

1	1	3
1	M c L E A N C O U N T Y	I N D E X
2	Z O N I N G B O A R D O F A P P E A L S	
3		P A G E
4	ASD McLEAN IL SOLAR III, LLC by)	
5	Amp Solar Development, Inc.) CASE NUMBER	4
6) ZV-18-05	6
7)	10
8	APPLICATION for a variance in the)	13
9	separation requirement of a major)	24
10	utility or solar farm from a)	32
11	boundary of the R-1 Single Family)	37
12	Residence District to be 30 feet)	39
13	from the solar farm panels rather)	40
14	than 200 feet as allowed in the)	47
15	Agriculture District.)	48
16		
17		
18	Hearing held, pursuant to notice, on Tuesday,	
19	August 7, 2018 at the hour of 11:35 p.m. at	
20	Government Center, 115 E. Washington Street,	
21	Bloomington, Illinois.	
22		
23		
24		
25	P A T K E S R E P O R T I N G S E R V I C E	
26	(217)652-6395	
27	lpatkes@comcast.net	
28		
29	REPORTER: LAUREL A. PATKES, CSR #084-001340	
30		
31	2	4
32	BOARD MEMBERS:	P R O C E E D I N G S
33	JULIA TURNER, Acting Chair	A C T I N G C H A I R T U R N E R : A l l r i g h t .
34	DRAKE ZIMMERMAN	
35	RICK DEAN	Let's go to the next case and last case.
36	BRIAN BANGERT	
37	CHRIS CARLTON	I call Case ZV-18-05, and
38		that's you guys again. You're still under oath.
39	PHIL DICK	Phil will present the case.
40	Secretary	
41		MR. DICK: This is Case Number
42	SAMANTHA WALLEY	ZV-18-05, application of ASD McLean Illinois Solar
43	Assistant State's Attorney	III, LLC by Amp Solar Development, Inc. for a
44		variance in the separation requirement of a major
45	LUKE HOHULIN	utility or solar farm from a boundary of the R-1
46	Assistant County Engineer	Single Family Residence District to be 30 feet from
47		the solar farm panels rather than 200 feet as
48	APPEARANCES:	allowed in the Agriculture District.
49		This is on property in the
50	LUKE RICKARD	Southwest Quarter of Section 27, Northwest Quarter
51	1550 Wewatta Street	of Section 34, Township 23 North, Range 2 East in
52	Denver, Colorado 80202	the Third Principal Meridian and located in
53		Bloomington Township immediately south of 925 North
54	-and-	Road approximately three-fifths of a mile east of
55	CLAY SCHULER	U.S. Highway 51.
56	7713 Red Maple Drive	
57	Plainfield, Illinois 60586	Public notice of this hearing
58		was published in the Pantagraph on July 21, 2018 as
59	-and-	
60	ROBERT LENZ	
61	202 North Center	
62	Bloomington, Illinois 61701	
63		
64	on behalf of the Applicant.	
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<p style="text-align: center;">5</p> <p>1 provided by law. All the other required 2 notifications have been made, and the applicant has 3 paid the publication cost.</p> <p>4 First I'll pass the 5 application and a plat map showing where the 6 property is located in Bloomington Township and the 7 applicant's response to the standards for the zoning 8 ordinance and the proposed site plan.</p> <p>9 North is catty corner here, 10 and it's the old railroad right-of-way here south of 11 the township road here.</p> <p>12 The zoning map shows it here 13 as in the Ag District. It's right next to the R-1 14 District, and that's the reason for the need for a 15 variance.</p> <p>16 And you can see in the photo 17 here where the property is located next to the R-1 18 District.</p> <p>19 And this is a blowup of that 20 property.</p> <p>21 This is the township road in 22 front of the facility. The proposed solar farm is 23 to the left, and then this is facing west, and it's</p>	<p style="text-align: center;">7</p> <p>1 Agriculture District. The property to the north, 2 south and west is in the Agriculture District. The 3 property to the east is in the R-1 single family 4 residence district.</p> <p>5 The surrounding land use to 6 the north is residence. To the south is wooded and 7 vacant. To the east is crop production, and to the 8 west is crop production.</p> <p>9 The applicant proposes to 10 build a solar farm on this property. Use standards 11 of McLean County Code require a solar farm to be 12 200 feet from the boundary of an R-1 District. 13 Since the property to the east is in the R-1 14 District, it is necessary to obtain a variance in 15 order to apply for a special use to allow a solar 16 farm on this property.</p> <p>17 The staff analysis is as 18 follows:</p> <p>19 The physical surroundings, 20 shape or topographical conditions of the specific 21 property will cause a particular hardship to the 22 owner as distinguished from a mere inconvenience if 23 the strict letter of the regulations were carried</p>
<p style="text-align: center;">6</p> <p>1 to the left here.</p> <p>2 This is the northeast corner 3 of the property.</p> <p>4 This crop production here is 5 the R-1 District. It's zoned residential.</p> <p>6 Where that corn is and where 7 these trees are is where this Ag District starts and 8 where this old railroad right-of-way is located.</p> <p>9 This is also what that 10 property looks like right there next to the corn, as 11 does this.</p> <p>12 And across the township road 13 is a residence in the Ag District.</p> <p>14 This is what the railroad 15 right-of-way looks like from the west side of it 16 facing to the south and then facing to the north.</p> <p>17 And this is what it looks like 18 from a ways away, what that railroad right-of-way 19 looks like where the proposed solar farm would be 20 located.</p> <p>21 Now I'll deliver the staff 22 report.</p> <p>23 The existing zoning is</p>	<p style="text-align: center;">8</p> <p>1 out.</p> <p>2 The property is the former 3 rail bed for the Illinois Central Gulf Railroad and 4 is relatively narrow and very deep. It is only 100 5 to 200 feet wide and over one mile deep.</p> <p>6 The adjacent R-1 District 7 property located immediately to the east is in crop 8 production. The nearest residential lot in the R-1 9 District is over 800 feet to the east from the 10 subject property.</p> <p>11 Although there is a residence 12 across 925 North Road to the north, the properties 13 to the east and west are in crop production and the 14 land to the south is an extension of the former rail 15 bed.</p> <p>16 B. The conditions upon which 17 a petition for a variance is based are unique to the 18 property for which the variance is sought and are 19 not applicable generally to other property within 20 the same zoning classification. The adjacent R-1 21 District property to the east is in crop production.</p> <p>22 C. The purpose of the 23 variance is not based exclusively upon a desire to</p>

