

Minutes of the ZBA Meeting Held on Monday April 3rd 2023

Meeting was called to order at 6:30 p.m. Roll call was taken showing Zoning Board Members Clark Vanbuskirk and Paul Skoog in attendance. Representing the county was Jeremy Hughes and Christopher the Assistant States Attorney. Also present was Carroll County Board Chairman, Joe Payette.

Notice for this public hearing circulated in the Mirror Democrat the week of March 15th 2023. The Zoning Board of Appeals met to discuss Commercial Solar and Wind Text Amendments counties are required to make as part of the passage of HB 4412, public act 102-1123. The Ordinance language amendments reviewed at the meeting are on display on our County Website under the Zoning Board of Appeals Page. These ordinances were compiled using sample documents produced by the IL Association of County Board Members in response to the new state siting requirements. They have been edited from their original form to help eliminate repetitive or confusing language and make them better fit for Carroll County use.

At the ZBA meeting, discussion focused on Counties Code 55 ILCS 5/5-12020 as it relates to the state siting standards for commercial wind and solar. To summarize some of the most important talking points, counties may establish their own ordinance standards for wind and solar facilities. Counties that do not want their own adopted standards are not required to have them. Counties may include all the state specified requirements, but may not include more restrictive standards than specified.

If a county chooses to adopt their own standards, that county is required to hold at least one public hearing. Ag Impact Mitigation agreements must be signed and in place before the public hearing. Any existing county ordinances not in compliance with the state siting requirements must be amended to comply within 120 days of enactment or by May 27th. All Setback requirements are set by the state and are to be applied equally across every county. Building setback requirements can be waived by participating property owners. Fences for solar sites are required and must be between 6 to 25 ft in height. Counties may not set sound limitations for wind more restrictive than IL Pollution Board. Counties can not adopt language that precludes or disallows. **A request for siting a facility SHALL be approved if in compliance with the state siting requirements.** All application fees, including special use and building fees, shall be reasonable and consistent with other projects of similar capital value. No other standards shall be used other than the states standards for construction, decommission, and deconstruction, and financial assurances that are more restrictive than the AIMA.

Counties may require vegetative screening, but no earthen berms. A county may require results/recommendations from IL DNR, IL Historic Preservation as well as Fish and Wild Life. Counties may require applicants to demonstrate avoidance from protected/sensitive lands. Counties may seek to maximize community benefits, including but not limited to: reducing stormwater runoff, flooding, erosion, improving soil health, increasing foraging habitat by requiring solar facilities to plant and maintain vegetative ground coverage and management plans. This may also be partially regulated

by IL DNR guidelines in the future. Solar and Wind facilities may be required to enter into Road Use Agreements, holding them responsible for a REASONABLE cost of improving roads used during construction and making sure those roads are in safe operating condition. Road use agreements shall not require the facility owner to pay costs, fees, or charges for road work that is not directly attributable to construction. The same can be applied to field drainage systems.

At the ZBA meeting there was a question called on the draft ordinance language for wind. Written within are several requirements that are not specifically mentioned as part of the state siting requirements. These may or may not conflict with the state requirements listed in 55 ILCS 5/5-12020. The most notable example being Section 4 D. Communication Analysis; Interference, which would require wind applicants to study, consider and potentially correct any electromagnetic wave inference the towers cause for cell phones, TV/Internet services and other radio communications.

It would be my recommendation to include and review the language as presented, even if there are uncertainties of conflicting language. We could ask for a legal opinion or wait for the state to sort out some of the inconsistencies. Regardless, our ordinance amendments for both Wind and Solar will be written with a clause that if any of the language is found to be “invalid” or outside our abilities to regulate it could and would be eliminated at that time, while all other provisions remain severable.

As a part of the review and discussion, County Building Regulations Chapter 360 was also introduced with amendments to the fees required for commercial wind and solar applications. Those amendments discussed are also on display online. Conversation about fees will be a part of the focus for the May 1st ZBA meeting.

As discussed in the meeting, it is important to note that many counties are asking for clarification from the state on several points of their new requirements. It is unlikely that these questions will be answered before the May 27th deadline. Also, there are trailer bills being discussed that could amend the state siting requirements to further clarify these points. It is for this reason I would recommend the county move forward to adopt changes before the May 27th deadline and then wait to see what issues are resolved by the state.