

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

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

**DATE: November 30, 2023 PLACE: Shields-Carter Meeting Room
1776 East Washington Street
TIME: 6:30 p.m. Urbana, IL 61802**

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

STAFF PRESENT: John Hall, Susan Burgstrom

OTHERS PRESENT: Tony Grilo, Cynthia Cunningham, Chris Flesner, John Garth, Brent Cork,
Anthony Arnold

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.

3. Correspondence – None

4. Minutes – October 26, 2023

Mr. Wood moved, seconded by Mr. Roberts, to approve the October 26, 2023 minutes. The motion carried by voice vote.

5. Audience participation with respect to matters other than cases pending before the Board - None

6. Continued Public Hearings – None

Cases 109-AM-23, 110-S-23, 111-S-23, and 112-V-23

Petitioner: Anthony Donato, d.b.a. Donato Solar – Bondville, LLC

Requests: Case 109-AM-23

Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to allow a data center as a Special Use in related Zoning Case 110-S-23 and a PV solar array as a second principal use as a proposed County Board Special Use Permit in related Case 111-S-23.

Case 110-S-23

Authorize a data center as a Special Use Permit, subject to the proposed rezoning to AG-2 Agriculture in Case 109-AM-23.

Case 111-S-23

Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, as a second principal use as a County Board Special Use Permit, subject to the rezoning to the AG-2 Agriculture Zoning District in Case 109-AM-23, and including the following waivers of standard conditions (other waivers may be necessary):

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

Case 112-V-23

Authorize the following variance for the data center proposed as a Special Use Permit in related case 110-S-23:

Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

Location: A 77.5-acre tract in the East Half of the Southwest Quarter of Section 12, Township 19 North, Range 7 East of the Third Principal Meridian in Scott Township.

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.

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

Anthony Grilo, 103 N. Thomas Street, Thomasboro, stated Mr. Elwell summarized it pretty well. He said they want to build a 6 MW solar array along with a data center. He said they have reviewed this case previously, and they had a few issues that they needed to get resolved. He said one of the waivers regarding permission from the relevant fire protection district he buttoned up today along with an updated site plan. He said nothing changed on the site plan except adding a fire hydrant within 200 feet of the data center. He said the fire protection district also wanted to make sure there was 16 feet spacing between the fence line and the solar panels, enough to be able to drive a truck between them. He said that didn't change because that actually meets the requirement that they have already regarding setbacks from neighboring properties and the fence. He said he just highlighted the 16-foot spacing on the site plan just so Mr. Shaw

1 could have that. He said there was some discussion regarding drain tiles on the property. He said he has
2 been in constant contact with Fountain Head Drainage District and got their map from them. He said he
3 worked with drainage commissioner Bob Barker regarding their tile. He said they have a tile that runs
4 through the property, which you can see on the site plan, all the way at the north end, it's about 150 feet
5 off the interstate they have a large drainage tile there. He said there is a private drain tile that cuts through
6 where the array is. He said both the owner of this property and the adjacent, Mr. Hatch, along with the
7 drainage district confirmed that the private drain tile is in fact a private drain tile. He said with that being
8 said, in agreement with the drainage district, they are hiring the drainage district's contractor to go and
9 locate both the drainage district tile and the private tile. He said he assumes the contractor is going to
10 probe it and flag it and they will get GPS coordinates for it so they can make sure to plan everything
11 accordingly and give those coordinates to the drainage district for their future use.
12

13 Mr. Elwell thanked Mr. Grilo and asked if there were any questions from the Board or Staff.
14

15 Mr. Hall asked Mr. Grilo if Mr. Barker mentioned anything about the reported large diameter storm sewer
16 that is close to Route 10.
17

18 Mr. Grilo said no. He said Mr. Cottrell, attorney for the drainage district, gave him a copy of their tile
19 maps and they've been back and forth because of the private tile. He said neither Mr. Barker nor Mr.
20 Cottrell have mentioned a large diameter storm tile along Route 10. He said with that being said, their
21 array and data center are nearly 1,000 feet off of Route 10, so he doesn't think any of that would be a
22 concern other than when the new entrance off of Route 10 is put in, but he thinks that will all be done with
23 JULIE locates and he will make sure to confirm with the drainage district if they do in fact have something
24 there. Mr. Grilo added that they did get a title search done on the property, and he thinks everyone has
25 seen the survey he sent in of the property and it showed the easements along Route 10 there on the south
26 end of the property. He said they had that done because he thought it was also a concern regarding
27 easements. He said the drainage district doesn't have a current easement, but Mr. Cottrell was actually the
28 attorney for Beaver Lake Drainage District and they kind of did a similar thing where they will go and get
29 an easement drafted for them along that drain tile that they have through the property just so they have it.
30 He said he thinks this is one of those records that got lost years ago or maybe it never had one as that is
31 how it is always done, so there is not a current easement for the drainage district tile, but there will be one.
32

33 Mr. Elwell asked if there were any further questions from the Board.
34

35 Mr. Bates asked Mr. Hall if he could advise on what the Bondville protest presents to this case.
36

37 Mr. Hall said he thinks all it presents is the preference of Bondville; it doesn't increase the number of
38 votes required for approval, but definitely makes clear their preference.
39

40 Mr. Wood said he thought he read in the memo that it does affect it in terms of changing the zoning from
41 AG-1 to AG-2.
42

43 Mr. Hall said Mr. Wood was right, it does have an effect on the map amendment. He said it increases the
44 number of affirmative votes required for the map amendment up to 17.
45

46 Mr. Wood asked if that doesn't pass.
47

48 Mr. Hall said if the map amendment doesn't pass, there's no way the data center and solar array can be
49 approved.

1 Mr. Randol said unless he overlooked it, what is the measurement in feet between the solar panels, the
2 grass alleyways, how wide is that.

3

4 Mr. Grilo said 12 feet, and he doesn't think Mr. Randol missed it, for what it's worth.

5

6 Mr. Randol said he's asking because of the brush truck issue and the statement Mr. Grilo made about not
7 needing water on the solar area, but we probably have a bigger issue with fire departments with grass and
8 wildfires, and he didn't think that has ever been mentioned before. He said we always need to be able to
9 get one of those trucks between those.

10

11 Mr. Grilo said he agreed. He said he thought he took that into account and that's why he wanted a
12 minimum of 16 feet between the fence and the panels so they could make the turn into the aisles. He said
13 12 feet is enough to drive down them, it's wide enough, but that 16 feet is what allows them to make that
14 turn.

15

16 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
17 anyone would like to cross-examine Mr. Grilo. Seeing no one, he thanked Mr. Grilo and called Mr. Brent
18 Cork to testify.

19

20 Mr. Brent Cork, 212 S. Munroe St, Bondville, said thinking about it quite a bit, this doesn't occur to him
21 that it is a solar farm. He said the laws were adjusted for solar farms. He said he has a garden in his back
22 yard; it doesn't constitute allowance for farm credits or taxation relief because it doesn't meet the
23 requirements. He said as mentioned in the last meeting, it's not giving to the power grid; it's an offset for
24 a data center. He said that doesn't meet the law of a solar farm. He said if that were the case, you could
25 just put up a factory right where you want and jam it down someone's throat, as long as you put a solar
26 array – that doesn't constitute that. He said he's also curious about how many of these solar farms are in
27 Thomasboro; how many does Mr. Grilo have there. He said none that he knows of, maybe he's wrong,
28 but it kind of tells him what Mr. Grilo thinks of it. He said there isn't one in his neighborhood or in his
29 own back yard; a bird doesn't poop in its own nest. He said they had meetings with Mr. Grilo, they asked
30 him questions, he came back to those meetings with no full answers to any of those questions. He said
31 they didn't get the answers; instead, Mr. Grilo tried to skirt around them, tried to skirt around Bondville.
32 He said that doesn't show good character and that just doesn't bode well.

33

34 Mr. Elwell thanked Mr. Cork. He asked if there were any questions from the Board.

35

36 Mr. Bates asked if Mr. Cork had a specific list of those questions that they didn't get answered.

37

38 Mr. Cork said not on him, but he could bring them.

39

40 Mr. Elwell asked if there were any questions from Staff. Seeing none, he asked if anyone would like to
41 cross-examine Mr. Cork. Seeing no one, he called Mr. Garth to testify.

42

43 Mr. John Garth, Bondville Village President, 1634 CR 500E, Champaign, said the Village of Bondville is
44 in opposition to this, which the Board has already seen by the protest that they have filed. He said he was
45 in this room earlier today for a jury summons, and after he left he went over to the County Assessor's
46 office. He said the petitioner has already purchased the ground and filed a deed for it, which was illegally
47 done. He said they did not come to the Village of Bondville for a subdivision agreement or subdivision of
48 the property. He said as of 11:30 this morning, the County Assessor's office has rescinded the deed,
49 contacted GIS, and has had it removed until subdivision qualifications have been met with the Village of

1 Bondville. He said this goes to show that rules don't apply to them, but rules do apply to the rest of us and
2 again goes to show the character or style of work that this organization is doing in their unwillingness to
3 work with said laws and jurisdictional boundaries that the Village of Bondville has.

4
5 Mr. Elwell asked Mr. Hall if he had any insight into what the petitioners didn't come before the village
6 board to do.

7
8 Mr. Garth said all municipalities have a one-and-one-half mile subdivision jurisdiction. He said they had
9 discussion with the Assessor's office that this 20-acre plat they bought is not the 77-acres they are
10 proposing to develop. He said they only bought 20 acres, and they did not come to the Village to get
11 subdivision approval. He said it is the Assessor's claim and also the Village of Bondville attorney's claim,
12 that the subdivision was done illegally, and the County because of that has rescinded the deed and not
13 filed the deed with GIS.

14
15 Mr. Elwell said so they don't own the 77 acres.

16
17 Mr. Hall said it was his understanding that the 77 acres was under contract for purchase. He said if they
18 went ahead and purchased some portion of it, that's news to this department.

19
20 Mr. Herbert said he thought he remembered something about there being only 20 acres, but that was
21 contingent upon this project being approved.

22
23 Mr. Hall said he thought they were going to purchase the whole 77 acres; otherwise, they couldn't grant
24 an easement to the drainage district for the tile that's north of the solar arrays.

25
26 Mr. Elwell said it was his understanding that they will own the 77 acres, and they're asking for this AG-
27 2 map amendment for the 20 acres. He said they'll ask Mr. Grilo when he comes back up.

28
29 Mr. Hall said the map amendment request is on the whole 77 acres.

30
31 Mr. Garth said this goes to what Mr. Cork was saying. He said Mr. Cork is on the Zoning Board of Appeals
32 for the Village of Bondville. He said it goes to explain a lot of the reasons why the Village of Bondville
33 is in opposition of this project. He said if the County Board has approved the new rules to make themselves
34 in line with State law, this project would be dead on its feet, except it did not pass because it went down
35 party lines, Democrats for it and Republicans against it. He said he didn't know why Republicans voted
36 against it, but if it had passed, because of the Village of Philo's opposition, it required a supermajority
37 vote, and because they didn't get that, none of it passed. He said this whole thing with the County coming
38 in line with the State of Illinois law is still in limbo because the County Board didn't pass their
39 amendments to make their solar array rules to be in line with the new State law.

40
41 Mr. Elwell said it's his understanding that Mr. Garth is referring to the wind ordinance and not solar.

42
43 Mr. Hall said Mr. Garth is referring to the recent amendment for wind farms and solar farms; however,
44 this is a solar array, it has always not been covered by the new State law. He said our solar array
45 requirements will continue the way they've always been even if the County Board finds a way to adopt
46 what was case 086-AT-23. He said it doesn't change the requirements for solar arrays.

