

MINUTES

POSEY COUNTY BOARD OF ZONING APPEALS REGULAR MEETING

THE HOVEY HOUSE
330 WALNUT STREET
MT. VERNON, IN 47620

OCTOBER 14, 2021
6:30 P.M.

MEMBERS PRESENT: Mr. Larry Williams-Chairperson, Mr. Ron Fallowfield-Vice Chairperson, Mr. Larry Droege, Mr. Mark Seib, Dr. Keith Spurgeon, Mrs. Beth McFadin Higgins – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant

MEMBERS ABSENT: (None)

APPROVAL OF MINUTES FOR LAST REGULAR MEETING: Ron Fallowfield made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Larry Droege. **Motion carried.**

VARIANCE:

DOCKET NO: 21-13-V-BZA

APPLICANT: Joseph Smith

OWNER: Joseph P. & Theresa M. Smith

PREMISES: Lot 4 in Big Creek Manor located in the West Half of the Northwest Quarter Of the Northeast Quarter of Section 13, Township 4 South, Range 12 West, lying in Smith Township, Posey County, Indiana. More commonly known as 9801 Showers Road, Cynthiana, Indiana. Containing 1.50 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Variance for relaxation of street side yard setback from 25' to 10' to build a 30' X 40' pole barn garage in an A (Agricultural) Zoning District under Section 153.033 (B) (1) (a) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

LARRY WILLIAMS: Are there any members on the board that would have a conflict of interest? Hearing none, who is here to speak on behalf of this application?

JOSEPH SMITH: 9801 Showers Road, Cynthiana. I would like to change the 25' setback to a 10'. The road that is there now is only about 10' wide that leads back to my neighbor instead of the 40' which was originally designed. I really doubt if anyone is going to a 40' wide road back there. I'm still just planning to do just 10' off that 40' line. Being 25' off would put my barn quite a bit behind my house which would mess up my driveway to get to it.

RON FALLOWFIELD: Will this be right at your driveway?

JOSEPH SMITH: No, it is slightly off.

LARRY DROEGE: How many overhead doors?

JOSEPH SMITH: There will be two of them. They will be facing west, right into my driveway. There won't be any doors on the lane side. It will go right into my drive.

LARRY WILLIAMS: Will there be electricity installed?

JOSEPH SMITH: Yes sir. No plumbing, just electricity.

LARRY WILLIAMS: Will there be outside lighting that will affect your neighbors?

JOSEPH SMITH: No. There may be some recessed lighting in the soffits.

MARK SEIB: Which way is the water coming off the shed and how are you going to handle that?

JOSEPH SMITH: To my backyard on the north side. My backyard is sloped and it goes to the north. On the other side (south) I will put gutters and take around to the back of the building and again back to my backyard.

RON FALLOWFIELD: Are there any utilities that run through there?

JOSEPH SMITH: No. There is electricity that runs back to the neighbor in the back, but it is on the other side of that 40' road.

LARRY WILLIAMS: You may have a seat sir. We will now open this application up to the public. Is there anyone here wishing to speak for or against this application? With no one coming forward, we will close the public portion and open this up to the board for discussion.

Mr. Williams confirmed with Mindy Bourne there were no emails, phone calls or letters.

A motion was made in the affirmative by Ron Fallowfield to approve Variance 21-13-V-BZA. Motion was seconded by Mark Seib. The Variance Voting Sheet was read. **Roll call vote (5-0)**
Yes. Motion carried.

MINDY BOURNE: This Variance has been approved. You will need to come into the Area Plan Office to obtain your Improvement Location Permit when you are ready to start construction.

VARIANCE:

DOCKET NO: 21-14-V-BZA

APPLICANT: Kent Hertel

OWNER: Melissa R. & Kent D. Hertel

PREMISES: Lot 5 in Ryan Place, Section "A" of Section 36, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as 5618 Bayer Drive, Evansville, Indiana. Containing 1.26 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Variance for relaxation of front yard setback from 25' to 15' to build a 32' X 52' pole barn garage in an R-1 (Residential Single-Family) Zoning District under Section 153.043 (B) (1) (a) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

LARRY WILLIAMS: Are there any members on the board that would have a conflict of interest? Hearing none, who is here to speak on behalf of this application?

KENT HERTEL: 5618 Bayer Drive. I am looking for a Variance of 15' from the road. We have 1.26 acres, but in order for us to fit the 52' building in, a lot of that 1.26 goes down a ravine and it would not allow us to put the building there. Per our HOA, they want our camper in a building and not parked in front of the house. This is very difficult for us to do. We want it under roof.

LARRY WILLIAMS: So, you want to build something to put your camper inside?

KENT HERTEL: Yes.

RON FALLOWFIELD: Where will your doors be located?

KENT HERTEL: The door will be towards the street. It will be one 18' sliding door.

RON FALLOWFIELD: Will that give you enough road clearance to get your camper in and out?

