they did not have the conversation with the solar farm petitioners at the time.
5 She said that they honestly only had one good conversation with the developer for two of the solar farms.
6 She said that the solar farm that was proposed north of the Sportsman Club was the one that the Village
7 believed would have less of an impact on the community and would have been the one that they would have
8 provided support for, but the Village decided not to set a precedence for all three solar farms. She said that
9 the developer for the solar farm north of the Sportsman Club did come to the Village and spoke two separate
10 times, and Ms. Fruhling-Voges received numerous phone calls from their company and the landowner to
11 negotiate things that would make it more pleasing for the Village to be in support. She said that she
12 explained to the solar company that their phone calls and cooperation were very much appreciated because
13 they did not hear a peep out of the other solar farm developer other than one phone call that asked if the
14 Village received their paperwork. She said that the only time that this developer asked to attend a meeting
15 was when they sat through one of the ZBA meetings and heard the testimony from the neighbors and her
16 mentioning how the other developer had worked with the Village and they had not. She said that a
17 developer providing the opportunity for the community to ask questions about a proposed solar farm is an
18 important value.

19
20 Mr. Elwell asked Ms. Fruhling-Voges to indicate the distance between the substations and the Village of St.
21 Joseph.

22
23 Ms. Fruhling-Voges stated that the substation to the south of St. Joseph is less than one-half mile from the
24 corporate boundary, and the substation to the north is right at one-half mile from their boundary, so both
25 would be included in their one-and-one-half mile jurisdictional area.

26
27 Mr. Randol stated that Mr. DiNovo brought up a very good point, in that when these issues are raised, the
28 smaller communities should be discussing these matters with their attorneys. He said that pre-annexation
29 agreements may be the only way that these smaller communities can have control and protect themselves.

30
31 Ms. Fruhling-Voges stated that they tried to do pre-annexation agreements, but their attorney mentioned that
32 there was a court case near Springfield which changed some of those dynamics, and that the Village should
33 be very careful about what type of annexation agreements they enter into, especially if they are not prepared
34 to install the infrastructure. She said that a solar farm would not require sewer service, sidewalks, etc., and
35 some type of annexation agreement could be possible between the Village and the developer, and that is
36 what the Village would need so that they could receive tax revenue from the solar farm project. She said that
37 if an agreement could be made to annex the solar farm into the Village without promising the infrastructure,
38 it would be beneficial for the village. She said that she does understand that without the annexation
39 agreement, the County and school districts, etc. would receive revenue, but the growth of the Village would
40 be hindered, although perhaps there is a compromise.

41
42 Mr. Randol stated that he walks on thin ice when it comes to these solar farms being proposed within one-
43 half mile of a small community, and he fails to understand why they would even propose such a location.

44
45 Ms. Fruhling-Voges stated that she does not know what the additional cost would be for a solar farm
46 developer to be further from a substation, but she believes that it could be done.

1
2 Mr. Randol stated that the solar farm's return is astronomical and would cover the cost associated with being
3 further from the substation. He said that he has a friend who has a solar system that takes care of his entire
4 farm and his mother pushes the pencil and determined that the system will pay for itself in three years. He
5 said that if a small system will pay for itself in three years, then an entire solar farm will do the same.
6

7 Ms. Fruhling-Voges stated that more and more private solar systems are being seen throughout the county
8 and she understands that there is a place for solar farms in the county, but we have to protect the interests of
9 St. Joseph and the other communities as well.
10

11 Mr. DiNovo stated that based on what is reported in the Central Illinois Business Magazine, there were over
12 300 kilowatts of solar capacity installed in the unincorporated areas of the county in May and June, and he
13 expects that to increase in the future. He said that the overlapping of jurisdictions is not only unfortunate for
14 the solar farms but also for a number of other uses, and most of them this Board has the authority to approve
15 within the one-and-one-half miles of a municipality, and in some way, this is a bigger issue. He said that
16 when the County was more naïve of the law, there used to be pre-application meetings with the petitioner,
17 county planner, county zoning administrator, township highway commissioner, fire protection district, and
18 someone from the municipality, and during that private meeting all entities would discuss the pros and cons
19 of the proposal, hashing out what the issues were likely to be. He said that it was determined that these
20 private meetings could not be held because the ZBA members could not attend to hear every piece of
21 evidence. He said that an inquiry could be sent to the State's Attorney to see if this practice could be done
22 again with just staff present, because this is an effective way of getting everything on the table and if it helps
23 the petitioner prepare, then it helps everyone else prepare. He said that if it was legally possible to have this
24 pre-application meeting, the best way to give municipalities notice is to involve them in a pre-application
25 meeting with representatives from those municipalities. He said that a pre-application meeting involving the
26 municipalities would be an ideal entry point for municipalities to participate and he would expect it to make
27 the public hearing work better as well. He said that exploring the possibility of a pre-application meeting
28 with the State's Attorney would be worthwhile.
29