47
48 Mr. Garth asked why the entity doesn't work with the Village of Bondville since it's within their one-and-
49 one-half mile jurisdiction.

1 Mr. Elwell said they're asking for a variance for that.

2

3 Mr. Garth said the Village adopted a whole new set of solar rules just for the petitioner to work for them.

4

5 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
6 anyone would like to cross-examine Mr. Garth. Seeing no one, he asked if anyone else would like to testify
7 in this case. Seeing no one, he asked for a motion to close the Witness Register for cases 109-AM-23,
8 110-S-23, 111-S-23, and 112-V-23.

9

10 **Mr. Roberts moved, seconded by Mr. Wood, to close the Witness Register for cases 109-AM-23,**
11 **110-S-23, 111-S-23, and 112-V-23.. The motion passed by voice vote.**

12

13 Mr. Elwell asked Mr. Grilo to return to the microphone.

14

15 Mr. Tony Grilo gave his address as 103 N. Thomas, Thomasboro.

16

17 Mr. Grilo said that Mr. Grilo has heard the testimony, and asked if there was anything he would like to
18 say.

19

20 Mr. Grilo said to clarify the land purchase, he actually questioned the same thing about the subdivision
21 rules. He said the seller of the ground is an attorney, and he and the petitioner's attorney went through
22 that. He said the reason why they went ahead and purchased that first 20 acres was that it was under
23 contract and Mr. Hatch had made plans to sell that first 20 acres originally when the project was going to
24 be closer to the road. He said he thinks financially for Mr. Hatch, he wanted it closed this year and so the
25 attorneys on their part and Mr. Hatch sold it. He said the rest of the 77 acres is under contract with Mr.
26 Hatch to sell. He said it was somewhat of a surprise to him, but Mr. Hatch had his reasons to make sure it
27 was going to be sold this year.

28

29 Mr. Hall asked Mr. Grilo if the 20 acres is where the solar array is planned or was it a different 20 acres.

30

31 Mr. Grilo said it was a different 20 acres, up closer along the road.

32

33 Ms. Burgstrom pulled the Plat of Survey up on the wall screen.

34

35 Mr. Grilo said that was where it was originally, and then they moved it back to keep it off the road to try
36 to keep everything distant enough to not be a concern.

37

38 Mr. Bates asked if Mr. Grilo is wanting to put the solar array somewhere that the petitioner does not own.

39

40 Mr. Grilo said correct, it's on the 77-acre parcel that is under contract.

41

42 Mr. Bates said but the petitioner doesn't own it.

43

44 Mr. Grilo said correct.

45

46 Mr. Wood said so it's contingent upon getting this project passed.

47

48 Mr. Grilo said correct.

49

1 Mr. Elwell asked if there were any other questions from the Board.
2
3 Mr. Bates asked if we're able to build something on something we don't own.
4
5 Mr. Hall said you are able to get a Special Use Permit on land contingent upon purchase and then get
6 approval to build with the agreement of the owner.
7
8 Mr. Grilo said he believes the Board has seen the agreement from the owner, Mr. Hatch.
9
10 Mr. Randol asked Mr. Hall how this is different than the issue we had near Fisher where they had to show
11 ownership of that property before we agreed to do anything further. He said this was a case we had on the
12 south side of Rt 136 that we had about two weeks or a month ago.
13
14 Mr. Herbert said it was the Crispin case.
15
16 Mr. Elwell said didn't we have the letter from Mr. Webster saying that he could continue with this project
17 on land that he doesn't own.
18
19 Mr. Hall said in that case, if he's remembering correctly, that was a case of an array that looked like the
20 array had been built on the neighbor's property or too close to the neighboring property, and subsequently
21 they're going to do a different array on their property. He said that's actually much different than this;
22 there is no agreement between the landowners that he recalls.
23
24 Mr. Wood said in that particular case, the issue was where the line was, and ultimately we found out that
25 where it had originally been put it was on the owner's property and the farmer had actually been
26 encroaching on his property, so we just dismissed the case since there was no need for a variance. He said
27 in this case here, he doesn't think it really makes any difference to this Board whether or not they own the
28 property. He said that's not part of the Board's jurisdiction as far as he knows.
29
30 Mr. Elwell asked if there were any other questions from the Board. Seeing none, he asked Mr. Grilo if he
31 recalled the meeting with Mr. Cork and those questions, and can he give the Board an idea of what some
32 of those questions were.
33
34 Mr. Grilo said he doesn't remember; he remembers several meetings with them. He said he will say that
35 he tries to do everything he says, he thinks he has stood before the Board and made agreements, said he
36 would get stuff and he got stuff. He said he has made agreements with drainage districts, and he does
37 those. He said he tries to follow through with everything he says he's going to follow through with. He
38 said with the Rantoul project, they had some issues with the drainage district and the Village of Rantoul
39 where the Village hadn't actually recorded their easement for their tile that was through the property until
40 the 11th hour. He said they worked with them, and he tries to be as forthcoming as possible. He said he
41 sits up here and says he is going to do something, he does it. He said the Board asks for more information
42 or extra restrictions, he tends to try to stick to those extra restrictions and he tries to answer everything he
43 can.
44
45 Mr. Wood asked if the issue with Rantoul came before this Board.
46
47 Mr. Grilo said yes.
48
49 Mr. Wood said and we approved it.

1 Mr. Roberts said yes, it's built.

2

3 Mr. Wood said we've had several of these.

4

5 Mr. Roberts said the one out on North Market Street is being built now.

6

7 Mr. Elwell asked if there were other questions from Staff. Seeing none, he asked if anyone would like to
8 cross-examine Mr. Grilo. Seeing no one, he said he would review the special conditions of approval. He
9 said he would be reading from page 2 of Supplemental Memorandum #2 as follows:

10

11 **SPECIAL CONDITIONS FOR CASES 109-AM-23, 110-S-23, 111-S-23, AND 112-V-23**

12

13 The following special conditions are proposed for Map Amendment Case 109-AM-23:

14

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

18

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

20 **Conformance with Policy 4.2.3 of the Land Resource Management Plan.**

21

22 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

23

24 Mr. Grilo said yes.

25

- 26 B. **The Map Amendment is contingent upon approval of Cases 110-S-23 and 111-S-23.**

27

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

29 **That the Special Use is consistent with the Zoning Ordinance and ZBA**
30 **recommendations.**

31

32 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

33

34 Mr. Grilo said yes.

35

36 Mr. Elwell said the following special conditions are proposed for Special Use Permit Case 110-S-23:

37

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

41

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

43 **That the proposed Special Use meets applicable State requirements for**
44 **accessibility.**

45

46 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

47

48 Mr. Grilo said yes.

49

1 B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until
2 the petitioner has demonstrated that any new or proposed exterior lighting on the
3 subject property will comply with the lighting requirements of Section 6.1.2.

4
5 The special condition stated above is required to ensure the following:
6 That the proposed use is in compliance with the Zoning Ordinance.

7
8 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

9
10 Mr. Grilo said yes.

11
12 C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
13 authorizing occupancy of the proposed buildings until the Zoning Administrator has
14 received a certification of inspection from an Illinois Licensed Architect or other
15 qualified inspector certifying that the new buildings comply with the following codes:
16 (A) the current edition or most recent preceding edition of the International Building
17 Code, and (B) the current edition or most recent preceding edition of the National
18 Electrical Code NFPA 70.

19
20 The special condition stated above is required to ensure the following:
21 New commercial buildings shall be in conformance with Public Act 96-704.

22
23 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

24
25 Mr. Grilo said yes.

26
27 Mr. Elwell said the following special conditions are proposed for Special Use Permit Case 111-S-23:

28
29 A. The approved site plan consists of the following documents:
30 • Site Plan sheets received November 30, 2023.

31
32 The special condition stated above is required to ensure the following:
33 The constructed PV SOLAR ARRAY is consistent with the special use permit
34 approval.

35
36 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

37
38 Mr. Grilo said yes.

39
40 B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or
41 issue a Zoning Compliance Certificate on the subject property until the lighting
42 specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

43
44 The special condition stated above is required to ensure the following:
45 That exterior lighting for the proposed Special Use meets the requirements
46 established for Special Uses in the Zoning Ordinance.

47
48 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

49

1 Mr. Grilo said yes.

2

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

6

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

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

10

11 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

12

13 Mr. Grilo said yes.

14

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

19

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

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

23

24 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

25

26 Mr. Grilo said yes.

27

28 E. **Regarding roadway use during construction and decommissioning of the PV SOLAR**
29 **ARRAY:**

30 1. **The petitioner shall use the designated haul route received August 30, 2023**
31 **that only uses the identified state and federal highways.**

32

33 2. **The petitioner shall acquire any necessary permits for access and**
34 **overweight/oversized vehicles from the Illinois Department of Transportation**
35 **and submit a copy of those approved permits with the Zoning Use Permit**
36 **application.**

37

38 3. **Should a different haul route be used, the petitioner shall submit to the Zoning**
39 **Administrator a Roadway Use Agreement with the relevant municipality,**
40 **township, or County Highway Department.**

41

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

43 **The Special Use Permit complies with Ordinance requirements regarding**
44 **road use agreements.**

45

46 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

47

48 Mr. Grilo said yes.

49

- 1 F. **The following submittals are required prior to the approval of any Zoning Use Permit**
- 2 **for a PV SOLAR ARRAY:**
- 3 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-**
- 4 **year limited power warranty.**
- 5
- 6 2. **Certification by an Illinois Professional Engineer that any relocation of**
- 7 **drainage district tile conforms to the Champaign County Storm Water**
- 8 **Management and Erosion Control Ordinance.**
- 9
- 10 3. **An irrevocable letter of credit to be drawn upon a federally insured financial**
- 11 **institution with a minimum acceptable long term corporate debt (credit)**
- 12 **rating of the proposed financial institution shall be a rating of “A” by S&P or**
- 13 **a rating of “A3” by Moody’s or a rating of “A-” by Kroll Bond Rating Agency**
- 14 **within 200 miles of Urbana or reasonable anticipated travel costs shall be**
- 15 **added to the amount of the letter of credit.**
- 16
- 17 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR ARRAY**
- 18 **including any access road that conforms to the relevant Natural Resources**
- 19 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
- 20 **Professional Engineer.**
- 21
- 22 5. **Documentation regarding the seed to be used for the pollinator planting, per**
- 23 **6.1.5 F.(9).**
- 24
- 25 6. **A Transportation Impact Analysis provided by the applicant that is mutually**
- 26 **acceptable to the Applicant and the County Engineer and State’s Attorney; or**
- 27 **Township Highway Commissioner; or municipality where relevant, as**
- 28 **required by 6.1.5 G. 2.**
- 29
- 30 7. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 31
- 32 8. **Any updates to the approved Site Plan per the requirements provided in**
- 33 **Section 6.1.5 U.1.c.**

34

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

36 **The PV SOLAR ARRAY is constructed consistent with the Special Use Permit**

37 **approval and in compliance with the Ordinance requirements.**

38

39 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

40

41 Mr. Grilo said yes.

42

- 43 G. **A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior**
- 44 **to going into commercial production of energy. Approval of a Zoning Compliance**
- 45 **Certificate shall require the following:**
- 46 1. **An as-built site plan of the PV SOLAR ARRAY including structures, property**
- 47 **lines (including identification of adjoining properties), as-built separations,**
- 48 **public access road and turnout locations, substation(s), electrical cabling from**
- 49 **the PV SOLAR FARM to the substations(s), and layout of all structures within**

the geographical boundaries of any applicable setback.