9

1 make more money out of the property. The applicant
 2 proposes to use the property for a solar farm.
 3 D. The alleged difficulty or
 4 hardship is caused by this ordinance and has not
 5 been created by persons having an interest in the
 6 property. A 200-foot setback from an R-1 District
 7 is not likely a reasonable use standard in this
 8 case.
 9 E. The granting of the
 10 variance will not be detrimental to the public
 11 welfare or injurious to other property or
 12 improvements in the neighborhood in which the
 13 property is located.
 14 Due to the likely minimal
 15 impact of solar farms on adjacent properties, both
 16 present and future development of the R-1 District
 17 property to the east would not likely be negatively
 18 impacted.
 19 F. The proposed variance will
 20 not impair an adequate supply of light and air to
 21 adjacent property or substantially increase the
 22 congestion of the public street or increase the
 23 danger of fire or endanger the public safety or

10

1 substantially diminish or impair property values
 2 within the neighborhood.
 3 A solar farm generates very
 4 little noise and no emissions or other greenhouse
 5 gasses and therefore would not affect air quality.
 6 And after construction, there would be very little
 7 traffic generated by the facility.
 8 G. The variance requested is
 9 the minimum variance that will make possible the
 10 reasonable use of the land or structure and the
 11 applicant proposes to use the property for a solar
 12 farm.
 13 In conclusion, staff
 14 recommends that this application meets the standards
 15 of the Zoning Ordinance.
 16 That concludes my report.
 17 ACTING CHAIR TURNER: Thank you.
 18 Okay. You guys are still
 19 under oath.
 20 Do you want to make a
 21 statement?
 22 MR. RICKARD: Yeah. I'll keep it
 23 as brief as possible.

11

1 This property I feel like is
 2 the sort of property that we should be targeting for
 3 solar development. It's one of those difficult lots
 4 that not much else can be done with.
 5 The unfortunate aspect of it
 6 is that if we were to observe the 200-foot, the full
 7 200-foot setback, it would not be developable for
 8 this purpose.
 9 All the other, this would be
 10 the same technology and the same application as
 11 previously described -- photovoltaic and single
 12 access trackers.
 13 The nature of the single
 14 access trackers the way they orient themselves north
 15 to south lends itself very well to the shape of this
 16 parcel which also makes it very suitable for this
 17 particular proposed use, and obviously, the variance
 18 is key for us to being able to use this as the
 19 proposed use.
 20 ACTING CHAIR TURNER: Thank you.
 21 Anyone have any questions?
 22 MR. DEAN: Okay. How close are the
 23 homes?

12

1 This is all R-1 according to
 2 this map I'm looking at, right?
 3 MR. DICK: Yes.
 4 MR. DEAN: How close are the homes?
 5 MR. DICK: The closest home is the
 6 one to the north there. To the east is 800 feet.
 7 That's in the R-1 District.
 8 The actual closest home though
 9 is across the township road to the north. There is
 10 a home up there, but that's in the Ag District.
 11 MR. DEAN: Okay. So I understand,
 12 there's not homes backed up next to this then.
 13 MR. DICK: No. It's all corn.
 14 MR. DEAN: Thank you.
 15 ACTING CHAIR TURNER: So the
 16 closest the solar panel would be would be 800 feet
 17 to the current R-1.
 18 MR. DICK: Yes, to a home in the
 19 R-1 District.
 20 ACTING CHAIR TURNER: Okay.
 21 MR. DEAN: Do the standards if
 22 there's no questions.
 23 ACTING CHAIR TURNER: Anyone in the

13

1 audience have questions?

2 MR. BITNER: Good evening.

3 ACTING CHAIR TURNER: And this is

4 for questions?

5 MR. BITNER: Yes, questions.

6 ACTING CHAIR TURNER: Okay. State

7 your name.

8 MR. BITNER: Van (V-a-n), last name

9 Bitner (B-i-t-n-e-r), not like the McLean County

10 Bittner where there's two "ts" so just one "t."

11 30279E CR900 N, Mason City, Illinois 62664.

12 ACTING CHAIR TURNER: Okay.

13 MR. BITNER: I'm part owner of the

14 R-1 zone property.

15 Who, not being that familiar

16 here in McLean County, who can I ask questions to --

17 staff and folks here?

18 ACTING CHAIR TURNER: You're

19 supposed to ask questions of the testimony that he

20 gave, but we'll be pretty lenient so just ask your

21 question.

22

23 QUESTIONING BY

14

1 MR. BITNER:

2 Q. All right. Earlier there was a

3 letter from the superintendent of Bloomington

4 schools stating how he would be pretty excited about

5 solar farms and the tax base.

6 The question is, wouldn't he be

7 as excited when someone develops that R-1 property

8 and fills it full of beautiful homes just like

9 across the street in the Crestwood Subdivision?

10 That would generate lots of tax

11 money. That would generate lots of children heading

12 to his school.

13 That was the question.

14 A. The question is wouldn't he be

15 delighted if there was R-1 zoning there?