30 Mr. DiNovo stated that as a landowner who has property within one-and-one-half miles of St. Joseph, he is
31 very much aware of the fact of the extent that St. Joseph exerts their jurisdiction over this property, and he is
32 being regulated by people that he did not vote into office and he cannot vote them out of office, and these
33 people are not politically accountable to him at all. He said that he can vote for his County Board District
34 members, which is better than nothing, but he is very concerned about how municipalities reach out and
35 control what people can do with their land even though they are not politically accountable to those people,
36 and it makes him nervous.
37

38 Ms. Fruhling-Voges stated that she understands Mr. DiNovo's concern, but St. Joseph is one municipality
39 that waives a lot of their subdivision processes, especially if the division is something that would not
40 negatively affect what they have planned within their one-and-one-half mile jurisdiction. She said that if the
41 division is something that will never be an issue for the Village, they try to make it as easy as possible and
42 do not make those landowners go through their process.
43

44 Mr. DiNovo stated that it is tricky business to work out and there are a lot of interests and concerns involved.
45

46 Ms. Lee stated that many of the villages do not have meetings until after the ZBA has made their

1 determination.

2
3 Mr. Hall stated that he hopes that these cases are continued to a later date, because normally when the Board
4 receives this much testimony from interested parties, staff tries to get that testimony into the Finding of Fact
5 so that when a case goes to the County Board, people know that the County Board sees their comments. He
6 said that he is not sure whether staff can get all of Ms. Fruhling-Voges' comments in the Finding of Fact, but
7 staff will do its best to summarize her testimony. He said that staff also needs to summarize some of the
8 things that Mr. DiNovo mentioned about the overlapping jurisdiction, because he knows there is strong
9 sentiment regarding overlapping jurisdiction, and the current Finding of Fact does not adequately reflect
10 either review. He said that he hopes that staff can revise the Finding of Fact so that it explains both sides
11 and people who are new to the issue could read the Finding of Fact and have more insight than what is in the
12 Finding of Fact currently.

13
14 **Mr. Randol moved to continue Cases 945-AT-19 and 946-AT-19 to a future date to allow further**
15 **discussion.**

16
17 Mr. Hall asked the Board if they desired to continue Cases 945-AT-19 and 946-AT-19 now or wait for a
18 later time during the meeting when the Board determines if all of the text amendment cases need to be
19 continued.

20
21 Ms. Lee asked Mr. Elwell if there were other witnesses on the register for these cases.

22
23 Mr. Elwell stated no.

24
25 Ms. Fruhling-Voges noted that she is not the Mayor of St. Joseph for the money, and she will continue while
26 she has that passion, and luckily for the Board, they got to experience that passion tonight.

27
28 Mr. DiNovo stated that his sister was her village board president for her town, and she would always tell him
29 that her entire salary was spent on buying raffle tickets from the Lions Club, etc.

30
31 Ms. Fruhling-Voges stated that she could relate with Mr. DiNovo's sister, as she just bought raffle tickets
32 from an organization in her community today.

33
34 Ms. Kelly Pfeifer requested the opportunity to sign the witness register.

35
36 Mr. Elwell called Kelly Pfeifer to testify.

37
38 Ms. Kelly Pfeifer, Planner and Development Director for the Village of Mahomet, stated that the changes
39 that are proposed which deal with the timing, consulting, notifications, and opportunities that are provided
40 for municipalities are wonderful. She said that what traditionally happens is that the petitioners are not
41 motivated to be forthright with information and indicate a minimal amount in their applications, and when a
42 public hearing is held is when the rest of the information is disclosed. She said that unfortunately the facts
43 are disclosed at the public hearing and by the time the ZBA makes its determination, the municipalities
44 would not have had time to respond. She said that a municipality cannot treat all of the applications, as they
45 are received, as a forgone decision that they are done, because the staff at a municipality has a lot of other
46 things to do. She said that municipalities have different processes and requirements and that often makes