- 2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR ARRAY including any access road prepared by an Illinois Licensed Professional Engineer.**
- 3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**
- 4. **A fire hydrant shall be installed along the gravel drive within 200 feet of the data center in compliance with the relevant standards of the relevant jurisdiction and written acceptance by the Bondville Fire Department shall be submitted to the Zoning Administrator and a Knox box shall be installed at the door to the Data Center.**

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

The PV SOLAR ARRAY is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

Mr. Elwell asked Mr. Grilo if he agreed with the condition.

Mr. Grilo said yes.

H. The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with the following specific requirements that apply even after the PV SOLAR ARRAY goes into commercial operation:

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

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

1 **Future requirements are clearly identified for all successors of title, lessees,**
2 **any operator and/or owner of the PV SOLAR ARRAY.**

3
4 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

5
6 Mr. Grilo said yes.

- 7
- 8 **I. Within the boundary of the PV SOLAR ARRAY, the petitioner shall:**
 - 9 1. **Complete a survey identifying all drainage tile and stake off all tile**
10 **encountered prior to construction;**
 - 11
 - 12 2. **Replace or repair all privately owned underground drainage tile that are**
13 **identified and encountered consistent with both the Champaign County Storm**
14 **Water Management and Erosion Control Ordinance and with the Agriculture**
15 **Impact Mitigation Agreement; and**
 - 16
 - 17 3. **No Zoning Compliance Certificate shall be authorized by the Zoning**
18 **Administrator until all required “as-built” drawings showing the location of**
19 **all drainage tile within the boundary of the PV SOLAR ARRAY have been**
20 **filed with the Illinois Department of Agriculture and the Champaign County**
21 **Soil and Water Conservation District.**
 - 22

23 The special condition stated above is required to ensure the following:
24 **To ensure conformance with all relevant requirements for replacement of**
25 **underground drainage tile within the area of the special use permit.**

26
27 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

28
29 Mr. Grilo said yes.

- 30
- 31 **J. The petitioner shall maintain the privately owned underground drainage tiles within**
32 **the boundary of the PV SOLAR ARRAY for the lifetime of the special use permit**
33 **including any repairs that may be necessary for up to one year after decommissioning**
34 **and site reclamation.**
- 35

36 The special condition stated above is required to ensure the following:
37 **To ensure maintenance of underground drainage tile within the area of the**
38 **special use permit for the lifetime of the special use permit.**

39
40 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

41
42 Mr. Grilo said yes.

- 43
- 44 **K. Within one year of residential development (i.e. construction of a dwelling) within**
45 **1,000 feet of the PV SOLAR ARRAY on the north, east, and south sides, the owner**
46 **of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2)**
47 **of the Zoning Ordinance.**
- 48

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

To ensure that a screen is planted in the event that anticipated future residential development does occur on adjacent land.

1
2
3
4 Mr. Elwell asked Mr. Grilo if he agreed with the condition.

5
6 Mr. Grilo said yes.

7
8 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 109-AM-23.

9
10 **Mr. Roberts moved, seconded by Mr. Herbert, to move to the Findings of Fact for Case 109-AM-**
11 **23. The motion passed by voice vote.**

12
13 Mr. Bates said he needed some clarity. He said this resides within one-and-one-half miles of Bondville,
14 correct.

15
16 Ms. Burgstrom said yes.

17
18 Mr. Bates said there's zero say from Bondville on what they can and can't do in that one-and-one-half
19 miles.

20
21 Mr. Hall said the zoning jurisdiction within the one-and-one-half miles is completely the County's except
22 that the Village does have protest rights on changing the zoning.

23
24 Mr. Bates said and they have protested, so essentially what we are seeing here is similar to what the State
25 has done with the rest of us with wind and solar protection. He said we're saying that we know better than
26 what Bondville does, is that the conclusion we're coming to.

27
28 Mr. Hall said in 1973, the County Board decided they knew better about the use of rural land than the 30
29 municipalities in the county.

30
31 Mr. Bates said so they have no say-so.

32
33 Mr. Hall said they only have protest rights.

34
35 Mr. Bates said so the people living in the City of Champaign have the right to say what happens inside of
36 Bondville and their surrounding areas.

37
38 Mr. Hall said the people living inside the City of Champaign.

39
40 Mr. Bates said yes.

41
42 Mr. Hall said no.

43
44 Mr. Bates said so the board members living inside the City of Champaign have the right to say what
45 happens in Bondville.

46
47 Mr. Hall said no, it's the entire County Board.

48
49 Mr. Bates said the majority of them reside in the City of Champaign, correct.

1 Mr. Hall said he doesn't know how many do.

2

3 Mr. Bates said so we're saying we know better than what their back yard is. He said there's no protection
4 within that one-and-one-half miles, correct.

5

6 Mr. Hall said the County Board has the jurisdiction to determine land use in all unincorporated areas.

7

8 Mr. Bates said thank you.

9

10 Mr. Randol said he's curious, since we're on this subject. He asked what is the purpose of a community
11 such as Bondville, Homer, or wherever, if they have the one-and-one-half mile jurisdiction, how did that
12 ever come about, and why was that established if it doesn't stand for anything. He said we've not had this
13 issue before.

14

15 Mr. Hall said no, and the Zoning Board has generally been supportive of the County Board having land
16 use authority in the unincorporated areas; that has never been questioned at the Zoning Board as far as he
17 knows.

18

19 Mr. Bates said we've also not received the same protest within the same one-and-one-half miles. He said
20 we received a protest from Philo, we received a protest from Mahomet, and Mr. Hall physically went in
21 and made a case to protect them, is that correct. He said Mr. Hall offered Mahomet and Philo protection
22 of one-and-one-half miles that we can't even enforce here, is that true. He asked Mr. Hall if he went to
23 the Philo Board.

24

25 Mr. Hall said he sent letters to Mahomet, St. Joseph, and Philo, pointing out that since they did their
26 protest, the substance of the text amendment had changed drastically. He said when we received those
27 protests, case 086-AM-23 consisted only of changing only the things that the State required us to change.
28 He said subsequently this Zoning Board expanded it to include all of the existing requirements that it
29 didn't contradict. He said so ELUC asked him to send a letter to those villages making that clear to them,
30 and after that the mayor of Mahomet called and proposed this change that ELUC accepted, adding a
31 prohibitive waiver to case 086-AM-23 to further protect municipal subdivision authority – that's what
32 happened.

33

34 Mr. Bates asked what's the distance on that protection.

35

36 Mr. Hall said it is within the one-and-one-half miles.

37

38 Mr. Bates said so Mr. Hall is going to allow that to be enforced by him in that instance, but not in this
39 instance.

40

41 Mr. Hall said again, the amendment was changed to include a prohibitive waiver so that the County Board
42 could not waive municipal subdivision compliance. He said he doesn't know how that relates to what
43 we're talking about now; he doesn't see that it relates at all.

44

45 Mr. Bates said it seems like we have one-and-one-half mile protection on some but not all, because
46 Bondville doesn't have one-and-one-half mile protection on this.

47

1 Mr. Hall said the have one-and-one-half mile protection or they wouldn't have protest rights. He said they
2 have one-and-one-half mile protection, or they wouldn't have raised the subdivision issue. He said he
3 didn't know what Mr. Bates was getting at.
4

5 Mr. Bates said his point is that the one-and-one-half mile does nothing if it's just going to be blown through
6 at their protest.
7

8 Mr. Elwell told Mr. Bates it is his understanding that if there was no protest, it would be a twelve vote
9 affirmative at the County Board. He said with the protest, which they have the right to within the one-and-
10 one-half mile, that then turns into a seventeen vote supermajority. He said there is some weight with the
11 one-and-one-half mile ETJ, not for us, but for passing at the County Board. He said he understands what
12 Mr. Bates is saying, but he also knows that with recent cases, there is some weight that a village can
13 impose upon the County Board, even if it is extra votes.
14

15 Mr. Bates said he understood.
16

17 Mr. Wood said their protection is if they can't get the 17 votes, then nothing happens – that's the only
18 protection that they have in this particular case. He said of course if you go back to the Homer issue that
19 we had before, we denied that for similar reasons, but the County Board overrode us, which they can do.
20 He said but they didn't have to have the supermajority at that point in time.
21

22 Mr. Bates said he just wanted to be clear. He said he has nothing against this, and Mr. Grilo is correct, he
23 has been nothing but compliant, and that doesn't go into this. He said at the end of the day, he just has
24 questions and concerns when we've had multiple meetings, and then you have statements that arise that
25 answers were not provided to the individuals that asked them. He said he doesn't know that this has been
26 vetted completely, that's his personal opinion. He said again, he's trying to understand both sides, and he
27 thinks there is a right to do this, he's just trying to fully understand how a lot of these cases come before
28 us being as how this does not actually contribute to the power grid, how this actually applies.
29

30 Mr. Wood said he remembers a statement that was made earlier the last time we met on this. He said the
31 subsidies that are out there are designed for both residential as well as business. He said this particular
32 business provides the use that we're probably not really aware of, as a data center for computational or
33 storage needs. He said you can realize that there is a demand for it out there, otherwise they wouldn't be
34 building them, in addition to the profits that are available to them through the subsidies that are there. He
35 said you have numerous businesses that put these up, Rigg's Beer is one, there's lots of other examples
36 all around the county, and just for the same reason residential people put up, is that they are no longer on
37 the grid to the full extent of their needs. He said they're basically reducing their usage, and that's the
38 whole issue behind developing a stable form of energy development. He said it's a tough road that we
39 have to go down because we have to completely change how we think about the infrastructure that we're
40 dealing with. He said if you want to get rid of fossil fuels, which probably won't happen, or at least
41 mitigate the impact of them, then we have to go on down this road of developing more of these types of
42 solar and wind and stuff like that. He said both of them are good sources of energy; the only really big
43 issue we've really had with the wind side were with the setbacks, and the fact that we have a county that
44 is probably tenth in population out of 102 counties in the state, and it's 13th with respect to population
45 density and there's lots of other counties with a lot more spare area out there which is probably more
46 appropriate for placing those things there. He said McLean County is an example – half the population,
47 about the same size, population density is considerably lower. He said of course they've already filled up
48 a good portion of their land with the wind side. He said it's going to go down that road regardless, one
49 way or another. He said even with the zoning regulations that the State required us to have, we did make

1 that exception about the half mile limitation which was not part of the State regulation if he understands
2 that correctly. He said even with the ability to get a variance for that, is that correct – because the State
3 didn't allow for a half-mile variance for solar from the municipalities.

4
5 Mr. Hall said the State doesn't require any separation from a municipality for solar.

6
7 Mr. Wood said if we weren't putting that in, nobody would have a choice as to where those things go. He
8 said but, as a business, it's perfectly legal for any business to both put in solar to reduce their demand on
9 the grid and also capture the subsidies that are out there – that's the way it works.

10
11 Mr. Bates told Mr. Wood that he didn't disagree with him on any of that. He said he thinks if we had a
12 great choice it would be that every home is fully self-sufficient off of solar – that would be an ideal world.

13
14 Mr. Wood said technology may get us there.