16 I would suggest you'd have to

17 ask him.

18 Q. The R-1 protections that we have are

19 the 200-foot setback, isn't that correct?

20 A. Yes.

21 Q. Because we enjoy those and are

22 protected by those R-1 setbacks, that makes that

23 strip of property adjacent, directly adjacent to us

15

1 nonusable for this solar farm?

2 A. Correct.

3 Q. There are areas north and south that,

4 I'm asking, could be or could they not also be used?

5 A. Which areas?

6 Q. There is a, you mentioned a mile,

7 there's like a mile of property here?

8 A. So the property we're talking about

9 is the one outlined in red on the screen there?

10 MR. BITNER: Your property.

11 Now I'm asking staff, can I

12 stand up and point that out on the map?

13 MS. WALLEY: Okay.

14 Q. BY MR. BITNER: All right. This is

15 the property that you need the variance on, correct?

16 A. Correct.

17 Q. This is the R-1 zoned farm that we

18 own. This is the Crestwood Subdivision, quite a

19 beautiful subdivision I think most of you would

20 agree, and wouldn't it be fantastic if this all

21 becomes that too. That would generate quite a bit

22 of tax money for you.

23 Anyway, can you use that

16

1 property for your solar or would it just make it so

2 small that you wouldn't want it?

3 A. Are you talking about just using the

4 parcel labeled 2127351-002?

5 Q. No; just like the north I think...

6 A. Just the part that doesn't abut your

7 property?

8 Q. 200 yards, 300 yards. That's a lot

9 of difference, 200 to 300 yards is quite a

10 difference; not quite a quarter mile.

11 A. So is the question could we use just

12 the part that doesn't affect your property?

13 Q. Yes.

14 A. That would be too small to use for

15 our purpose.

16 Q. All right. From today, how many

17 years to develop the solar farm?

18 A. I would say one to two.

19 Q. When you folks drive in the framing

20 on that railroad bed and you disrupt the drainage

21 that's underneath the railroad bed, if everybody's

22 basements and crawl spaces flood, who's going to

23 help clean that up?

17

1 A. Can you clarify which basements
 2 you're talking about?

3 Q. Uh-huh. I'm optimistic. I'm an
 4 optimistic guy.

5 When our R-1 property becomes
 6 just as beautiful as Crestwood and these folks have
 7 crawl spaces and basements and if this gets
 8 disrupted by the construction of those solar panels,
 9 who's going to help mitigate those problems, those
 10 flood problems?

11 A. It appears as though the drainage on
 12 that entire area there drains from the northeast to
 13 the southwest, so I would doubt there would be
 14 significant drainage impact to those R-1 parcels.

15 Q. When somebody says I would doubt,
 16 that doesn't mean it's not going to happen.

17 And then also, the "not likely"
 18 statement that not likely there's going to be a
 19 negative impact on the value, that does -- I'm
 20 trying to make questions.

21 "Not likely" inserted in a
 22 sentence, does not likely mean definite? Will there
 23 definitely be no negative impact to value?

18

1 A. I'm not qualified to say one way or
 2 the other to be honest.

3 Q. Yeah. R-1, our R-1 farm out there,
 4 which you're right, it's being used for agricultural
 5 purposes right now, I've been assured that there
 6 would be screening or fencing.

7 Is that correct?

8 A. We are proposing screening on that
 9 site, on the R-1 site.

10 Q. What are some details of that
 11 proposal?

12 A. We would plant screening along the
 13 eastern side of the array.

14 Q. There would be nothing physically --
 15 okay. Planting would mean trees?

16 A. Correct.

17 Q. Evergreens like you said in the
 18 previous two cases?

19 A. Possibly or another suitable plant.

20 Q. I don't think I heard how tall the
 21 panels were going to be in this case.

22 A. We don't expect the panels to be any
 23 taller than 12 feet; likely less.

19

1 And the proposed maximum under
 2 the special permit is 15 feet would be the limit.

3 MR. BITNER: I don't think I have
 4 any more questions.

5 I do have one more question.
 6 Can I still say it?

7 ACTING CHAIR TURNER: Sure.

8 MR. BITNER: Now, this is of you
 9 folks.

10 Are you folks also members of
 11 the Zoning Committee?

12 ACTING CHAIR TURNER: We are simply
 13 the Zoning Board of Appeals.

14 MR. BITNER: Are some of you
 15 members of the Zoning Committee?

16 ACTING CHAIR TURNER: No.

17 MR. BITNER: Are some of you
 18 members of the County Board?

19 ACTING CHAIR TURNER: No. This is
 20 the only job we get to do.

21 MR. BITNER: No. That's okay.
 22 This is perfect.

23 Thank you. No more questions.

20

1 ACTING CHAIR TURNER: Anyone else
 2 have questions?

3 MR. HEIDRICK: Michael Heidrick.
 4 Last name is H-e-i-d-r-i-c-k. I'm the owner of the
 5 property to the exact north, 15138 East 925 North
 6 Road. I own the property to the north of where you
 7 guys are wanting to go.

8 QUESTIONING BY

9 MR. HEIDRICK:

10 Q. Do you still value low impact sites
 11 as you mentioned earlier in the evening?

12 A. Yes.

13 Q. Are you aware of the number of mature
 14 trees on that property that you're looking at using?

15 A. Yes.

16 Q. Do you plan to remove all those trees
 17 to make room for your operation?

18 A. I would expect the majority of them
 19 to be removed.

20 Q. Do you plan to install a road off of
 21 925 for access?

22 A. Yeah, there would be a driveway that
 23 would come off of that road and go down there.

21

1 Q. How far from 925 do you plan to put
2 the converter?

3 A. The converter?

4 Q. Or the noise making device. I call
5 it the converter; AC to DC or DC to AC.

6 A. Yeah, the inverter.

7 Q. Yes.

8 A. We plan to put that in the middle of
9 the array so that would be roughly...

10 Q. How far from my property. Maybe
11 that's a better question.

12 ACTING CHAIR TURNER: Right now all
13 we are discussing is whether or not we're going to
14 grant an exception. We're not actually discussing
15 the project. They haven't put an application before
16 us for their project.