KENT HERTEL: Yes.

LARRY WILLIAMS: How big is the camper?

KENT HERTEL: It is a 44.5' fifth wheel camper.

KEITH SPURGEON: Is there a reason why it is sitting at an angle and not square to the house?

KENT HERTEL: The reason is twofold. Number one you can see the trees on both sides. We are going to save all of the trees. Number two is that the 52' would not be accomplished if we put it in straight.

MARK SEIB: I'm assuming the watershed is going down into the ravine behind the house.

KENT HERTEL: Yes.

LARRY DROEGE: Do you have any plans as far as a business in the building?

KENT HERTEL: Absolutely not. It will be strictly storage.

MARK SEIB: Will there be any additional lighting or anything?

KENT HERTEL: Yes, I will have lighting as per the HOA standards. I will have electricity. I am hoping to rough in water. I am not saying we are going to have water inside, but we are going to rough it in anyway.

LARRY WILLIAMS: Will this building be landscaped?

KENT HERTEL: No. I think the pine trees on the one side and the other tree on the other side will be plenty.

KEITH SPURGEON: Are you going to fix up a sewer hookup for your camper?

KENT HERTEL: No, because we are on septic, therefore I won't be able to do that.

RON FALLOWFIELD: You have been talking about HOA. I assume you haven't had any issues with anyone?

KENT HERTEL: I've had the sign out front and I haven't heard from anyone. I haven't had any comments at all.

LARRY WILLIAMS: You may have a seat. We will now open this application up to the

public. Is there anyone here wishing to speak for or against this application? With no one coming forward, we will close the public portion and open this up to the board for discussion.

Mr. Williams confirmed with Mindy Bourne there were no emails, phone calls or letters.

ATTORNEY BETH MCFADIN HIGGINS: So just remember that whatever you decide, if there are any restrictions or restrictive covenants that are recorded in that, even though nobody has made any comment or anything about your sign about this meeting, this board doesn't have any control over any restrictive covenants. You would still need to comply with anything that is within those.

LARRY DROEGE: Do we need to make any mention of the HOA in our Variance?

ATTORNEY BETH MCFADIN HIGGINS: No. If they are recorded restrictive covenants, they follow the land. Regardless, we couldn't have any impact on that.

A motion was made in the affirmative by Mark Seib to approve Variance 21-14-V-BZA. Motion was seconded by Larry Droege. The Variance Voting Sheet was read. **Roll call vote (5-0) Yes. Motion carried.**

VARIANCE:

DOCKET NO: 21-15-V-BZA thru 21-75-V-BZA
APPLICANT: Posey Solar LLC
OWNER: Various Owners
PREMISES: Multiple Parcels

NATURE OF CASE: Applicant requests a Variance of development standards of the Posey County Zoning Ordinance to provide for development of Solar Energy Conversion System (SECS) – Tier 1 (Greater than 20 acres) relaxing front, side, and rear setbacks to zero across various participating properties. These variances only affect participating properties within the overall project area. These variances do NOT affect any property line of non-participating properties.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. He then confirmed there were no members on the board that had a conflict of interest.

LARRY WILLIAMS: The applicant's representative will have 20 minutes to present their application. After that 20 minutes, the opposition will have 20 minutes to speak. Jenna will time each one.

ATTORNEY BETH MCFADIN HIGGINS: Let's just elaborate on that. Is there a

spokesperson here to represent the opposition?

LARRY WILLIAMS: If there is a spokesperson that will speak for the group, then you will get 20 minutes. Everyone else will be limited.

ATTORNEY BETH MCFADIN HIGGINS: Once the docket goes up on the screen, then the applicant will have 20 minutes. Do you represent a group of concerned citizens? (someone from the audience answered but was not audible) They will also be given 20 minutes. If someone wants to make a comment that has not already been covered by one of those two spokespersons and you want to talk about the project in general, you will have two minutes. We do ask that you do not repeat what has been said during the other two presentations. Once we start calling the individual dockets, then that parcel will be on the screen showing the individual parcel that we are discussing. If you want to make a comment as to a particular parcel, then you can be recognized during the public hearing portion of that. If you have something in particular about that parcel, then you will be given two minutes.

JARROD PITTS: 1100 East Carpenter Blvd., Dallas, Texas. Good evening and thank you again for considering our Variance request. I am a Project Director with Tenaska. I wanted to start first by introducing companies involved with the Posey Solar Project. The first company is Tenaska. Tenaska is a leading developer of power projects and is one of the largest privately held companies in the United States. We have been developing power projects for over 35 years. Tenaska has partnered with Arevon Energy who is also one of the leading renewable energy companies in the United States. Tenaska is providing a development service through Arevon. Our role is to help get this project ready to start construction. Arevon is also actively involved with Tenaska in development of this project and will help support the financing and oversee the construction of the Posey Solar Project. I also wanted to highlight CenterPoint Energy. Arevon has entered into an agreement with CenterPoint whereby when the project is fully constructed and ready for operation, the project will be sold to CenterPoint at which point in time they will become the owner and operator of the Posey Solar Project. I also wanted to take a minute to introduce you to our team. I am joined here this evening with Kyle Gerking who is Director of Engineering at Tenaska. I am also joined by Timberly Ross, Director, Community Relations at Tenaska. Reed Schmitt is our local counsel and works for Dentons. I also wanted to introduce you to Stacy Wagner, Community Representative and is a local resident here in Posey County.