15
16 Mr. Bates said quite honestly, the petitioner's business plan is remarkable that it does not pull from the
17 grid. He said he just tries to understand the citizens that are coming to speak and hopefully that they can
18 generate some awareness in understanding if there would be an issue if this was a Dollar General that was
19 completely self-sufficient off of solar panels, because it's technically the same thing. He said he thinks
20 when we have wording in here between solar farm and solar array, it adds confusion when we have one-
21 and-one-half mile setbacks he thinks he needs to fully understand what they truly mean and what they
22 don't mean. He said he thinks there are some false insecurities in what this one-and-one-half mile actually
23 means. He said it means we can protest but that we don't actually have control. He asked if that is the
24 clarity he is concluding.

25
26 Mr. Wood said he would agree with that.

27
28 Mr. Herbert said he thinks setbacks is probably the biggest one, whether it be a village or a private
29 residence. He said but then are we truly protecting Best Prime Farmland because that ground is no longer
30 able to be farmed.

31
32 Mr. Elwell said one question he has is there anything happening to that Best Prime Farmland, other than
33 being taken out of production.

34
35 Mr. Herbert told Mr. Elwell he thinks he just answered his own question.

36
37 Mr. Elwell said so is it the production of Best Prime Farmland or is it just the preservation of Best Prime
38 Farmland. He said in his mind, no one is scraping it, collecting it, and disposing of it. He said maybe he's
39 too much in the weeds.

40
41 Mr. Herbert said he guesses the same thing goes to what's the difference, he doesn't know what an
42 example would be, but something like a Wal-Mart or something like that.

43
44 Mr. Hall said Wal-Marts do not have Decommissioning and Site Reclamation Plans and they disturb the
45 land a lot more than a solar array.

46
47 Mr. Herbert said he didn't have a better example right off the top of his head. He said other than the
48 Decommissioning Plan, that's really truly the only difference; but if you were to build a Wal-Mart or
49 whatever it may be, and then have a Decommissioning Plan, is that doing the same thing.

1 Mr. Hall said he doesn't believe removing a Wal-Mart leaves the soil in the same way that removing a
2 solar array leaves it.

3
4 Mr. Herbert said he would agree with that; that's probably a poor example, but he doesn't have a better
5 one at the moment. He said there are other things that if you threw a Decommissioning Plan in on, is that
6 doing the same thing, whether it be a parking lot or what have you.

7
8 Mr. Elwell said isn't the Decommissioning and Site Reclamation Plan to reclaim the land. He said in his
9 mind, we don't know, we're just saying that's our expectation – this may be like 50 years down the road,
10 but we're setting the expectation today that the land that's there today, in 50 years' time, whatever is there
11 is going to be reclaimed to what's here preserving the Best Prime Farmland.

12
13 Mr. Herbert asked Mr. Grilo about his long term goals for 25, 30 years out – is that to decommission that
14 or to update it.

15
16 Mr. Grilo said good question. He said he has always been under the impression that they say solar has
17 about a 25-30 year life. He said he thinks one avenue like Mr. Herbert said is upgrade; we've seen it with
18 solar panels. He said what was available two years ago and what is available now, they're quadrupling in
19 capacity and increasing in efficiency, so in 30 years, will there be some substantial improvement, will we
20 be able to produce the same amount of power with a quarter of the field, will solar not even be a thing in
21 30 years. He said in that case, they would be decommissioning it. He said he doesn't know; he doesn't
22 have a good answer for that. He said he would say that preserving farmland he always argues that he
23 thinks solar preserves that dirt a lot more than farming it. He said you go around, especially this time of
24 year, you look at all the fields that are tilled before winter, and that first melt that happens how much
25 topsoil is washing away – it's tremendous, it's ridiculous, trillions of truckloads. He said when they dig,
26 they have to preserve the topsoil; the topsoil gets scraped off before we do any digging where the clay and
27 stuff goes back in, the topsoil is put back on top. He said all the posts that are used aren't held in with
28 concrete foundations, they're just pushed into the ground, and they come out pretty easy with the
29 telehandler. He said it's such a low impact to the ground because of the requirements put on by the County,
30 frankly. He said it's not just the Decommissioning Plan, it's the Agricultural Impact Mitigation Agreement
31 as well, and again that's these requirements of saving the topsoil, when you dig you have to separate those,
32 you put the topsoil back on top, it helps preserve that dirt, keeping it in its rightful place. He said if you
33 had a Decommissioning Plan for a Wal-Mart, he has to assume no, just because he knows what
34 foundations are like. He said he thinks with the Decommissioning Plan and the Agricultural Impact
35 Mitigation Agreement, if it's anything deeper than five feet can stay; for what it's worth, none of stuff is
36 more than three feet except for the building, which is a pole barn style building without a concrete floor.
37 He said the only concrete that we're pouring onsite is for the handicapped parking spot and the bases for
38 the transformer and switchgear set. He said it's a pretty modular system; it goes down really quick, and
39 he thinks that when the Decommissioning Plan is enacted he thinks that goes back to prime farm ground
40 that's in production relatively quickly.

41
42 Mr. Herbert said more and more of these are popping up, we've seen a lot of these in here. He asked where
43 do you draw the line, do you put a 1,000-acre solar farm in, or do you put 50 20-acre solar farms. He said
44 that just keeps growing, and now you have 2,000 acres of Champaign County covered in solar arrays and
45 solar farms that is taking 2,000 acres out of production or more, whatever number that may be. He said if
46 the life span is 25-30 years, in his mind you're better off to upgrade that than you are to decommission it
47 since most of the infrastructure is already there, why wouldn't you upgrade that. He said you keep adding
48 these year after year after year and those acres just continue to grow.

1 Mr. Wood said it's a bigger issue than just that. He said having been involved in agriculture for the last
2 40 years, he has watched thousands and thousands of acres being eaten up by residential properties in
3 Champaign, Urbana, Mahomet, St. Joseph, Tolono, and the population growth in Champaign County is
4 probably one of 15 counties in the State of Illinois that actually has had positive growth all this time. He
5 said it is sixth or seventh in terms of population growth. He said go back and look at the ethanol issue;
6 right now, you have about a third of the corn in this country turning into ethanol but really ethanol is not
7 anything that is sustainable. He said it's not doing anything to reduce the use of fossil fuels, mostly because
8 of the amount of natural gas they need to dry the stuff after you extract the alcohol. He said it was a step
9 in the right direction, the only benefit was to replace MTBE as an oxygen in gasoline because it was
10 carcinogenic. He said this is just the next stage in that goal of going down the path towards more
11 sustainability. He said if you look at it, instead of growing corn to produce ethanol to produce energy to
12 turn around and produce electricity, you're producing electricity off that same ground and it's a direct
13 change from sunlight to electromagnetic energy that is immediately usable. He said that takes all the other
14 processes out, you don't have all of that middle stuff you have to go through to extract energy. He said
15 there are other issues involved in that you will eventually have to deal with; number one is the recyclability
16 of those things. He said it was the same for wind farms; the recyclability of that stuff because eventually
17 it will all wear out and we'll have to face that issue at some point in time. He said in terms of the actual
18 production of those things, for solar material the payback to cover the cost of your footprint that you create
19 by making that is about two to two and a half years. He said for wind farms it's even better; it's only six
20 to seven months that you get the payback to cover the cost. He said eventually, if you make enough of this
21 stuff, you'll be able to use the energy that you're already creating through wind farms or solar farms or
22 whatever the next new technology is and you won't be using fossil fuels to make them, but you have to
23 get to that point to have enough energy to be able to do that as well as sustain all of the energy usage for
24 everything else. He said it's a long process and there are going to be a lot of shifts and stuff, but it is
25 basically replacing corn as a source of energy. He said 20% of the corn crop in this country goes for
26 export; we don't need to export it. He said 20% of about 14 billion bushels that we produce is a pretty
27 sizable amount. He said it's a big, long, complicated issue now and it's looking long-term down the road
28 if we're actually going to survive as a species, in his opinion.

29
30 Mr. Bates told Mr. Wood his knowledge will be missed.

31
32 Mr. Elwell told Mr. Herbert that he agreed with him, he thinks taking land out of crop production is a
33 detriment overall. He said but he also puts himself in the shoes of the owner; if he wants to grow
34 watermelon instead of corn and soybeans, who should be able to tell him what he can and can't grow on
35 his own land as long as he abides by the setbacks and stuff like that. He said he thinks we have someone
36 who has a track record of being earnest in the evidence of the cases that are given to us, everything that
37 we've asked for has been received. He said we haven't had to pull any teeth, but with that being said, he
38 does understand what Mr. Herbert is saying. He said he understands coming from a farmer's heart that if
39 there was a 2,000-acre plot that was right in the middle of Best Prime Farmland in Champaign County,
40 there's probably two or three farmers who have lost the access to that acreage.

41
42 Mr. Grilo said regarding the crop production, he expects in the not-too-distant future he'll be up here
43 asking to allow him, he's working on getting a pumpkin grower to use some of their land in those 12-foot
44 rows. He said pumpkin is something that can be grown; unfortunately, they're required to do the pollinator
45 habitat inside the array. He said he does expect in the future that he will be up here asking to switch
46 because it's easier on him, it's less maintenance, and it helps put some of that ground back into production.
47 He said he knows pumpkins aren't corn or soybeans, but Illinois is the number one pumpkin producer in
48 the world, so it does mean something. He said he also did a quick napkin math: 2,000 acres of solar is
49 only 0.3% of the land in Champaign County. He said he didn't actually realize that Champaign County is

1 1,000 square miles; it's pretty big. He said he understands what Mr. Herbert is saying and 2,000 acres
2 does sound like a lot, but in reality it's a small portion of that. He said he doesn't know how many acres
3 are used for solar production currently in Champaign County.
4

5 Mr. Wood said it might be more profitable to make honey.
6

7 Mr. Herbert said he thinks the pollinator is a great program as well.
8

9 Mr. Grilo said he thinks it's awesome.
10

11 Mr. Herbert said he's glad to see that happening rather than having grass underneath.
12

13 Mr. Grilo said he agreed and he's super excited for it. He said Rantoul is their first site that is prepped;
14 they have three pallets of seed from Pheasants Forever and they're prepped to plant it here this winter. He
15 said he's very excited for it. He said regarding the honey, in Rantoul they have a mead manufacturer who
16 has a lot of beehives, and he is going to start putting his beehives out there. He said he is really excited;
17 he thinks it is going to be really cool and he is excited to see what type of species they actually get to see.
18

19 Mr. Elwell asked if there were any other comments.
20

21 Mr. Bates said he just wanted to be clear – our collective vote is just a recommendation; our vote doesn't
22 necessarily hold any weight and it's the County Board that makes the decision on what happens – just so
23 everyone is aware that it's not us. He said we hear the case and put forward a recommendation, and they
24 make the ultimate approval.
25

26 Mr. Elwell said it is his understanding that the County Board will vote their heart, so it's not always a
27 party-line vote. He referred to Attachment I, page 22 of 25 for Case 109-AM-23, and asked if there was
28 anything the Board would like to alter or change before we approve the Findings of Fact.
29

30 Mr. Elwell asked Mr. Hall if the map amendment was over the 77 acres and not the 20 that they currently
31 own.
32

33 Mr. Hall said yes.
34

35 **Mr. Wood moved to accept the Findings of Fact as presented and the preliminary drafts and the**
36 **Documents of Record and the conditions as appropriate for each of the individual cases here.**
37

38 Ms. Burgstrom said we need to add to the Documents of Record, which would be Supplemental
39 Memorandum #2 and its attachments.
40

41 **Mr. Wood said he would amend his motion to include the Documents of Record as amended.**
42

43 Mr. Elwell asked for a second on the motion.
44

45 **Mr. Roberts seconded the motion. The motion passed by voice vote.**
46

47 Mr. Elwell entertained a motion to move to the Final Determination for Case 109-AM-23.
48

1 Mr. Roberts moved, seconded by Mr. Wood, to move to the Final Determination for Case 109-AM-
2 23. The motion passed by voice vote.