17 MR. HEIDRICK: Okay.

18 ACTING CHAIR TURNER: So rather
19 than get into discussions about that right now...

20 MR. HEIDRICK: I apologize.

21 ACTING CHAIR TURNER: That's okay.

22 MR. HEIDRICK: I read the plan that
23 was out on the website that listed and showed the

22

1 design of what they were going to do.
2 Is that not up for discussion?

3 ACTING CHAIR TURNER: Yeah. They
4 presented...

5 MR. RICKARD: We did present the
6 plan, but this is the variance hearing. This is not
7 the permit.

8 ACTING CHAIR TURNER: Yeah. We're
9 just looking at the variance.

10 MR. HEIDRICK: Okay.

11 Acting CHAIR TURNER: We certainly
12 want you to come back if it gets to that point.

13 MR. HEIDRICK: Sure. Forgive me.
14 This is the first time I've ever done this.

15 ACTING CHAIR TURNER: Oh, I know,
16 and I appreciate your being here, very much so.

17 MR. HEIDRICK: All right. So in
18 that light, let me think about...

19 Q. So you're saying there would be
20 shielding on the north, or excuse me, the east side
21 of this property along the R-1?

22 A. Yeah, we're proposing a screening on
23 the east side along the R-1 boundary.

23

1 Q. Are you proposing shielding along the
2 north side?

3 A. Not currently.

4 Q. Can you provide shielding from the
5 north side?

6 A. It would be possible. We could look
7 at leaving some of the existing trees.

8 MR. HEIDRICK: Yes. That's what I
9 was going to say; have you considered just leaving
10 some of the existing. That was where I was going.
11 I'll probably come back and
12 testify.

13 ACTING CHAIR TURNER: Thank you.
14 Any other questions?
15 Would anyone like to testify
16 in this case?

17 MR. CAPODICE: Do I need to be
18 sworn in again?

19 ACTING CHAIR TURNER: No. You're
20 still under oath.

21 MR. CAPODICE: All right. Thank
22 you.

23 ACTING CHAIR TURNER: You need to

24

1 state your name and address though.

2 MR. CAPODICE: John Capodice, 2827
3 Capodice Road, Bloomington, Illinois.

4

5 NARRATIVE TESTIMONY
6 BY JOHN CAPODICE:
7 On this particular site,
8 Mr. Bitner, the adjoining east side property owner,
9 I think has made it clear that probably his main
10 concern is property values; you know, what's this
11 going to do to property values.

12 I took it upon myself to dig
13 into this when we started down the road with these
14 projects, and you guys had the privilege of viewing
15 this presentation by Patricia McGarr that was done
16 through Cypress Creek. She's an appraiser that sits
17 up in the Chicago area that was hired by another
18 solar company to do this presentation that we waived
19 tonight.

20 I kind of went against my own
21 thinking that we probably should have saw that
22 presentation, and I would assume you guys have seen
23 it. Cypress Creek is the one that talked about it

25

1 tonight.

2 You know, in this world,

3 you've got to look to people that are experts in

4 their field because I can say, well, I don't think

5 it's going to affect property values. Mr. Bitner

6 can say I think it's going to affect property

7 values. What we have to look to is experts in the

8 field.

9 I did not see the slide

10 presentation, but I had the privilege of viewing her

11 entire presentation through Freedom of Information

12 Act to another zoning board up in McHenry County,

13 and it was extremely thorough, and it was like,

14 well, this makes sense.

15 And I don't want to get in too

16 much detail, but she was doing all this comparison

17 as a house that sold in the same area before the

18 solar farm versus after the solar farm, and the

19 bottom line, the conclusion was it didn't affect

20 anything.

21 So it gets down to, okay,

22 according to her, it didn't affect anything. There

23 was another gentleman that spoke at that same

26

1 hearing that was from South Carolina, another

2 full-time, you know, many, many year appraiser with

3 more degrees than a thermometer. He came to the

4 same conclusion, no effect on property values.

5 So with that being said, if

6 the solar company is willing to put up a vegetation

7 barrier along the east side of this proposed site,

8 that's going to take the visual thing out of the

9 equation. There's not much else to consider.

10 We all know, and I don't want

11 to necessarily rehash it, but it doesn't make any

12 noise. It's not very high off the ground, not like

13 these wind turbines.

14 And the gentleman that lives

15 on the north side of 925, you know, me sitting here

16 and thinking, yeah, I think it's right. Let's leave

17 a barrier there. We can just leave what trees are

18 there.

19 The trees on this property are

20 not like great trees. It's an abandoned railroad

21 right-of-way, and it's going to be -- to me, God,

22 it's perfect. It's got so many pluses for it. What

23 else is it being used for. We can put this thing on

27

1 the tax rolls and start getting something out of it.

2 The power lines are right

3 there. The old Illinois Terminal Railroad track

4 could be used as a service road. The bed is still

5 sitting there.

6 And then there's one other

7 thing that I wanted to address that Mr. Bitner

8 brought up was drainage.

9 I think this project will

10 improve drainage and I'll tell you why. The

11 drainage drains from Mr. Bitner's property which

12 he's on the east side. It all drains to the west.