1 things challenging. She said that the Village of Mahomet is growing very quickly, and it only takes a few
2 feet to cause a road to not be able to go through somewhere, and when the Board was discussing special uses
3 in the county, it is problematic and a challenge for municipalities to work with the county when there is
4 overlapping zoning and subdivision jurisdiction. She said that one of the challenges with special uses is that
5 it is a zoning issue and, traditionally, on a rezoning of land, a municipality has protest rights. She said the
6 solar farms brings up one of these points and under any special use, there are challenges, and the
7 applicability does not become apparent until you look at small towns that realize that they have a specific
8 land use that is going to be there for a specific amount of time and it is not reusable in its current state, and
9 we may need to be able to extend utilities past it, etc. etc. She said that the increase in the one-half mile to
10 the one-and-one-half mile is going to give some people heartburn. She said that if you think about it, one-
11 and-one-half miles from a municipality is pretty far, and sometimes a municipality will wish that they did not
12 have that jurisdiction, because there are some areas where it is more of a burden for the municipality, as
13 many times the subject property is not in the long-range area of their adopted comprehensive plan, but it is
14 within their one-and-one-half mile extra-territorial jurisdiction, so they have rights and responsibilities as
15 well. She said that the people that you elect or don't elect are not a factor with the jurisdictional area of a
16 municipality, because the adopted comprehensive plan and extra-territorial jurisdiction existed well before
17 the people who sit on any particular board or council at any particular time. She said that when the one-and-
18 one-half mile extra-territorial jurisdiction is discussed, you are talking about land uses and planning that
19 transcend one, two, three, or four boards, and it is the planning of the entity, the town, on physical land. She
20 said that in certain ways, there may or may not be a decision made in front of any particular board regarding
21 a particular piece of land, but there may be, and you don't know, and what you do know is that landowners
22 should have rights, and landowners have a right to sell for particular uses that are allowed within their
23 zoning districts. She said that even though the municipalities respect the landowner's rights, the public
24 should also be protected, and that is when municipalities come into play and it is not a power struggle or
25 land grab, but it is that there are some large planning issues that require so much time and strategizing and
26 are not super flexible; therefore, the municipality needs to have input earlier. She said that when a
27 municipality indicates that they want the one-and-one-half mile extra-territorial jurisdiction, it is because
28 there is a use that is developing on a piece of property in an area where a municipality has statutory authority
29 to control development and subdivision; there is a parallel. She said that functionally the addition of the
30 subdivision jurisdiction inside the text amendment, in some ways, fulfills the one-and-one-half mile aspect
31 that municipalities have been seeking. She said that municipalities are seeking the same kinds of rights and
32 responsibilities for this kind of special use, but for those municipalities that have subdivision jurisdiction, the
33 one-and-one-half mile is not necessary, provided that the other aspects of the noticing and land leasing are
34 contained within there. She said that the amendment does not protect some municipalities, but the
35 subdivision aspect, reiterating that the Village of Mahomet Subdivision Ordinance reflects that a land lease
36 of five years or more requires a subdivision, but it does not take care of every situation. She said that if one
37 property is 40 acres and that landowner leases or sells the entire 40 acres for a solar farm, and it is between
38 the one-half mile and one-and-one-half mile jurisdiction, then the Village of Mahomet has no say. She said
39 that it is likely that the solar farm companies are going to want to lease a piece of someone's parcel that
40 would require a subdivision and would get the Village of Mahomet to the table, but it is not a sure thing.
41 She said that what the one-and-one-half mile authority is saying is that, within the one-and-one-half mile
42 jurisdiction, whether they need to subdivide or not, the municipality can deal with the same aspects and
43 interests as they might have had to deal with otherwise: roads, easements, setbacks, is this in a growth area,
44 does it need to be shifted over, etc. She said that as far as annexation agreements, no one is going to take
45 these poor little towns seriously if they are not made a full part of the process.

46

1 Ms. Pfeifer stated that this is really hard, and it is bigger, and a solar farm is more of a representative issue,
2 and the text amendment probably needs to go beyond that. She said that for a town like Mahomet or St.
3 Joseph, which have difficult geographical challenges, it is hard for a one size fits all on this particular issue.
4 She said that having so many entities aligned with how they are willing to treat this particular use is pretty
5 remarkable, and she hopes that we don't lose that aspect just because we have higher issues on other special
6 uses. She said that she supports the text amendments that are before the Board tonight and supports a
7 continuation, and they appreciate the consult time and the opportunity with the two public hearings aspect
8 and the subdivision jurisdiction; it does a lot for many of the municipalities, but it doesn't do everything for
9 everyone.

10
11 Mr. DiNovo stated that Section 13.2.1 indicates that the County may not approve a special use permit for a
12 project that violates the municipal subdivision ordinance, so given that this language is already in the
13 ordinance, this other language may not be necessary.

14
15 Ms. Pfeifer stated that if she thought that the language was not necessary, she would not have indicated that
16 she supported it and requested that it be in the text amendment. She said that with this particular use, it needs
17 to be restated for that use.

18
19 Mr. DiNovo stated that it might raise a legal question, because if the concern is that there is no division of
20 the underlying parcel, there is no subdivision, and the County is being asked to declare that there is a
21 subdivision. He said that he is not sure that the County has the legal authority to indicate that there is a
22 subdivision when the underlying State law doesn't agree. He said that it is not clear that the County could
23 require subdivision approval if there is no subdivision to approve, but if there is a subdivision to approve,
24 then he would think that Section 13 covers the issue. He said that he is not sure if the County has the
25 authority to determine that something that is not a subdivision under State law, is indeed a subdivision.

26
27 Ms. Pfeifer stated that State law gives the Village of Mahomet the ability to control subdivision and their
28 standards are not included in Section 13.