3
4 Mr. Elwell told Mr. Grilo he would be reading on page 25 of 25 of Attachment I.

5
6 **FINAL DETERMINATION FOR CASE 109-AM-23**

7 Mr. Wood moved, seconded by Mr. Roberts, that pursuant to the authority granted by Section 9.2
8 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
9 recommends that:

10
11 **The Zoning Ordinance Amendment requested in Case 109-AM-23 should BE ENACTED by**
12 **the County Board in the form attached hereto.**

13
14 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

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

18
19 B. **The Map Amendment is contingent upon approval of Cases 110-S-23 and 111-S-23.**

20
21 Mr. Elwell requested a roll call vote.

22
23 The vote was called as follows:

24
25 **Randol – No Anderson – Yes Herbert – No Bates – No**
26 **Elwell – No Roberts – Yes Wood – Yes**

27
28 **The motion failed.**

29
30 Ms. Burgstrom said since the motion failed for the map amendment, that’s just the recommendation for
31 denial. She said they still need to go through the special uses and the variance.

32
33 Mr. Elwell asked isn’t case 110-S-23 dependent on case 109-AM-23.

34
35 Ms. Burgstrom said yes, but the County Board approves or denies 109-AM-23, not the ZBA.

36
37 Mr. Elwell entertained a motion to move to the Draft Summary Findings of Fact for Cases 110-S-23 and
38 112-V-23 in Attachment J, page 27 of 33.

39
40 Mr. Woods asked what’s the point if they’ve denied the change from AG-1 to AG-2.

41
42 Mr. Hall said the point is the petitioner deserves an answer. He said it’s always a challenge to coordinate
43 findings with final determinations. He said the Board just denied a map amendment without any negative
44 findings. He said that doesn’t break any laws; it’s not logical, but it doesn’t break any laws. He said on
45 the special uses, you can’t approve a special use if there is just one negative finding. He said he thinks it’s
46 fair to say that the findings have been drafted pretty much affirmatively, so he encouraged the Board to
47 search their hearts and find something that is inadequate in the special uses and then it will be easy to have
48 at least one negative finding, which would justify a denial of the special uses.

1 Ms. Burgstrom said she thinks it’s important to remember that case 110-S-23 along with variance case
2 112-V-23 are for the data center, and that special use case is determined by this Board, whereas special
3 use case 111-S-23 is a County Board Special Use Permit and so you’re making a recommendation to the
4 County Board regarding the solar arrays in case 111-S-23. She said cases 110-S-23 and 112-V-23 are
5 decided right here.

6
7 Mr. Herbert asked if notifying the Village of Bondville wouldn’t be a relevant jurisdiction and would their
8 letter of protest work as a negative.

9
10 Mr. Hall said more importantly what would work as a negative is these things require a rezoning; if there’s
11 no rezoning, they can’t happen. He said that would be a relevant finding. He said regardless of the protest,
12 this Board recommended denial of the map amendment.

13
14 Mr. Elwell entertained a motion to move to the Draft Summary Findings of Fact for Cases 110-S-23 and
15 112-V-23.

16
17 Mr. Herbert asked what page that was on.

18
19 Mr. Elwell said it was page 27 of 33 of Attachment J.

20
21 With no response, Mr. Elwell said if we have a motion and a vote, we can discuss.

22
23 **Mr. Herbert moved, seconded by Mr. Randol, to move to the Draft Summary Findings of Fact for**
24 **Cases 110-S-23 and 112-V-23. The motion passed by voice vote.**

25
26 Mr. Randol said he would question finding number one, if the Special Use Permit would be necessary. He
27 referred to finding 1.a. and said there are no power lines adjacent to that property if they’re going to look
28 at the 20 acres on the far north end, which is out by the interstate – there are no power lines out there.

29
30 Mr. Grilo apologized for interrupting, but said it’s not the far north 20 acres, it’s not that far north. He said
31 they only moved it off the road because that’s what Bondville wanted because they wanted to leave it for
32 commercial development. He said this theory about Bondville not wanting it is really true.

33
34 Mr. Randol said that’s the way he interpreted the map.

35
36 Mr. Grilo referred to a sheet of the site plan and said it’s 1,000 feet from Route 10, so it’s about 1,000 feet
37 from the interstate.

38
39 Mr. Elwell referred to Attachment J, page 27 of 33.

40
41 **SUMMARY DRAFT FINDINGS OF FACT FOR CASES 110-S-23 AND 112-V-23**

42
43 From the documents of record and the testimony and exhibits received at the public hearing for zoning
44 cases **110-S-23** and **112-V-23** held on **September 14, 2023, and November 30, 2023**, the Zoning Board
45 of Appeals of Champaign County finds that:

- 46
47 **1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this**
48 **location because:**

49

1 Ms. Burgstrom said she put one page of the site plan up on the screen so they could see that Route 10 is
 2 on the south end of the property, the arrays are going through the middle, and the interstate is at the north
 3 end of the property.

4
 5 Mr. Wood said as far as he is concerned it is, and the subject property is adjacent to the necessary power
 6 lines.

7
 8 **2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED***
 9 ***HEREIN*** is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}*
 10 **be injurious to the district in which it shall be located or otherwise detrimental to the public**
 11 **health, safety, and welfare because:**

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

14
 15 Mr. Wood said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
 16 visibility because: traffic volumes are not expected to increase significantly because there won't be
 17 workers onsite, and notice was sent to IDOT and the Scott Township Road Commissioner, and no
 18 comments have been received.

19
 20 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:**

21
 22 Mr. Wood said emergency services availability is ADEQUATE because: the subject property is located
 23 approximately 1,475 feet from the Bondville Fire Station.

24
 25 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses because:**

26
 27 Mr. Wood said the Special Use WILL be compatible with adjacent uses because: the subject property is
 28 surrounded by agriculture to the east, west and north, and a mix of uses to the south. The nearest dwelling
 29 to the data center is over 1,000 feet to the south.

30
 31 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* because:**

32
 33 Mr. Wood said surface and subsurface drainage will be ADEQUATE because: most of the subject property
 34 is located within a mapped floodplain, with the Kaskaskia River located just a little to the east so a
 35 Floodplain Development Permit will be required in addition to a Zoning Use Permit. A Storm Water
 36 Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious
 37 area, which probably will not be the case.

38
 39 **e. Public safety will be *{ADEQUATE / INADEQUATE}* because:**

40
 41 Mr. Wood said public safety will be ADEQUATE because: the subject property is located approximately
 42 1,475 feet from the Bondville Fire Station. Notice was also sent to the Township Supervisor and Township
 43 Road Commissioner, and no comments have been received.

44
 45 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:**

46
 47 Mr. Wood said the provisions for parking will be ADEQUATE because: there is no significant increase
 48 in traffic expected for the DATA CENTER and there will be no employees on a regular basis.

1 g. **The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed**
2 **improvements *{because*}*:**
3

4 Mr. Wood said the property IS WELL SUITED OVERALL for the proposed improvements because: the
5 site can be safely and soundly accommodated using simple engineering and common, easily maintained
6 construction methods with no unacceptable negative effects on neighbors or the general public.
7

8 Mr. Herbert said he does not think it is well suited overall if the village is against it within their one-and-
9 one-half mile jurisdiction. He said all of these boxes are checked; the only thing he has against it is the
10 Village of Bondville being opposed to it. He said other than that, everything else is being done correctly.
11 He said he would prefer that it all be worked out between them and then brought back, but he thinks we've
12 already started down this path, that now has caused an issue. He said he doesn't have a different answer
13 to these, and that's a problem to find a negative.
14

15 Mr. Wood said well, he thinks you stick to the facts.

16
17 Mr. Bates said this Board didn't generate these facts.
18

19 Mr. Wood said that's been the case for most of the cases presented to them, but he thinks the fact is it's
20 accurate information.
21

22 Mr. Bates said he thinks he can go back and in due time challenge some of these.
23

24 Mr. Wood said it's his last turn, so it will be up to the rest of them after this.
25

26 Mr. Elwell asked Mr. Hall if you can have 109-AM-23 decline to be recommended and have cases 110-
27 S-23 and 112-V-23 be recommended.
28

29 Mr. Hall said if this Board decides that they can have it; it's up to this Board.
30

31 Mr. Elwell told Mr. Herbert he's on the same boat as him; he doesn't have any issues with this, but what
32 he does know is there has been a protest from the village, and that's why he didn't support case 109-AM-
33 23. He said if that is the case, should we continue with Mr. Wood's recommendation.
34

35 Mr. Herbert said if we're not supporting case 109-AM-23 to rezone from AG-1 to AG-2 for the data
36 center, how can we support the data center in 110-S-23.
37

38 Mr. Elwell said maybe he's getting too much into the weeds; he doesn't have anything against the data
39 center.
40

41 Mr. Herbert said okay, then we'll continue on then.
42

43 Mr. Elwell said to his knowledge, other than Homer, we haven't had any other township or any other
44 village express any interest in not having the data center approved in the past, even with like the Windsor
45 Road case.
46

47 Mr. Herbert said the dispute there was worked out. He said that's where his holdup is; this dispute does
48 not seem to be resolved.
49

1 Mr. Elwell said correct, and that's the reason why he voted not to change the zoning map.

2
3 Mr. Randol said on Windsor Road, the differences were all worked out before it came to the Board.

4
5 Mr. Elwell said he thinks we all would have preferred that, but those are not the facts that were given to
6 us today. He said to answer Mr. Herbert's question, that's the reason he feels that cases 110-S-23 and 112-
7 V-23 could be answered in the affirmative, but not case 109-AM-23.

8
9 Mr. Hall said before we move on, he asked Mr. Herbert if he is not recommending additional evidence for
10 item 2.g.

11
12 Mr. Herbert said he would retract that statement.

13
14 **h. Existing public services {ARE/ARE NOT} available to support the proposed**
15 **SPECIAL USE without undue public expense {because*}:**

16
17 Mr. Wood said existing public services ARE available to support the proposed special use without undue
18 public expense because: no additional public services are necessary for the proposed development.

19
20 **i. Existing public infrastructure together with the proposed development {IS/IS NOT}**
21 **adequate to support the proposed development effectively and safely without undue**
22 **public expense {because*}:**

23
24 Mr. Wood said existing public infrastructure together with the proposed development IS adequate to
25 support the proposed development effectively and safely without undue public expense because: no new
26 public infrastructure is required for the proposed development.

27
28 Mr. Wood said as a result, the requested Special Use Permit, SUBJECT TO THE SPECIAL
29 CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL
30 NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health,
31 safety, and welfare.

32
33 **3a. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
34 **HEREIN} {DOES / DOES NOT} conform to the applicable regulations and standards of the**
35 **DISTRICT in which it is located.**

36
37 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
38 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
39 which it is located.

40
41 Mr. Hall said this is an opportunity for the Board to coordinate this finding with your previous
42 recommendation on the map amendment.

43
44 Mr. Herbert asked if he was talking about 3a or 3b.

45
46 Mr. Wood said 3a.