13 Well, guess what, we're going

14 to remove a big, big dam. It's called the old

15 Illinois Central Gulf right-of-way. It's built up

16 berm, and it does have drainage going through it,

17 but I think we're going to be able to improve that,

18 and I will sit here and tell you that I'm not going

19 to be a part of anything that we're going to screw

20 up the drainage on. I'm hoping we're going to

21 improve it. I think we can.

22 I did have something I wanted

23 to read about this.

28

1 I have owned this abandoned

2 railroad right-of-way since 1986. When the property

3 to the east was rezoned to R-1 approximately five to

4 six years ago, I was at that meeting. I did not

5 oppose the rezoning as I did not have any evidence

6 at the time that it would negatively or positively

7 affect my property values or property rights. I'm

8 asking for the same courtesy from Mr. Bitner or the

9 east side owners.

10 Since I was approached by Amp,

11 I have studied solar farms, the solar zoning

12 application process, and the outcomes of these

13 zoning hearings. I have seen no evidence nor have I

14 read sworn testimony by experts that adjoining

15 property values are negatively affected.

16 Right now, the former rail bed

17 of the Central Gulf Railroad is perhaps of the

18 lowest use being wooded and vacant. Once cleared,

19 the solar garden could be its highest and best use.

20 It would provide all related taxing bodies with

21 significantly more revenue and using no additional

22 resources. That was discussed earlier. Yeah, we're

23 going to give more money to the schools but we're

29

1 not putting one more kid in school. We're not using
 2 the roads after the thing is built.
 3 No, we don't need sewer and
 4 water out there.
 5 I would add one thing too.
 6 Prior to coming in here and
 7 presenting this, I did approach the landowners to
 8 the east, Mr. Bitner, and I told him what I wanted
 9 to do, and he's certainly entitled to his opinion.
 10 I'm not, you know, bitter or anything like that.
 11 It's business.
 12 I did approach Jim Shirk who
 13 owns the other property zoned R-1 to the east, and
 14 guess what, he's fine with it.
 15 ACTING CHAIR TURNER: Okay. Anyone
 16 have questions?
 17 Is there anyone else?
 18 Thank you.
 19 Anyone else want to testify?
 20 Okay. I'll swear you in.
 21 (Whereupon Van Bitner was sworn
 22 by Acting Chair Turner.)
 23 ACTING CHAIR TURNER: Okay. State

30

1 your name and address, please.
 2 MR. BITNER: Van Bitner
 3 (B-i-t-n-e-r), 30279E CR900N, Mason City, Illinois
 4 62664.
 5
 6 NARRATIVE TESTIMONY
 7 BY VAN BITNER:
 8 We bought this property because it
 9 was zoned R-1, because it enjoys all the protections
 10 that you folks here in McLean County give R-1, and
 11 if a 200-foot setback is part of that protection,
 12 then we appreciate that and we enjoy that.
 13 I would envision that everyone
 14 of you on this panel or on this Zoning Board of
 15 Appeals are property owners and that your property
 16 is zoned and you folks enjoy those same kinds of
 17 protections from McLean County.
 18 So that's what we're asking.
 19 We're zoned R-1. We want to keep it R-1. We want
 20 no variance. We don't want anything. We want all
 21 the setbacks properly and like they are.
 22 John mentioned that I was
 23 concerned about property values. Well, heck yes I'm

31

1 concerned about property values. We were told a
 2 couple cases ago that, oh, heck, a five percent
 3 reduction in property value, well, that's nothing.
 4 You can't hardly figure that out.
 5 Wouldn't that be a fun day
 6 when you guys come home that your property was
 7 reduced five percent in value.
 8 Does the county reduce the
 9 taxes by five percent? Oh, I bet not.
 10 So am I concerned about
 11 property values? Heck yes. I'm concerned about the
 12 R-1 zoning. We want the protections that you folks
 13 have laid out, that the county has laid out.
 14 And I know. I'm looking at
 15 the clock too.
 16 Even though I am not a local
 17 address, we are members of the local co-op, Randolph
 18 Grain. We buy our inputs from LeRoy. We have a
 19 local farm family that does farm the place, so we
 20 try to be as local as we can, and, of course, we pay
 21 taxes.
 22 So thanks.
 23 ACTING CHAIR TURNER: Thank you.

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1 Anyone have questions?
 2 Thank you.
 3 Anyone else want to testify?
 4 MR. HEIDRICK: Michael Heidrick,
 5 15138 East 925 North Road, Bloomington.
 6 (Whereupon Michael Heidrick was
 7 sworn by Acting Chair Turner.)
 8
 9 NARRATIVE TESTIMONY
 10 BY MR. HEIDRICK:
 11 While I don't own property to the
 12 east, I do own property to the north zoned I-1, and
 13 as such, I'm held accountable to my own zoning, and
 14 when I built a building recently, I followed the
 15 rules and did exactly what I was supposed to do,
 16 just like my neighbor directly to my east, Mr. Roger
 17 Bonham, who also is currently going through some
 18 challenges and trying to follow the rules as well.
 19 We just believe that people
 20 should follow the rules depending upon their zoning.
 21 That's why they're there, and that's what we're held
 22 accountable to, and we ask others to be held
 23 accountable as well.