29
30 Mr. DiNovo stated that Section 13 states that the County cannot approve something that violates the Village
31 of Mahomet's ordinance. He urged Ms. Pfeifer to talk to the Village of Mahomet attorney and take a look at
32 an old Supreme Court case, "*Urbana vs. County of Champaign*," which involved a large condominium
33 development with no underlying division in real estate, and Urbana lost the case because of the way that
34 their Zoning Ordinance defined subdivision. He said that the court basically indicated that if the City of
35 Urbana could define "subdivision" differently they would have jurisdiction, and it may be that pursuant to
36 Urbana, it is possible for municipalities to define "subdivision" in such a way that even if there was no
37 division of the underlying parcel, it is still a subdivision in terms of the ordinance, and then Section 13
38 would provide everything that the municipality would need, and the County would be barred from approving
39 anything that violates their ordinance.

40
41 Ms. Pfeifer stated that it is her understanding that the County can apply a special use to a particular portion
42 of a legitimate parcel, and if that is so, in the Village of Mahomet's world, that parcel is being subdivided.
43 She said that this is where the special use comes into play, is that if the special use is across the entire
44 property, then there is no subdivision.

45
46 Mr. DiNovo stated that the ball is really in the municipality's court, because the municipality could define

1 “subdivision” in such a way that it covers all of these cases through Section 13.

2
3 Ms. Pfeifer stated that it does unless the County can apply a special use over a part of a parcel.

4
5 Mr. DiNovo stated that the municipal subdivision ordinance could define “subdivision.”

6
7 Ms. Pfeifer stated that a municipality cannot define the County’s authority for a special use.

8
9 Mr. DiNovo stated that this technical topic requires additional homework.

10
11 Ms. Pfeifer agreed, but she said that this topic is very important because the municipalities are counting on
12 the fact that it is specifically reiterated; that it does not have to be a land sale, but a land lease, to do portions
13 of it, and there may be other ways to deal with that. She said that perhaps something else could be done,
14 such as stating that the special use goes over the entire property, or something like that. She said that the
15 Village of Mahomet could look at that and it will be an aspect of a text amendment, and with that, she is in
16 more support of a continuation of the cases and she will work with staff to see if some of these topics can be
17 worked out.

18
19 Mr. Elwell asked the Board and staff if there were additional questions for Ms. Pfeifer, and there were none.

20
21 Mr. Elwell asked the audience if anyone desired to sign the witness register to present testimony regarding
22 these cases, and there was no one.

23
24 Mr. Elwell closed the witness register for both cases.

25
26 Mr. Hall stated that the case needs to be continued for at least one month, and the first option would be
27 October 17th.

28
29 Mr. DiNovo asked if there could be a motion to table the continuance date for these cases until Cases 947-
30 AT-19 and 948-AT-19 were discussed, so that all of the text amendment cases could be continued to the
31 same meeting date, would be appropriate.

32
33 Mr. Hall stated yes.

34
35 **Mr. DiNovo moved, seconded by Mr. Randol, to table Cases 945-AT-19 and 946-AT-19 until the end**
36 **of the meeting so that the Board could consider a continuation date for Cases 947-AT-19 and 948-AT-**
37 **19. The motion carried by voice vote.**

38
39 **Case 947-AT-19 Petitioner: Zoning Administrator Request: Amend the Champaign County**
40 **Zoning Ordinance by amending the requirements for PV solar farms by deleting Section 6.1.5 B.(2)b.**
41 **that requires a 0.5 mile separation between a proposed PV solar farm and the CR Conservation**
42 **Recreation Zoning District and amend the requirements in Section 6.1.5. Q.(4)3. To add requirements**
43 **for financial assurance provided by financial institutions headquartered in Champaign County.**

44
45 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
46 witness register for that public hearing. He reminded the audience that when they sign the witness register,
47 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was

1 no one.

2
3 Ms. Lee stated that the two issues in Cases 947-AT-19 are unrelated and could be two separate cases.

4
5 Mr. DiNovo stated that all of text amendments could have been included under one case, because there isn't
6 anything improper about including unrelated matters in a single case, although it would be better if they were
7 broken out as Parts A and B, so that they could be dealt with separately, and he suggested that this practice
8 should be used for future cases. He said that it wasn't uncommon in the past to do omnibus text
9 amendments which would clean up unrelated areas of the ordinance.