47
48 Mr. Hall said he thinks 3b also but you're also dealing with 3a right now, and this is exactly the point.
49

1 Mr. Elwell said so this can be “does not” because of the negative recommendation for case 109-AM-23.
2
3 Mr. Wood said so his response to 3a is contrary to what we did for case 109-AM-23. He said if you have
4 an issue with it, you have to put it in writing.
5
6 Mr. Elwell said there’s not a “because” offered in the 3a statement and asked Mr. Hall if the Board should
7 add a “because” to the response.
8
9 Mr. Hall said he’s never had this Board request more “because” statements, but they can certainly do that
10 because the task is to make it your finding.
11
12 Mr. Herbert said it does not conform because of the Bondville protest.
13
14 Mr. Hall said Mr. Wood has moved that it does conform, and honestly this happens so rarely he doesn’t
15 know the proper way to deal with it, but in his mind the best way to deal with it is when you have this
16 difference you put each finding up for a vote.
17
18 Mr. Herbert moved for a vote on 3a. that it does or does not conform.
19
20 Mr. Elwell asked Mr. Herbert if his motion was that it does conform.
21
22 Mr. Herbert said one way or another, that will answer it.
23
24 Mr. Elwell said we need to know what we’re voting on, so if you’re wanting to move for what Mr. Wood
25 said, then it would be does.
26
27 **Mr. Herbert moved, seconded by Mr. Bates, that it DOES NOT conform and asked for a roll call**
28 **vote.**
29
30 The vote was called as follows:
31
32 **Randol – Yes Anderson – No Herbert – Yes Bates – Yes**
33 **Elwell – Yes Roberts – No Wood – No**
34
35 **The motion passed that the requested Special Use Permit, SUBJECT TO THE SPECIAL**
36 **CONDITIONS IMPOSED HEREIN, DOES NOT conform to the applicable regulations and**
37 **standards of the DISTRICT in which it is located.**
38
39 Mr. Elwell asked Mr. Herbert if the because statement is adequate.
40
41 Mr. Herbert said yes, he thinks so, unless someone else has something to add.
42
43 **3b. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
44 **HEREIN} {DOES / DOES NOT} preserve the essential character of the DISTRICT in which**
45 **it is located because:**
46 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all relevant**
47 **County ordinances and codes.**
48
49 Mr. Wood said the Special Use will be designed to CONFORM to all relevant County ordinances and

1 codes.

2

3 Mr. Elwell asked Mr. Hall if this passes, would this conform to the ordinances.

4

5 Mr. Wood said you'll have another vote on it.

6

7 Mr. Randol said you can say that it does conform to what the ordinance is on this particular item, but we
8 go to 3b.b. and we can say the special use will not be compatible because Bondville has the protest. He
9 said you can say that the Route 10 corridor is part of their long-term commercial expansion or
10 development.

11

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

13

14 Mr. Wood said the Special Use WILL be compatible with adjacent uses.

15

16 Mr. Bates said the Special Use WILL NOT be compatible with adjacent uses.

17

18 Mr. Elwell said he is looking for a motion.

19

20 **Mr. Randol moved, seconded by Mr. Herbert, that the Special Use WILL NOT be compatible with**
21 **adjacent uses.**

22

23 Mr. Elwell called for a roll call vote.

24

25 The vote was called as follows:

26

27	Randol – Yes	Anderson – No	Herbert – Yes	Bates – Yes
28	Elwell – Yes	Roberts – No	Wood – No	

29

30 **The motion passed.**

31

32 **c. Public safety will be {ADEQUATE / INADEQUATE}.**

33

34 Mr. Randol said that public safety will be ADEQUATE.

35

36 Mr. Randol said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL
37 CONDITIONS IMPOSED HEREIN, DOES NOT preserve the essential character of the district in which
38 it is located because we're not in agreement of all three factors.

39

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

43

44 **a. The Special Use IS authorized in the District.**

45

46 Mr. Elwell said that's not the case, so the Special Use IS NOT authorized in the AG-1 Agriculture Zoning
47 District.

47

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

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

- 2
3 c. **The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS***
4 ***IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it**
5 ***{WILL / WILL NOT}* be injurious to the district in which it shall be located or**
6 **otherwise detrimental to the public health, safety, and welfare.**
7

8 Mr. Wood said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
9 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
10 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
11 and welfare.

- 12
13 d. **The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS***
14 ***IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the**
15 **DISTRICT in which it is located.**
16

17 Mr. Wood said that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
18 IMPOSED HEREIN, DOES preserve the essential character of the district in which it is located.

19
20 Mr. Hall said the Board just made a finding that it does not. He said you can still move that, but he just
21 wants to remind the Board of these things.

22
23 Mr. Randol asked if they need to go back to where they voted before because of Bondville's protest.

24
25 Mr. Elwell asked Mr. Hall in this district, if it doesn't preserve the essential character of this district
26 because this is still AG-1.

27
28 Mr. Hall said yes.

29
30 Mr. Randol said you could go back to 4.a. because it's not authorized in the AG-1 district.

31
32 Mr. Elwell said we have a motion that it does preserve the essential character. He said as it is right now,
33 the motion is "does" and prior evidence said to the contrary.

34
35 Mr. Randol said we disagreed; we've been in favor of the Bondville protest.

36
37 Mr. Wood said but it also contradicts some of the statements that you have in number 2, which were not
38 contested.

39
40 Mr. Bates said back to his original statement that we have a difference in opinion on the Board on how
41 these can be answered, so they're going to be contested all the way through. He said that's the truth; they
42 were well prepared, there's just not agreement. He said he didn't know if we wanted to go through a roll
43 call vote on every one of these, would that be helpful.

44
45 Mr. Hall said that's what this Board did back in 2018 when it dealt with five solar farms and to the best
46 of his recollection, there were roll call votes on every finding for every solar farm because there was a
47 split on the Board.

48
49 Mr. Bates said he was not here at that time. He said he is here to come to some type of agreement; that's

1 what we are here for. He asked Mr. Hall what the best direction is; is it best to continue to understand
2 what sides are opposed so we can work on those.

3
4 Mr. Elwell said he thinks the Board has worked pretty well going through, and then if there is something
5 that is contested or something that is outside of standard of practice, then we can stop and have the roll
6 call vote. He asked Mr. Wood is with 4.a.; this is a special use that is not authorized in this district – can
7 he still say that this does preserve the essential character of the district in which it is located. He said the
8 reason he says that is if it was allowed in AG-1, then it would preserve; but it's not allowed in AG-1, and
9 as of now this is still AG-1 with their recommendation to ELUC. He asked if this does preserve the
10 essential character of the district in which it is located.

11
12 Mr. Wood said he thinks it still does, and if you want to put in there assuming that it was changed to AG-
13 2, just the fact that you did not approve the change from AG-1 to AG-2 doesn't have anything to do as to
14 whether it preserves the essential character of the district; they are two separate items. He said there is no
15 connection or crossover between the two.

16
17 Mr. Elwell said there is, because in one district it is allowed, and in the other district it is not. He asked
18 Mr. Wood if he would be okay saying it does not the essential character of the AG-1 district.

19
20 Mr. Wood said no, he would not. He said he would have to go back to a whole bunch of other cases we've
21 already done in the past where we have approved all these things that are similar to this particular case.
22 He said as far as he is concerned right now, what we're dealing with is a NIMBY case. He said that's all
23 it is, and if we went back to the actual stated rules where there was no half-mile setback limit and if we
24 deny this and the County Board decides to accept what you've done, Mr. Grilo has the right to sue you.
25 He said if you want to go down that road, that's fine, but he's not going to be here, so he doesn't care.

26
27 Mr. Elwell said isn't this very similar to the Homer solar farm.

28
29 Mr. Wood said you're going to get the same thing. He said he sat there and told the mayor of Homer
30 exactly what he was up against, that he was just going to be overridden, particularly if the rules had
31 actually changed and they got the State rules in place, we wouldn't have a choice.

32
33 Mr. Bates said that brings up the statement why are we even here.

34
35 Mr. Wood said we probably would not be dealing with solar issues if the State rules were in place because
36 we wouldn't have a variance that needed to be established. He said if there were no half-mile limitation
37 there, we wouldn't be asking for that variance.

38
39 Mr. Bates said but we are.

40
41 Mr. Wood said we are because Champaign County, at least according to the rules they're trying to get
42 voted into place and which we currently have as the standard prior to the State rules, you have the right to
43 ask for a variance in that and get a special use. He said we've already passed a whole bunch of those.

44
45 Mr. Bates said there hasn't been a protest.

46
47 Mr. Wood said like he said, you're dealing with a NIMBY issue. He said if you want to go down that
48 road, that's fine, but he's not going to go with you.

1 Mr. Bates said that’s apparent by the end of your term.

2

3 An audience member asked what NIMBY is.

4

5 Mr. Elwell replied it means “Not In My Back Yard.”

6

7 Mr. Randol said the County Board is going to overrule us and do what they want anyway, so the Board
8 can have their opinion. He said that’s what we’re doing; we’re giving our opinion.

9

10 Mr. Elwell said he would like a motion and a roll call vote for 4.d.: the requested Special Use Permit,
11 SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential
12 character of the DISTRICT in which it is located.

13

14 Mr. Wood said he thinks you have to have someone disagreeing with it for someone to put up a motion
15 that it does not, as we’ve done already on several different issues.

16

17 Mr. Elwell said he is asking for a motion on this.

18

19 Mr. Wood said if nobody disagrees with it, then why make a motion.

20

21 **Mr. Herbert moved, seconded by Mr. Bates, to have a roll call vote on the statement that the**
22 **requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN,**
23 **DOES preserve the essential character of the DISTRICT in which it is located.**

24

25 The vote was called as follows:

26

27	Randol – No	Anderson – Yes	Herbert – No	Bates – No
28	Elwell – No	Roberts – Yes	Wood – Yes	

29

30 **The motion failed.**

31

32 Mr. Herbert said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL
33 CONDITIONS IMPOSED HEREIN, IS NOT in harmony with the general purpose and intent of the
34 Ordinance.

35

36 Mr. Elwell asked Mr. Wood if there is any discussion.

37

38 Mr. Wood said no, it doesn’t exist.

39

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

41

42 Mr. Elwell said the requested Special Use IS NOT an existing non-conforming use.

43

44 Ms. Burgstrom said we no longer have the waiver for finding 6.

45

46 Mr. Elwell said moving on to number 7, which would be the new 6, regarding the variance.

47

48 **7. Regarding the variance:**

49 **a. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the**

1 **land or structure involved, which are not applicable to other similarly situated land**
 2 **and structures elsewhere in the same district because:**

3
 4 Mr. Herbert said special conditions and circumstances DO exist which are peculiar to the land or structure
 5 involved, which are not applicable to other similarly situated land and structures elsewhere in the same
 6 district because: the proposed data center will be monitored remotely and will have only occasional visits
 7 by employees for maintenance. There is therefore limited need for parking and no need for a loading berth.

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

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

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

20
 21 Mr. Wood said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 22 from actions of the applicant because: the petitioner does not expect any visitors to the data center and
 23 only occasional visits by employees. They do not anticipate a need for a loading berth.

24
 25 **d. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{IS / IS NOT}***
 26 **in harmony with the general purpose and intent of the Ordinance because:**

27
 28 Mr. Herbert said the requested variance IS in harmony with the general purpose and intent of the
 29 Ordinance because: the petitioner does not anticipate visitors or deliveries at this site. They do not expect
 30 many employee visits because the data center will be monitored remotely.

31
 32 **e. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{WILL /***
 33 ***WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public**
 34 **health, safety, or welfare because:**

35
 36 Mr. Randol said the requested variance WILL NOT be injurious to the neighborhood or otherwise
 37 detrimental to the public health, safety, or welfare because: notice of the proposed variance was sent to
 38 relevant jurisdictions, and no comments were received.