<p style="text-align: center;">33</p> <p>1 I appreciate solar. I've</p> <p>2 listened to comments about how there's no difference</p> <p>3 in property values and experts say this and that.</p> <p>4 Well, what's been missing this</p> <p>5 whole time is how long does it take properties to</p> <p>6 sell.</p> <p>7 You might find a buyer that's</p> <p>8 going to move in no matter what, but how long did it</p> <p>9 take you to find that buyer? That's what to me</p> <p>10 could impact the value of your property.</p> <p>11 Again, I don't have a bunch of</p> <p>12 properties that I'm ready to sell, but eventually,</p> <p>13 I'm going to sell as well.</p> <p>14 You cut down a bunch of trees</p> <p>15 and timber and put in a 20-year solution of solar,</p> <p>16 while solar is great, you're out of here in 20</p> <p>17 years, 25 years if it's not marketable, maybe even</p> <p>18 sooner, right? And then what are we left with.</p> <p>19 We're left with grasslands.</p> <p>20 I called them and asked them,</p> <p>21 and they said, we're cutting down the trees and when</p> <p>22 we're pulling out, we'll replant the grass.</p> <p>23 You're telling me that that</p>	<p style="text-align: center;">35</p> <p>1 solution when these trees have been here for 50 to a</p> <p>2 hundred years. You're destroying that.</p> <p>3 We haven't even talked about</p> <p>4 the impacts of the heavy machinery that's going to</p> <p>5 come in and cut down those trees and take that stuff</p> <p>6 out.</p> <p>7 How much good are you really</p> <p>8 doing by destroying trees to put in solar for 20</p> <p>9 years? And is it negated by the work it's going to</p> <p>10 take to clear that land and get the stuff out of</p> <p>11 there.</p> <p>12 I don't think that we're</p> <p>13 looking at the larger picture.</p> <p>14 We're worried about taxes.</p> <p>15 Yeah, it creates some taxes.</p> <p>16 I tell you what, if we slow</p> <p>17 down the progress of the east side property being</p> <p>18 developed when and if they choose to, that's going</p> <p>19 to have a far greater impact on taxes than the,</p> <p>20 sorry, the minimal amount you guys are going to</p> <p>21 generate with this solar farm.</p> <p>22 It's a \$600,000 property. The</p> <p>23 closest one that's R-1 there is \$600,000, and you</p>
<p style="text-align: center;">34</p> <p>1 doesn't impact the value of the property?</p> <p>2 Now, I appreciate the</p> <p>3 shielding. I mean, that's great news; especially</p> <p>4 for my mother-in-law. That's great news for her. I</p> <p>5 hope I might be afforded some type of shielding as</p> <p>6 well because I don't want to look at it as well.</p> <p>7 But again, I'm a proponent for</p> <p>8 solar. I really am.</p> <p>9 Mr. John mentions hardships</p> <p>10 and not being able to develop that land yet he</p> <p>11 deposits recycled asphalt on top of the land and</p> <p>12 let's it grow over, right? He's not ecologically</p> <p>13 minded as far as this overall solution in my</p> <p>14 opinion.</p> <p>15 That's fine. That's his</p> <p>16 property. It's what he wants to do with it.</p> <p>17 I don't appreciate the thought</p> <p>18 that if humans are the only ones that can get value</p> <p>19 out of this property, that's the only value that it</p> <p>20 has. There is tons and tons of wildlife and animals</p> <p>21 living on that property. They come to my pond</p> <p>22 almost every day, and you're talking about</p> <p>23 eliminating the trees that are there for a 20-year</p>	<p style="text-align: center;">36</p> <p>1 want to talk about your taxes versus theirs?</p> <p>2 So look at this, look at what</p> <p>3 you're destroying to get there.</p> <p>4 When we look at Clinton</p> <p>5 Nuclear Power Plant and we look at the water</p> <p>6 district and everything that's there, they're</p> <p>7 providing ample forest reserves and trees and stuff.</p> <p>8 There's parks. There's trails. There's things for</p> <p>9 people to visit.</p> <p>10 And your solution is</p> <p>11 eliminating mature trees.</p> <p>12 Walk through the property and</p> <p>13 see it, please.</p> <p>14 Yeah, I'm a little passionate</p> <p>15 about that timber, and it's late, and you're a smart</p> <p>16 man, and I want to tell you, I really appreciate all</p> <p>17 your answers you've given tonight.</p> <p>18 How would you like a park</p> <p>19 that's close to your home to be taken out so you can</p> <p>20 put in a 20-year solution, and I don't care what it</p> <p>21 is. I don't care if it's creating water for the</p> <p>22 earth. 20 years and you're going to turn it back</p> <p>23 into grass?</p>

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1 When I called Minnesota and
 2 asked them, I was like, do you guys even know this
 3 property?
 4 You know what they told me?
 5 They said, we're going to plant some grass, and
 6 eventually, it will go back to the way that it was.
 7 Okay. I've said enough.
 8 ACTING CHAIR TURNER: All right.
 9 Thank you.
 10 Anybody have questions?
 11 All right. Is there any other
 12 testimony?
 13 MR. LENZ: If I may, I'd like to
 14 call attention to the staff analysis of the seven
 15 standards.
 16 Paragraph D relates to the
 17 standard of whether the hardship caused by the
 18 ordinance meeting, the 200-foot setback, is an
 19 issue, and your staff says that a 200-foot setback
 20 from an R-1 District is not likely a reasonable use
 21 standard in this case.
 22 And I think in this case means
 23 here we have an abandoned railroad right-of-way for

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1 a low impact use of a solar farm, and in the staff
 2 opinion, it's not likely to have an impact, it says
 3 in the next paragraph, on the adjoining R-1
 4 District.
 5 We have the other property
 6 owner, farmland now in crops, Jim Shirk from
 7 Bloomington, owns a comparable piece of ground
 8 compared to Mr. Bitner, and Mr. Shirk, as John
 9 testified, does not object to this development or
 10 the granting of the variance.
 11 My own view would be, and this
 12 is speculation on my part, but I can't imagine that
 13 the County Board was contemplating a low impact use
 14 like a solar farm when it thought that a 200-foot
 15 setback was appropriate. That wasn't in anybody's
 16 mind.
 17 So we're talking about an
 18 out-of-date standard for a modern application. That
 19 calls for judgment to be used, and the judgment
 20 here, at least in the staff recommendation, is that
 21 a 200-foot setback is not appropriate in this case,
 22 and we hope you'll take that into account.
 23 Thank you.