10
11 Mr. Hall stated that after the experience with the solar farms last year, by the end of that process he was
12 unable to defend the one-half mile separation from the CR Conservation-Recreation Zoning District because
13 he felt that it was more of a problem than a benefit. He said that all of the solar farms that were proposed
14 were on best prime farmland and would be establishing a vegetative ground cover around the solar farm, and
15 generally would have a vegetative screen around it, and all of those things provide more habitat than is
16 typically found in our farm landscape and he did not see the need for that separation. He said that the second
17 part of Case 947-AT-19 refers to accepting an alternative means of financial assurance for financial entities
18 headquartered in Champaign County. He said that this came as a request from someone, and after looking
19 into it at ELUC, it made sense to the committee, and although he feels very inadequate in discussing the
20 credit ratings of financial institutions, he is convinced that there is a benefit in allowing a financial institution
21 headquartered in Champaign County to provide a letter of credit for a solar farm. He said that he believes
22 that there is only one financial institution located in Champaign County who is capable of handling this task
23 and they are rated by the Kroll Bond Rating Agency, which is recognized by the Securities and Exchange
24 Commission (SEC) and is a recognized statistical rating organization. He said that the one entity that is
25 located in Champaign County and who could do this does not find it beneficial in obtaining credit ratings
26 from S & P or Moody's because it is too expensive. He said that they get their ratings from Kroll and are
27 very happy with it, and now as it turns out, they are being approached by S & P and Moody's so that they can
28 get back into their good graces. He said that while he is not a specialist in credit rating agencies, he is
29 convinced that this is a good thing, and would allow an interested financial institution that is located in
30 Champaign County to provide financial assurance for a solar farm. He said that even though the County is
31 not aware of what other financial institutions are rated, we would know if a bank that is headquartered in
32 Champaign County is in trouble.

33
34 Mr. DiNovo asked if this has been referred to the State's Attorney.

35
36 Mr. Hall stated that he hopes to be able to send this to the State's Attorney's Office soon.

37
38 Mr. DiNovo stated that the second proposal, as it is drafted, seems to be violating one of the most clearly
39 established principles in land use law, and that is that the Zoning Ordinance cannot be used to favor
40 businesses within your jurisdiction. He said that if the Kroll rating is good enough for any Champaign
41 County bank, then it is good enough any bank, and there is a compelling reason to not put a barrier in the
42 ordinance which would exclude many of our local banks. He said that allowing any credit agency approved
43 by the Securities and Exchange Commission (SEC) is for any bank, anywhere. He said that he believes that
44 there is a very big legal problem with having one set of rules for Champaign County financial institutions
45 and another set of rules for institutions outside of Champaign County. He said that this could exclude many
46 of the local banks from competing for this type of business, but whatever is done, it has to be on a level

1 playing field.

2
3 Mr. Hall stated that he will discuss this with the State's Attorney because there is some homework which
4 must be completed prior to the next meeting regarding this case.

5
6 Mr. Elwell asked the audience if anyone desired to sign the witness register to present testimony regarding
7 this case, and there was no one.

8
9 Mr. Elwell closed the witness register.

10
11 **Mr. DiNovo moved, seconded by Mr. Randol, to table the continuance of Case 947-AT-19 until the**
12 **end of the meeting so that the Board could consider a continuation date for Cases 945-AT-19, 946-AT-**
13 **19 and 948-AT-19. The motion carried by voice vote.**

14
15 **Case 948-AT-19 Petitioner: Zoning Administrator Request: Amend the Champaign County**
16 **Zoning Ordinance by amending Section 8.3.2 to authorize a variance to rebuild a nonconforming**
17 **structure before the structure is damaged.**

18
19 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
20 witness register for that public hearing. He reminded the audience that when they sign the witness register,
21 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was
22 no one.

23
24 Mr. Hall stated that this case was due to a recent discussion at a ZBA meeting, and some Board members
25 questioned the propriety of approving a variance to rebuild a nonconforming structure before it is damaged.
26 He said that while there were other text amendments before the Board for review, he wanted to include this
27 one as well, because it is a variance that the Board commonly deals with and he felt that it was important to
28 consider this, which is why he included it.

29
30 Mr. Elwell asked the Board if there were any questions for Mr. Hall.

31
32 Mr. DiNovo stated that he understands the logic of the text amendment but doing it through Section 8.3.2
33 seems sort of off. He said that this would grant the Zoning Board of Appeals the ability to simply to make a
34 nonconforming structure conforming by variance. He asked if it would be better to add a paragraph, such as,
35 "nonconforming structures shall comply with the following unless the ZBA grants a variance allowing the
36 building to be treated as conforming." He said that this doesn't really have anything to do with having the
37 building being destroyed, it is the point that, here is a building which is nonconforming, and it needs to be
38 made conforming.

39
40 Mr. Hall stated that staff is open to any type of editing suggestions from the Board, but Section 8.3.2 is the
41 operative part of the ordinance that we need to affect in this amendment. He said that he agrees that the
42 current version does not read as elegant grammar.

43
44 Mr. DiNovo stated that he agrees that what is important with Section 8.3.2 is the fact that if it is destroyed by
45 less than 50% it could be reconstructed, and that is what is really important about Section 8.3.2, and not that
46 it could be reconstructed if it is damaged more with a variance.

47

1 Mr. Hall disagreed and said that what is really important about Section 8.3.2. is that, if it were destroyed
2 even more than 50% it could not be rebuilt, and that is what needs to be changed.