39
 40 Mr. Bates said he had a question on that – isn't the objection by Bondville considered to be a comment
 41 received.

42
 43 Mr. Randol said the chief didn't respond here, but he did respond because they made arrangements to put
 44 in the fire hydrant, so there was communication there.

45
 46 Ms. Burgstrom said this variance is for the parking area and loading berth only, and we did not receive
 47 any comments regarding those two things.

48
 49 Mr. Wood said it's just specific to the parking and loading area; it's the only issue here – we are dealing

1 specifically with those variances.

2
3 **f. The requested variance ~~{SUBJECT TO THE PROPOSED CONDITION}~~ {IS / IS NOT}**
4 **the minimum variation that will make possible the reasonable use of the**
5 **land/structure because:**
6

7 Mr. Wood said the requested variance IS the minimum variation that will make possible the reasonable
8 use of the land/structure.

9
10 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
11 of Fact, as amended.

12
13 **Mr. Wood moved, seconded by Mr. Herbert, to adopt the Summary of Evidence, Documents of**
14 **Record, and Findings of Fact, as amended. The motion passed by voice vote.**

15
16 Mr. Elwell entertained a motion to move to Final Determination.

17
18 **Mr. Wood moved, seconded by Mr. Roberts, to move to Final Determination. The motion carried**
19 **by voice vote.**

20
21 Mr. Elwell told Mr. Grilo he would be reading from Attachment J, page 32 of 33.

22
23 **FINAL DETERMINATION FOR CASE 110-S-23**

24
25 **Mr. Wood moved that the Champaign County Zoning Board of Appeals finds that, based upon the**
26 **application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B.**
27 **for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the**
28 **Champaign County Zoning Ordinance, determines that:**

29
30 **The Special Use requested in Case 110-S-23 is hereby GRANTED to the applicant, Anthony**
31 **Donato, d.b.a. Donato Solar – Bondville LLC, to authorize the following:**

32
33 **Authorize a data center as a Special Use Permit, subject to the proposed rezoning to**
34 **AG-2 Agriculture in Case 109-AM-23.**
35

36 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

37 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
38 **proposed special use until the petitioner has demonstrated that the proposed Special**
39 **Use complies with the Illinois Accessibility Code.**
40

41 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until**
42 **the petitioner has demonstrated that any new or proposed exterior lighting on the**
43 **subject property will comply with the lighting requirements of Section 6.1.2.**
44

45 **C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
46 **authorizing occupancy of the proposed buildings until the Zoning Administrator has**
47 **received a certification of inspection from an Illinois Licensed Architect or other**
48 **qualified inspector certifying that the new buildings comply with the following codes:**
49 **(A) the current edition or most recent preceding edition of the International Building**

Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.

Mr. Herbert said wouldn't the negatives in the Findings of Fact prove otherwise.

Mr. Hall said under the ordinance, you can't approve a Special Use Permit with just one negative finding; that would be violating the terms of the ordinance.

Mr. Herbert asked if they needed to finish Mr. Wood's motion or can he go ahead and object.

Mr. Bates said there is no objection, it has to be voted down.

Mr. Elwell said if we get the second on the motion and the nays are more than the ayes, then this case is not granted.

Mr. Bates said correct me if I'm wrong, it cannot be granted.

Mr. Hall said he supposes they could grant it if they want to be out of compliance with the ordinance; that would be grounds for a lawsuit for violating the terms of the ordinance, but you're the Board, you do what you feel you have to do.

Mr. Elwell asked if there was a second to Mr. Wood's motion.

Mr. Wood said he thinks the motion just fails for lack of a second.

Mr. Elwell said it is his understanding that for lack of a second, the opposite finding is now the motion.

Mr. Herbert moved, seconded by Mr. Bates, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE NOT been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 110-S-23 is hereby DENIED to the applicant, Anthony Donato, d.b.a. Donato Solar – Bondville LLC, to authorize the following:

Authorize a data center as a Special Use Permit, subject to the proposed rezoning to AG-2 Agriculture in Case 109-AM-23

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**
- B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**

1 authorizing occupancy of the proposed buildings until the Zoning Administrator has
2 received a certification of inspection from an Illinois Licensed Architect or other
3 qualified inspector certifying that the new buildings comply with the following codes:
4 (A) the current edition or most recent preceding edition of the International Building
5 Code, and (B) the current edition or most recent preceding edition of the National
6 Electrical Code NFPA 70.
7

8 Mr. Elwell requested a roll call vote.
9

10 The vote was called as follows:
11

12	Randol – Yes	Anderson – abstain	Herbert – Yes	Bates – Yes
13	Elwell – Yes	Roberts – present	Wood – abstain	

14
15 **The motion passed.**
16

17 Mr. Elwell entertained a motion to move to Final Determination for Case 112-V-23.
18

19 **Mr. Randol moved, seconded by Mr. Roberts, to move to Final Determination for Case 112-V-23.**
20 **The motion passed by voice vote.**
21

22 Mr. Elwell said he would be reading from Attachment J, page 33 of 33.
23

24 **FINAL DETERMINATION FOR CASE 112-V-23**
25

26 **Mr. Herbert moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals**
27 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
28 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
29 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of**
30 **Appeals of Champaign County determines that:**
31

32 **The Variance requested in Case 112-V-23 is hereby GRANTED to the applicant, Anthony Donato,**
33 **d.b.a. Donato Solar – Bondville LLC, to authorize the following variance in the AG-2 Agriculture**
34 **Zoning District:**
35

36 **Authorize the following variance for the data center proposed as a Special Use Permit in related**
37 **case 110-S-23:**
38

39 **Part A: Authorize a variance for two parking spaces in lieu of the minimum required 7**
40 **parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.**
41

42 **Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading**
43 **berth, per Section 7.4.1 C.5. of the Zoning Ordinance.**
44

45 Mr. Elwell asked if that shouldn't read AG-1 instead of AG-2.
46

47 Ms. Burgstrom said it should still read AG-2 based on the assumption that the map amendment would
48 occur, which we don't know yet.
49

1 Mr. Elwell said it should still be AG-2, because if it is approved, we still need the variance.

2

3 Mr. Hall said it has to be AG-1. He said if you make a finding related to AG-2, it doesn't even relate to
4 this anymore. He said you could just delete the zoning district and just say authorize the following variance
5 and don't even mention the district.

6

7 Mr. Elwell said okay, he's alright with that.

8

9 **Mr. Herbert moved that they HAVE NOT been met, and DENIED.**

10

11 Ms. Burgstrom asked if they had a negative finding.

12

13 Mr. Elwell said he didn't think they had a negative finding for the parking spots.

14

15 **Mr. Herbert retracted his motion and moved that they HAVE been met, and GRANTED.**

16

17 **Mr. Randol seconded the motion.**

18

19 Mr. Elwell requested a roll call vote.

20

21 The vote was called as follows:

22

23	Randol – Yes	Anderson – Yes	Herbert – Yes	Bates – Yes
24	Elwell – Yes	Roberts – Yes	Wood – Yes	

25

26 **The motion passed.**

27

28 Mr. Elwell entertained a motion to move to the Findings of Fact for case 111-S-23.

29

30 **Mr. Randol moved, seconded by Mr. Herbert, to move to the Findings of Fact for case 111-S-23.**
31 **The motion passed by voice vote.**

32

33 Mr. Elwell told Mr. Grilo he would be reading from Attachment K, page 44 of 55.

34

35 **FINDINGS OF FACT FOR CASE 111-S-23**

36

37 From the documents of record and the testimony and exhibits received at the public hearing for zoning
38 case **111-S-23** held on **September 14, 2023, and November 30, 2023**, the Zoning Board of Appeals of
39 Champaign County finds that:

40

- 41 **1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this**
- 42 **location because:**

43

44 Mr. Elwell asked Mr. Hall if this is AG-2, you would still need this variance.

45

46 Mr. Hall said we're on the special use case, which can't happen in AG-1.

47

48 Mr. Elwell said correct, but if it is in AG-2, he can have this if it is in AG-2.

49

1 Mr. Randol said yes, but it's not AG-2, it's AG-1.

2

3 Mr. Bates said the County Board hasn't voted it down.

4

5 Mr. Elwell said correct, so his thought process is the Board says yes, it's AG-2, this is already done, he
6 doesn't have to come back. He said if the Board says no, then this is saying AG-2.

7

8 Mr. Herbert asked what about waiver part A, for locating the solar array less than one-half mile from an
9 incorporated municipality. He said if that was our negative on everything else, wouldn't that be a negative
10 here.

11

12 Mr. Elwell said is it his understanding that if the map amendment is approved by the County Board, would
13 he have to come back to us for this variance.

14

15 Mr. Hall said we're dealing with a special use. He said you're only making a recommendation in this
16 special use. He said the County Board deals with the map amendment and the special use for the solar
17 array. He said the County Board can override this Board in both instances. He said this Board was the
18 final say on the data center.

19

20 Mr. Elwell said just for his processing, case 110-S-23 was for the loading berth.

21

22 Ms. Burgstrom said 110-S-23 was for the data center and 112-V-23 was for the parking and loading berth.

23

24 Mr. Elwell said he's not against the data center, he's against the map change due to Bondville's objection.
25 He said if there was an AG-1 to AG-2, he doesn't have a problem with that, with this being an affirmative.
26 He repeated finding 1.

27

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

30

31 Mr. Randol said the requested Special Use Permit IS necessary for the public convenience at this location
32 because: the State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25%
33 of the State's energy coming from renewable sources by the year 2025. The Illinois Future Energy Jobs
34 Act requires installation of 3,000 MW of new solar capacity by the year 2030.

35

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

40 **a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance
41 location has *{ADEQUATE / INADEQUATE}* visibility.**

42

43 Mr. Randol said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
44 visibility.

45

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

47

48 Mr. Randol said emergency services availability is ADEQUATE.

49

1 Ms. Burgstrom asked if Mr. Randol wanted to include the findings written below those statements or just
2 leave them as is.

3
4 Mr. Randol said for 2.a., traffic volumes are not expected to increase significantly other than during
5 construction of the project, and notice was sent to IDOT and the Township Road Commissioner, and no
6 comments have been received. He said he could understand the township because they don't have
7 jurisdiction over that State highway, but he doesn't understand IDOT not responding because in order for
8 any type of a culvert or entrance, IDOT has to give permission for that.

9
10 Mr. Grilo said it may not have been clear; they do have permission for that. He said the current entrance
11 can be up to 35 feet wide. He said that's already done. He said it has nothing to do with the traffic; they
12 have to do a traffic study later to get a permit for the solar array, but the entrance is already there and
13 established.

14
15 Mr. Randol said okay. He added that emergency services availability is ADEQUATE because: the
16 Bondville Fire Station is 1,475 feet away.

17
18 **c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:**

19
20 Mr. Randol said the Special Use WILL be compatible with adjacent uses because: the proposed PV Solar
21 Array will not be disruptive to surrounding agriculture and the inverters are located approximately 1,350
22 feet from the closest residence.

23
24 **d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

25
26 Mr. Randol said surface and subsurface drainage will be ADEQUATE because: most of the subject
27 property is located within a mapped floodplain, and a Storm Water Drainage Plan and detention basin will
28 be required if more than 16% of the subject property is impervious area, which is not the case.

29
30 **e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

31
32 Mr. Randol said public safety will be ADEQUATE because: the subject property is located approximately
33 1,475 feet from the Bondville Fire Station, and notice was sent to IDOT and the Township Road
34 Commissioner, and no comments have been received.