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1 ACTING CHAIR TURNER: Thank you.
 2 I'll take that as your closing.
 3 MR. LENZ: That's my closing.
 4 ACTING CHAIR TURNER: Okay.
 5 MR. BITNER: Can I question that?
 6 ACTING CHAIR TURNER: You can come
 7 make a closing statement since you testified.
 8 MR. BITNER: Van Bitner.
 9 The cool thing about real
 10 estate is everyone is unique. Mr. Shirk's property
 11 may be kind of like mine. It may be very similar to
 12 mine, but it is not mine. Mine is zoned R-1.
 13 I'm just like the gentleman
 14 over here. We're following the rules. We want
 15 everybody else to follow the rules.
 16 We do not like the variance.
 17 We don't want the variance. We like our 200-foot
 18 setback as laid out by the McLean County Board.
 19 And as far as the staff saying
 20 not likely an impact, once again, not likely. Not
 21 likely does not mean not. It's not an absolute.
 22 Thanks.
 23 ACTING CHAIR TURNER: Thank you.

40

1 Anybody else want to make a
 2 closing statement?
 3 Okay. All right. You guys
 4 ready to deliberate?
 5 MR. ZIMMERMAN: I think properties
 6 both on the north and over to the east would be a
 7 stipulation in anything that we might vote, and I
 8 think you may add a stipulation to that.
 9 ACTING CHAIR TURNER: Okay.
 10 Anybody else?
 11 All right. What about A, A
 12 being the physical surroundings.
 13 MR. DEAN: I think it meets the
 14 standard. The welfare of the public, it's not going
 15 to impact.
 16 ACTING CHAIR TURNER: They're
 17 different on this one though. Are you reading --
 18 oh, am I on the wrong one?
 19 The physical surroundings,
 20 shape or topographical conditions of the specific
 21 property will cause a particular hardship to the
 22 owner as distinguished from a mere inconvenience if
 23 the strict letter of the regulations were carried

<p style="text-align: right;">41</p> <p>1 out.</p> <p>2 MR. ZIMMERMAN: I think if there's</p> <p>3 a hardship, it's not immediate, and it's mitigable</p> <p>4 as it can be mitigated by putting up screens and the</p> <p>5 like.</p> <p>6 We heard testimony on the</p> <p>7 valuation variance where farms are so...</p> <p>8 ACTING CHAIR TURNER: Well, what</p> <p>9 this is stating is due to the shape of the property</p> <p>10 that there is a hardship if we stuck to the strict</p> <p>11 letter of the regulations.</p> <p>12 MR. ZIMMERMAN: There would be a</p> <p>13 hardship to the current owners of the property that</p> <p>14 we're asking the variance, that we're being asked to</p> <p>15 provide a variance.</p> <p>16 The property owner, it would</p> <p>17 be a hardship if we stuck to the strict letter of</p> <p>18 the rule.</p> <p>19 ACTING CHAIR TURNER: The</p> <p>20 conditions upon which a petition for a variance is</p> <p>21 based are unique to the property for which the</p> <p>22 variance is sought and are applicable generally to</p> <p>23 other property within the same zoning</p>	<p style="text-align: right;">43</p> <p>1 we're dealing with really, you know, are we injuring</p> <p>2 the value of the property next door. It's currently</p> <p>3 in farmland.</p> <p>4 ACTING CHAIR TURNER: He bought it</p> <p>5 as an R-1 property.</p> <p>6 MR. DEAN: So yeah, this is the one</p> <p>7 we've got to wrestle with.</p> <p>8 ACTING CHAIR TURNER: So I think we</p> <p>9 need to wrestle a little bit with this.</p> <p>10 MR. DEAN: Yeah, that's what I'm</p> <p>11 thinking.</p> <p>12 ACTING CHAIR TURNER: Generally, my</p> <p>13 feeling is when people strongly disagree with</p> <p>14 changing something like this, I don't like to do it.</p> <p>15 Usually when these things come before us, we don't</p> <p>16 have a lot of contention with them, and now that we</p> <p>17 do...</p> <p>18 MR. ZIMMERMAN: We do have some</p> <p>19 contention here. We have the specific purchaser of</p> <p>20 land for R-1 use saying, look, you're affecting my</p> <p>21 property value.</p> <p>22 No, it hasn't been developed</p> <p>23 from the beginning of it being zoned till now. That</p>
<p style="text-align: right;">42</p> <p>1 classification; I should say are not.</p> <p>2 The purpose of the variance is</p> <p>3 not based exclusively upon a desire to make more</p> <p>4 money out of the property.</p> <p>5 MR. ZIMMERMAN: Well, I think it is</p> <p>6 based on the desire to make more money out of the</p> <p>7 property and to put land that is not being generally</p> <p>8 used to a more productive use.</p> <p>9 So to put it to a more</p> <p>10 productive use is not exclusively upon the desire to</p> <p>11 make more money out of the property, but I'm not</p> <p>12 sure that this standard applies real strictly here</p> <p>13 to this property.</p> <p>14 ACTING CHAIR TURNER: The alleged</p> <p>15 difficulty or hardship is caused by this ordinance</p> <p>16 and is not being created by persons presently having</p> <p>17 an interest in the property.</p> <p>18 I think they're creating it.</p> <p>19 The granting of the variance</p> <p>20 will not be detrimental to the public welfare or</p> <p>21 injurious to other property or improvements in the</p> <p>22 neighborhood in which the property is located.</p> <p>23 MR. DEAN: This is the one where</p>	<p style="text-align: right;">44</p> <p>1 doesn't mean that at some point in the future it's</p> <p>2 not going to be developed. While there are no</p> <p>3 immediate plans for it to be developed, it is</p> <p>4 impacting the value of the land.</p> <p>5 Will it buffer, will the</p> <p>6 screening, some sort of buffer be enough?</p> <p>7 They probably aren't going to</p> <p>8 build up right up against it so it would be a deeper</p> <p>9 back yard on that part of it.</p> <p>10 MR. BANGERT: With those large</p> <p>11 power lines, I wouldn't think they'd be developing</p> <p>12 right up to those large power lines anyway.</p> <p>13 MR. ZIMMERMAN: There are power</p> <p>14 lines right on that railroad right-of-way?</p> <p>15 MR. BANGERT: Yeah. Those are new</p> <p>16 power lines going through there.</p> <p>17 MR. ZIMMERMAN: So there are brand</p> <p>18 new power lines right on the railroad right-of-way?</p> <p>19 UNIDENTIFIED SPEAKER FROM AUDIENCE:</p> <p>20 On the west side.</p> <p>21 MR. HEIDRICK: It's adjacent</p> <p>22 property. It's Reeser's property.</p> <p>23 MR. ZIMMERMAN: And those power</p>