3
4 Mr. DiNovo stated that it can't be replaced without a variance.

5
6 Mr. Hall stated yes, and some would read Section 8.3.2. to say that you cannot get a variance ahead of time
7 either and you must wait until it has been destroyed.

8
9 Mr. DiNovo stated that there is no specific provision in the ordinance for that, and he believes that if we
10 want that, then there should be a specific provision that says, "nonconforming structures may be made
11 conforming for the purposes of this ordinance by the granting of a variance."

12
13 Mr. Hall asked if that is not what this text amendment indicates.

14
15 Mr. DiNovo stated that it works that way, but it is just buried in the language.

16
17 Mr. Hall stated that if you break it out of Section 8.3.2., then you have to refer back to Section 8.3.2. because
18 you have to be explicit that you are correcting for Section 8.3.2. He noted that he would welcome any well
19 thought out suggestion on paper.

20
21 Mr. DiNovo stated that he is not objecting to the amendment, but he believes that there may be a better way
22 to state it.

23
24 **Ms. Lee moved, seconded by Mr. Randol, to continue Cases 945-AT-19, 946-AT-19, 947-AT-19, and**
25 **948-AT-19, to the October 17, 2019, meeting.**

26
27 Mr. Randol noted that he would be absent from the October 17th meeting.

28
29 Mr. Hall stated that it is important to have as many members at a meeting regarding text amendments as
30 possible. He asked Mr. Randol if he would be present for the November 14th meeting.

31
32 Mr. Randol stated he will not be attending the November 14th meeting.

33
34 Mr. DiNovo noted that his last meeting as a ZBA Board member is November 14th.

35
36 Mr. Hall stated that these cases could be continued to December 12th, but he did not recommend waiting that
37 long. He said that none of the cases docketed for the October 31st meeting have been advertised; therefore,
38 the text amendment cases could be continued to that meeting date, and the previously docketed cases will be
39 rescheduled for November 14th.

40
41 **Ms. Lee amended her motion, seconded by Mr. Randol, to continue Cases 945-AT-19, 946-AT-19, 947-**
42 **AT-19, and 948-AT-19 to the October 31, 2019, meeting. The motion carried by voice vote.**

43
44 **Case 953-V-19 Petitioner: Urbana Golf and Country Club, via agent Thomas Clarkson, Secretary-**
45 **Treasurer for UG & CC LLC. Request: Authorize the following variance in the R-1, Single Family**
46 **Residence Zoning District: Part A: Authorize a variance for construction and use of a detached**

1 **accessory structure with a height of 39 feet 6 inches in lieu of the maximum allowed 24 feet for an**
2 **accessory structure, per Section 5.3 of the Zoning Ordinance; and Part B: Authorize a variance for**
3 **expansion of an existing non-conforming principal use (country club clubhouse) without access to a**
4 **street consisting of solid ground passable to emergency vehicles, no less than 20 feet in width, and**
5 **located entirely within the lot lines, per Section 4.2.1 I. of the Zoning Ordinance. Location: A 15.15**
6 **acre tract in the Southwest Quarter of the Southeast Quarter of Section 5, Township 19 North, Range**
7 **9 East of the Third Principal Meridian in Urbana Township, and commonly known as the Urbana**
8 **Golf and Country Club, 100 West Country Club Road, Urbana.**

9
10 Mr. Elwell informed the audience that Case 953-V-19 is an Administrative Case and as such, the County
11 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
12 a show of hands for those who would like to cross-examine, and each person will be called upon. He
13 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.
14 He said that those who desire to cross-examine are not required to sign the witness register but are requested
15 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
16 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
17 exempt from cross-examination.

18
19 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
20 witness register for that public hearing. He reminded the audience that when they sign the witness register,
21 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was
22 no one.

23
24 Mr. Elwell asked the petitioners if they would like to make a statement regarding their request.

25
26 Mr. Tom Clarkson, agent for the Urbana Golf and Country Club, stated that staff had done a wonderful job
27 in presenting their request and he is present tonight to answer any questions that the Board may have.
28 He noted that the Country Club is located in the R-1 Zoning District and is a permitted use.

29
30 Mr. Elwell asked the Board if there were any questions for Mr. Clarkson.

31
32 Mr. Anderson stated that he resides near the subject property and when he visited the property, he could
33 hardly see the adjacent houses due to the leaves on the trees; therefore, he could not understand how a one
34 and one-half story structure could be obtrusive to the neighbors.

35
36 Mr. Clarkson stated that he appreciated Mr. Anderson's comments and he believes that the proposed
37 construction will be an attribute to the community and would not be obtrusive to anyone. He introduced Mr.
38 John Petersen, Architect for the project, and Scott Szymoniak, General Manager of the UG&CC.

39
40 Mr. Anderson stated that he agreed with Mr. Clarkson, although he was open to hearing from anyone who
41 objects to the proposed construction.