35
36 **f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:**

37
38 Mr. Randol said the provisions for parking will be ADEQUATE because: there is no parking required
39 because there is no staff, and there is no significant increase in traffic expected for the proposed
40 development.

41
42 **g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed
43 improvements *{because*}*:**

44
45 Mr. Randol said the property IS WELL SUITED OVERALL for the proposed improvements, but there is
46 a protest from the Village of Bondville.

47
48 Mr. Herbert said so now if you put one negative in there you can't pass the whole thing.

49

1 Mr. Hall said no, this is a part of one finding, so that doesn't apply.

2

3 Mr. Randol said he still says it's well suited overall, but there's still the objection, the protest, from the
4 Village of Bondville.

5

6 Mr. Elwell asked if they can have an affirmative but note the objection.

7

8 Mr. Hall said yes.

9

10 Mr. Randol said you can just take out the major defects.

11

12 Mr. Elwell said there's no major defects for the property, other than the objection.

13

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

16

17 Mr. Herbert said existing public services ARE available to support the proposed special use without undue
18 public expense because: no additional public services are necessary for the proposed development.

19

20 **i. Existing public infrastructure together with the proposed development {IS/IS NOT}**
21 **adequate to support the proposed development effectively and safely without undue**
22 **public expense {because*}:**

23

24 Mr. Randol said existing public infrastructure together with the proposed development IS adequate to
25 support the proposed development effectively and safely without undue public expense because: no new
26 public infrastructure is required for the proposed development.

27

28 Mr. Randol said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL
29 CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL
30 NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health,
31 safety, and welfare.

32

33 **3a. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
34 **HEREIN} {DOES / DOES NOT} conform to the applicable regulations and standards of the**
35 **DISTRICT in which it is located, subject to approval of the requested waivers.**

36

37 Mr. Randol said the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
38 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the district in which
39 it is located, subject to approval of the requested waivers.

40

41 Mr. Elwell asked if the Board was okay with allowing a PV Solar Array in AG-1.

42

43 Mr. Randol said no, we already said you couldn't do that.

44

45 Mr. Elwell said then would it be appropriate to say it does not conform.

46

47 Mr. Randol said that's correct.

48

49 **3b. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**

1 **HEREIN} {DOES / DOES NOT} preserve the essential character of the DISTRICT in which**
 2 **it is located because:**

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

5
 6 Ms. Burgstrom asked if Mr. Randol had just said not conform there.

7
 8 Mr. Bates said yes.

9
 10 b. **The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**

11
 12 Mr. Randol said the Special Use WILL be compatible with adjacent uses.

13
 14 c. **Public safety will be {ADEQUATE / INADEQUATE}.**

15
 16 Mr. Randol said public safety will be ADEQUATE.

17
 18 Mr. Randol said therefore the requested Special Use Permit, SUBJECT TO THE SPECIAL
 19 CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the district in which it is
 20 located, even though we have the one negative in there.

21
 22 Ms. Burgstrom asked them to take a look at the screen and said she wasn't sure if she had the statements
 23 right. She said for 3.a., is it supposed to be does or does not conform.

24
 25 Mr. Elwell said 3.a. is DOES NOT conform, because that's the solar array in AG-1.

26
 27 Ms. Burgstrom asked for 3b.a. she has down as conform, is that correct.

28
 29 Mr. Elwell said it should be DOES NOT conform.

30
 31 4. **The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
 32 **HEREIN} {IS / IS NOT} in harmony with the general purpose and intent of the Ordinance**
 33 **because:**

34 a. **The Special Use {IS/ IS NOT} authorized in the District.**

35
 36 Mr. Elwell said the Special Use IS NOT authorized in the District. He said again, can we emphasize that
 37 it is not authorized in the AG-1, but it is in AG-2.

38
 39 b. **The requested Special Use Permit {IS/ IS NOT} necessary for the public convenience**
 40 **at this location.**

41
 42 Mr. Randol said the requested Special Use Permit IS necessary for the public convenience at this location.

43
 44 c. **The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
 45 **IMPOSED HEREIN} is so designed, located, and proposed to be operated so that it**
 46 **{WILL / WILL NOT} be injurious to the district in which it shall be located or**
 47 **otherwise detrimental to the public health, safety, and welfare.**

48
 49 Mr. Randol asked if they were talking about AG-1 or AG-2.

1 Mr. Elwell asked Mr. Hall if he could provide some insight. He said this is talking about AG-2, correct.
2
3 Mr. Hall said this is talking about the district in which it is located.
4
5 Mr. Randol said it's currently in AG-1.
6
7 Mr. Bates said it is his understanding that all of these have to be answered in the form of AG-1. He said it
8 was written as if 109-AM-23 was approved for AG-2, is that correct.
9
10 Mr. Hall said he agreed with that.
11
12 Mr. Bates said he thinks this is creating some confusion on what we're actually truly trying to approve,
13 and he doesn't think it's been consistent.
14
15 Mr. Elwell said he thinks that's probably more true than not.
16
17 Mr. Bates said his belief is that they have wavered back and forth on this between AG-1 and AG-2 on
18 these answers. He said he does not want to slip this up; he just wants to be consistent on what we're
19 answering.
20
21 Mr. Elwell said if this is in AG-2, he does not want Mr. Grilo to have to come back.
22
23 Mr. Bates said he does not disagree. He said we have to answer these 100% as if they're in AG-1.
24
25 Mr. Hall said he agrees with that; that's the only thing that makes sense and in retrospect, something to
26 remember for the future, maybe it would have been best for the Board to just take action on the map
27 amendment, move it forward, let the County Board decide the map amendment and then base your special
28 use determinations on that. He said that's not the way we did it. He said if the Board wanted to continue
29 this case to see what the outcome is on case 109-AM-23, that's certainly within your power.
30
31 Mr. Herbert said that seems to be the fairest way to do that. He said he guesses he's kind of lost as to how
32 to move forward after the first case.
33
34 Mr. Hall said he has to be honest and say if this Board would approve the special use, if the County Board
35 overrides the Board's recommendation on the map amendment, then why wouldn't this Board approve
36 the special use anyhow.
37
38 Mr. Elwell said he thinks where we're getting tripped up is right now the recommendation is not for AG-
39 2; the recommendation is for AG-1. He said if this is AG-2, he's okay with this and he thinks the Board
40 is okay with this. He said the stumbling block is we weren't okay with the change from AG-1 to AG-2
41 because of Bondville.
42
43 Mr. Randol asked if they could make a motion to reject everything other than the map amendment part of
44 it. He said then they would go back to the County Board and they'd determine what we have and they
45 could send it back to this Board based on the outcome of case 109-AM-23.
46
47 Mr. Hall said Mr. Randol said reject in the beginning; did he mean reject.
48

1 Mr. Randol said he meant to reject their decisions from tonight. He said since they've already done part
2 of it, they're bouncing back and forth.

3
4 Mr. Hall said they've decided the cases 110-S-23 and 112-V-23; those are decided, they can't be
5 reconsidered. He said the only thing left facing the Board is case 111-S-23, which again if you just want
6 to continue 111-S-23, you could reconsider every finding in 111-S-23 that you've done tonight. He said
7 they could reconsider that in the future based on what the County Board does on case 109-AM-23 if that's
8 what they want to do.

9
10 Mr. Wood asked if case 111-S-23 is a special use permit just for the solar array. He asked if that is not
11 allowed in AG-1.

12
13 Mr. Hall said it is not allowed in AG-1. He said a solar farm is allowed, but not a solar array. He said a
14 solar farm produces electricity in general; a solar array produces it for something else to use. He said the
15 decision was to not allow those things out in AG-1. He said we have an unusual situation here where AG-
16 1 goes right up to Bondville.

17
18 Mr. Elwell asked when the County Board would hear case 109-AM-23.

19
20 Ms. Burgstrom said Staff would be looking at taking the map amendment case 109-AM-23 to ELUC in
21 January and one ELUC meeting is required for that so it could go to the full County Board in January. She
22 said if they decide to table this case 111-S-23, then they could come back in February to discuss that. She
23 said it would go to ELUC in March and a solar array requires two ELUC meetings, so that would be March
24 and April, so the earliest decision from the County Board on case 111-S-23 would be late April.

25
26 Mr. Bates asked if there was an interruption due to the change of the Board members.

27
28 Ms. Burgstrom said no.

29
30 Mr. Elwell asked what the Board members thought.

31
32 Mr. Elwell entertained a motion to extend the meeting by 20 minutes, ending at 9:45.

33
34 **Mr. Randol moved, seconded by Mr. Bates, to extend the meeting by 20 minutes. The motion passed**
35 **by voice vote.**

36
37 Mr. Bates said he did not have a motion, but he would like discussion on the best way to proceed with
38 case 111-S-23. He said being as how we're halfway through it and it has wavered on the decisions based
39 on a previous case that has not been decided, and we have gone between AG-1 and AG-2 on how to
40 answer these questions, as a Board member he is asking what the best way is to revisit this case 111-S-23
41 after the decision from the County Board on case 109-AM-23.

42
43 Mr. Hall said they don't need to reconsider it; they haven't taken final action, so again, they could just
44 simply continue this case, and they could change all the findings based on the action of the County Board.

45
46 Mr. Bates said it would give them a definitive determination of what these findings of fact are because
47 they'll know what the outcome is. He said he thinks they're trying to predict outcomes, and that's a very
48 challenging thing for them to do. He said he thinks they have to do it based off of what direction they

1 have, what tools they have been given, and he thinks for everybody’s sake it’s best that they continue this
2 with clear direction from what has been or has not been approved by the County Board.

3
4 Mr. Randol said if that’s a motion, he will second it.

5
6 Mr. Elwell asked if they need a date.

7
8 Mr. Hall said yes, you do need a date. He said February 15, 2024 would be the first meeting that would
9 be the first chance for the Board to take it up after County Board action.

10
11 **Mr. Bates moved, seconded by Mr. Randol, to continue case 111-S-23 to February 15, 2024. The**
12 **motion passed by voice vote.**

13
14 **7. New Public Hearings - None**

15
16 **8. Staff Report – None**

17
18 **9. Other Business**

19 **A. Review of Docket**

20
21 Mr. Randol told Mr. Grilo in the future to try to work things out with Bondville.

22
23 Mr. Grilo said they tried for about a year to make this happen with the village, and they couldn’t ever get
24 it, and that’s why they started this process. He said absolutely they will try to pick things back up with
25 them and see if the building that they promised them and the road they were going to do and the extra
26 empty lot for potential expansion, what else they can do to try to make it happen.

27
28 Mr. Herbert said he’d like to add that he hoped the village would at least have open ears with them and
29 try to cordially work stuff out.

30
31 Mr. Elwell told Mr. Herbert, Mr. Wood, and Mr. Anderson that it has been a pleasure being able to work
32 with them and being able to work through these cases even through times when they had differing
33 opinions. He said he thinks the Board did a really good job in coming together. He thanked them for
34 spending their Thursday evenings away from family.

35
36 Mr. Randol said he’d invite them back so they can see how this case turns out.

37
38 Mr. Elwell asked if there would be any upcoming absences, and none were noted.

39
40 **10. Adjournment**

41
42 Mr. Elwell entertained a motion to adjourn.

43
44 **Mr. Bates moved, seconded by Mr. Wood, to adjourn the meeting. The motion carried by voice vote.**

45
46 The meeting adjourned at 9:32 pm.

47
48 Respectfully Submitted,
49 Secretary of the Zoning Board of Appeals