45	47
<p>1 lines run parallel to that property?</p> <p>2 MR. HEIDRICK: Yes.</p> <p>3 MR. ZIMMERMAN: How far back on the</p> <p>4 property?</p> <p>5 So there are already power</p> <p>6 lines right on that railroad right-of-way?</p> <p>7 MR. HEIDRICK: There are power</p> <p>8 lines.</p> <p>9 ACTING CHAIR TURNER: So what does</p> <p>10 that mean to you if the power lines are there?</p> <p>11 MR. DEAN: It would change it some</p> <p>12 because nobody is going to want to build right next</p> <p>13 to that power line.</p> <p>14 ACTING CHAIR TURNER: So would the</p> <p>15 solar panels be down the middle of that?</p> <p>16 Phil?</p> <p>17 MR. DICK: I think it's likely on</p> <p>18 this that the power lines on the left are being</p> <p>19 replaced by these new power lines to the right.</p> <p>20 ACTING CHAIR TURNER: Okay.</p> <p>21 MR. HEIDRICK: That's not true.</p> <p>22 MR. DICK: Maybe he could answer</p> <p>23 the power line question better than me.</p>	<p>1 ACTING CHAIR TURNER: Correct.</p> <p>2 MR. BITNER: Except for mine. I</p> <p>3 don't want them to take my trees out.</p> <p>4 ACTING CHAIR TURNER: G. The</p> <p>5 variance requested is the minimum variance that will</p> <p>6 make possible the reasonable use of the land or</p> <p>7 structure. I think that's true. I think it's the</p> <p>8 minimum.</p> <p>9 Do we have a motion?</p> <p>10 MR. DEAN: I recommend approval of</p> <p>11 Case ZV-18-05.</p> <p>12 MR. BANGERT: Second.</p> <p>13 ACTING CHAIR TURNER: Roll call</p> <p>14 vote.</p> <p>15 MR. DICK: Bangert?</p> <p>16 MR. BANGERT: Yes.</p> <p>17 MR. DICK: Dean?</p> <p>18 MR. DEAN: Yes.</p> <p>19 MR. DICK: Turner?</p> <p>20 ACTING CHAIR TURNER: No.</p> <p>21 MR. DICK: Zimmerman?</p> <p>22 MR. ZIMMERMAN: Yes.</p> <p>23 MR. DICK: Carlton?</p>
46	48
<p>1 ACTING CHAIR TURNER: Do you have</p> <p>2 the power line question?</p> <p>3 MR. RICKARD: Yes.</p> <p>4 The power lines run along the</p> <p>5 west side of the former railroad property.</p> <p>6 The tree area that you see is</p> <p>7 the railroad property that we're asking for the</p> <p>8 variance on.</p> <p>9 ACTING CHAIR TURNER: Okay. So</p> <p>10 those go along the west side.</p> <p>11 MR. RICKARD: Yes. The power lines</p> <p>12 are on the west side. The railroad property is to</p> <p>13 the east.</p> <p>14 ACTING CHAIR TURNER: So the other</p> <p>15 property is on the other side of this.</p> <p>16 MR. RICKARD: Correct.</p> <p>17 ACTING CHAIR TURNER: Okay. So</p> <p>18 that doesn't change it.</p> <p>19 MR. DEAN: Mr. Bitner's property is</p> <p>20 further east of the trees, right?</p> <p>21 ACTING CHAIR TURNER: Exactly, yes.</p> <p>22 MR. ZIMMERMAN: And they will be</p> <p>23 taking out all the trees as part of this?</p>	<p>1 MR. ZIMMERMAN: Yes.</p> <p>2 MR. DICK: Variance is approved.</p> <p>3 ACTING CHAIR TURNER: The variance</p> <p>4 is approved.</p> <p>5 We are officially adjourned.</p> <p>6 This closes the hearing.</p> <p>7 (Whereupon the foregoing</p> <p>8 proceedings adjourned at 12:30</p> <p>9 a.m. on Thursday, August 8, 2018)</p>

1 STATE OF ILLINOIS)
)SS.
2 COUNTY OF SANGAMON)

3

4

CERTIFICATE

5

I, Laurel A. Patkes, Certified Shorthand
6 Reporter in and for said County and State, do hereby
7 certify that I reported in shorthand the foregoing
8 proceedings and that the foregoing is a true and
9 correct transcript of my shorthand notes so taken as
10 aforesaid.

11 I further certify that I am in no way
12 associated with or related to any of the parties or
13 attorneys involved herein, nor am I financially
14 interested in this action.

15 Dated August 11, 2018.

16

17

Laurel A. Patkes
Certified Shorthand Reporter

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