42
43 Mr. Clarkson stated that there are two parts to the request, and he would like to address Part B. He said that
44 there is an existing bridge that was updated in the 1990s and it was recently inspected by engineers who
45 indicated that the deck does need resurfacing, but structurally the bridge is fine. He said that if fire trucks
46 can travel across the bridge safely, then concrete trucks will be able to do the same.

1
2 Mr. DiNovo asked Mr. Clarkson if the long, open grassy strip, which is parallel to the Saline and runs along
3 the existing parking lot to Country Club Road, is a fairway.
4
5 Mr. Clarkson stated that the grassy strip is part of the Country Club's 4th hole.
6
7 Mr. DiNovo stated that he had a question for the architect.
8
9 Mr. Elwell asked Mr. Petersen to approach the witness microphone.
10
11 Mr. DiNovo asked Mr. Petersen to indicate the practical reasons why the pitch of roof is required.
12
13 Mr. John Petersen, Senior Associate with Ratio Architects located at 102 South Neil St., Champaign, stated
14 that the aesthetic that was desired demanded the 12/12 pitch at the two ends, and the center portion is slightly
15 less and is 10.5/12 so that the roof lines meet up at the peak of the gabled end to the east. He said that the
16 height is mainly aesthetic.
17
18 Mr. DiNovo asked if the height was also required for any mechanicals.
19
20 Mr. Petersen stated yes, there are mechanicals above the second floor rooms which makes them limited in
21 size, but they were trying to maintain the correct proportion of the building given the aesthetic treatment and
22 style of the exterior, and a flatter roof would not achieve that consistency.
23
24 Mr. DiNovo asked if the eave is 28 feet above grade.
25
26 Mr. Petersen stated that Mr. DiNovo was correct, and part of the reason for that desired height is because of
27 the 15 foot ceiling on the first level and to accommodate the existing treatments of the ceilings and
28 mechanical systems. He said that there are similar ceilings in the suites at the east end of the second floor, so
29 the 28 foot eave height is appropriate for the height of the windows that are on the second floor guest rooms.
30
31 Mr. DiNovo stated that if the ceilings were lowered on both floors by two feet, and a flat roof was
32 constructed, the petitioner would still need a variance for height.
33
34 Mr. Hall stated that Supplemental Memorandum #1 includes an email from Tom and Mary Ann Brown and
35 an email from Janice Kempel, supporting the proposed addition to the country club.
36
37 Mr. DiNovo stated that the description indicates that the use of the addition is for members only, which he
38 assumes are mainly local. He asked Mr. Clarkson to indicate what the members only designation means for
39 the guest rooms.
40
41 Mr. Clarkson stated that use of the rooms is for members of the club.
42
43 Mr. DiNovo asked if that use would include guests of the members of the club.
44
45 Mr. Clarkson stated yes. He said that if Mr. Hall was a member of the club, he could have Mr. Elwell stay at
46 the facility as his guest, but the facility is not proposed to be used like a Holiday Inn.

1
2 Mr. Elwell asked the Board and staff if there were any questions for Mr. Clarkson or Mr. Petersen, and there
3 were none.

4
5 Mr. Elwell asked the audience if anyone desired to cross-examine Mr. Clarkson or Mr. Petersen, and there
6 was no one.

7
8 Mr. Elwell asked the audience if anyone desired to sign the witness register to present testimony regarding
9 this case, and there was no one.

10
11 Mr. Elwell closed the witness register.

12
13 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 953-V-19.

14
15 **Ms. Lee moved, seconded by Mr. Randol, to move to the Findings of Fact for Case 953-V-19. The**
16 **motion carried by voice vote.**

17
18
19 **FINDINGS OF FACT FOR CASE 953-V-19:**

20
21 **From the documents of record and the testimony and exhibits received at the public hearing for**
22 **zoning case 953-V-19 held on September 26, 2019, the Zoning Board of Appeals of Champaign County**
23 **finds that:**

- 24
25 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
26 **involved, which are not applicable to other similarly situated land and structures elsewhere in**
27 **the same district.**

28
29 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or
30 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
31 same district because there are no other properties within 500 feet of the location on the subject property; the
32 20 foot driveway was established as a driveway before Case 055-AT-06; and engineers inspected and
33 determined that the bridge was adequate and did not require updating, thus no undue cost for changing the
34 driveway and the golf course is necessary.

- 35
36 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
37 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
38 **structure or construction.**

39
40 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
41 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
42 or construction because it would be cost prohibitive to change everything to conform with the current
43 standards for the road and the building structure.

44
45 Mr. DiNovo stated that conformance to the Ordinance would make construction of the two-story building
46 problematic from an aesthetic perspective and potentially impractical and given the limited amount of space

1 available on the property without infringing upon the golf course, the inability to build the two-story building
2 would require a burdensome consumption of available open space. With respect to the driveway, it appears
3 to be impractical to construct a new driveway which complies with the requirements of the Zoning
4 Ordinance that wouldn't significantly impair the golf course.
5

6 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from**
7 **actions of the applicant.**
8

9 Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
10 result from actions of the applicant because there are no other properties within 500 feet of the location on
11 the subject property; the 20 foot driveway was established as a driveway before Case 055-AT-06; engineers
12 inspected and determined that the bridge was adequate and did not require updating, thus no undue cost for
13 changing the driveway and the golf course is necessary; and it would be cost prohibitive to change
14 everything to conform with the current standards for the road and building structure.
15

16 Mr. DiNovo stated that the country club existed prior to the adoption of the Zoning Ordinance and the bridge
17 was reconstructed prior to the adoption of the amendment that imposed the access restrictions. He said that
18 the bridge was constructed in 1990 and the amendment was adopted in 1993.
19

20 **4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.**
21

22 Mr. DiNovo stated that the requested variance IS in harmony with the general purpose and intent of the
23 Ordinance because this is a reasonable accessory use in a line of business that is undergoing a lot of change
24 and the economics for golf courses and country clubs are becoming more problematic. He said that with
25 respect to the accessway, strict compliance with the rules would not provide any practical benefit with
26 respect to safety or traffic.
27

28 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental**
29 **to the public health, safety, or welfare.**
30

31 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
32 detrimental to the public health, safety, welfare because there have been no negative comments received
33 from adjacent neighbors, fire protection district, or the Urbana Township Highway Commissioner, and no
34 electrical updates are necessary.
35

36 **6. The requested variance IS the minimum variation that will make possible the reasonable use of**
37 **the land/structure.**
38

39 Mr. DiNovo stated that the requested variance IS the minimum variation that will make possible the
40 reasonable use of the land/structure because almost any two-story structure would require some sort of
41 variance and there is a coherent aesthetic that is in the process of being established throughout the country
42 club's grounds. He said that the entryway into the existing clubhouse is designed so that it is consistent with
43 that aesthetic that is being established throughout the Country Club grounds and in order to be consistent
44 with that aesthetic some variation is necessary. He said that with respect to the existing accessway, there is
45 no practical alternative that would not be burdensome.
46

1 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

2
3 Mr. Elwell noted that a new item #4 should be added to the Documents of Record as follows: 4.
4 Supplemental Memorandum #1 dated September 19, 2019, with attachments.
5

6 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of
7 Fact, as amended.
8

9 **Ms. Lee moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record
10 and Findings of Fact, as amended. The motion carried by voice vote.**
11

12 Mr. Elwell entertained a motion to move to the Final Determination for Case 953-V-19.
13

14 **Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 953-V-19. The
15 motion carried by voice vote.**
16

17 Mr. Elwell informed Mr. Clarkson that currently the Board has one member absent; therefore, it is at the
18 petitioner’s discretion to either continue Case 953-V-19 until a full Board is present or request that the
19 present Board move to the Final Determination. He informed the petitioner that four affirmative votes are
20 required for approval.

21 Mr. Clarkson requested that the present Board move to the Final Determination for Case 953-V-19.
22

23 **FINAL DETERMINATION FOR CASE 953-V-19:**
24

25 **Mr. Randol moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals finds
26 that, based upon the application, testimony, and other evidence received in this case, that the
27 requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted
28 by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
29 Champaign County determines that:**
30

31 **The Variance requested in Case 953-V-19 is hereby GRANTED to the petitioners, Urbana Golf &
32 Country Club LLC, to authorize the following variance in the R-1 Single Family Residence Zoning
33 District:**
34

35 **Part A: Authorize a variance for construction and use of a detached accessory structure with an
36 average height of 39 feet 6 inches in lieu of the maximum allowed 24 feet for an accessory structure,
37 per Section 5.3 of the Zoning Ordinance.**
38

39 **Part B: Authorize a variance for expansion of an existing non-conforming principal use (country club
40 clubhouse) without access to a street consisting of solid ground passable to emergency vehicles, no less
41 than 20 feet in width, and located entirely within the lot lines, per Section 4.2.1 I. of the Zoning
42 Ordinance.**
43

44 Mr. Elwell requested a roll call vote.
45

46 The roll was called as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Anderson – yes **DiNovo – yes** **Lee – yes**
Randol – yes **Wood – absent** **Elwell – yes**

Mr. Hall congratulated Mr. Clarkson for the receipt of approval for the request.

Mr. Elwell noted that the Board would now hear Cases 945-AT-19, 946-AT-19, 947-AT-19 and 948-AT-19.

7. Staff Report

None

8. Other Business

A. Review of Docket

9. Audience participation with respect to matters other than cases pending before the Board

None

10. Adjournment

Mr. Elwell entertained a motion to adjourn the meeting.

Mr. Randol moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 8:55 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22