I wanted to briefly highlight some of the key economic benefits of the Posey Solar Project. This project represents an over \$260 million investment in the County. The project is estimated to pay over \$45 million in property taxes over the project life. A key benefit from that will be anticipated lower property tax rates for Posey County taxpayers. The project will also have a significant increase in the economy, in particular the GDP. During construction, the expected GDP will increase over \$45 million and in each year of operation, which is anticipated to be at least 35 years, there would be \$1.2 million of GDP per year. The project will also create a significant construction jobs. It is estimated to be over 340 and will create additional good

paying operating jobs during the operational phase of the project. Lastly I want to highlight the lease payments that will be made over the project life which are estimated to be over \$145 million to Posey County landowners.

A few key summary information on the project. The project is located in Posey County. In particular, it is in Marris and Black Township. The majority of project is in Marris Township, but a small portion is in Black Township. The project size is 300 Megawatts. That's roughly enough solar energy to power 50,000 homes. From an land footprint perspective, we are anticipating approximately 2400 acres within the project fence. From a schedule perspective, we are anticipating starting construction in 2022 and are working to have the project operational before the end of 2023.

I wanted to speak a little about why we are here this evening with respect to this request for internal setback variance for the project. The Posey Solar Ordinance requires the applicant, which in this case is Posey Solar LLC, to receive internal setback variance approval from the Board of Zoning Appeals. Posey Solar is seeking a setback variance for 61 parcels as allowed under Section 153.136.03(H) of the Posey County Solar Ordinance. The setback variances would relax applicable front, side and rear setbacks to zero for internal setbacks on participating properties only. The setback variances provide for a more efficient use of the land for participating landowners and reduces the project footprint for the county. The variances do not affect any property line of non-participating properties. Another way to say that, the project will not impact any of the setbacks along county roads or non-participating residence as set forth in the Solar Ordinance.

This is a Project Overview Map (shown on the monitor). The blue and green parcels make up the entirety of the solar project. The combination of both of those colors represent all of the participating parcels within the Posey Solar Project. Not all parcels require an internal setback; only a subset of them do. We've represented the parcels that we are seeking a setback variance on in green. There are 61 parcels. We anticipate going through these individually here, but we wanted to provide this overview map just to provide some context for the entirety of the project and how each individual parcel fits in to the overall project.

On this slide I wanted to zoom in on an example variance for the project. What is shown here is two parcels that are participating in the project as represented by the parcel IDs. These are two parcels that we would be seeking internal setback variances on. The red area represents the internal setback area that the project is seeking a variance on. We've also added on to this map a brown hatched area around the perimeter of the parcel. That represents the setbacks along county roads or for non-participating parcels. You can see we are not seeking setbacks for those parts of the parcels, it is only the internal setback area.

I will now turn it over to Reed Schmitt to discuss some of the findings of fact.

ATTORNEY REED SCHMITT: Dentons, Bingham, Greenebaum, 1 Main Street, Suite 600,

Evansville, Indiana. Mary Solada, my partner from Indianapolis, has provided Beth copies of the Findings of Fact 1-6, earlier this week. I think you have 1-3 in your packet. I will address all of those. I am not going to read to you 2 ½ pages of the Findings of Fact, I will hit the bullet points. I will answer any questions as it relates to the Findings of Fact.

These findings are common to all 61 of the variance applications. Each finding that I address is common to all 61. We would incorporate by reference the Findings of Fact that we have provided Beth and we provided her with all six. Again, I think you only have three. But we would incorporate by reference those findings as previously submitted to Beth in each one of the variances going from 21-15 through 21-76.

1. No injury to public health and safety or to the general welfare of the community

We believe the Solar Ordinance has its safety and security plan and so we are complying with the safety set forth in the Solar Ordinance. Page four of the slide presentation that was provided to you sets forth all of the community benefits that the solar project will provide to the residence of Posey County.

2. Use and value is not impacted

This is temporary land use. After the solar field has reached its useful life after 35 years, the project will be decommissioned and the land will be returned to whatever use that the landowner decides to use the land for.

We submitted 23 separate conditions of approval to the APC at the last meeting. Those 23 separate conditions address the use and value and is not impacted by the project. We have prepared a Road Use Agreement and a Decommissioning Agreement. I believe both of those agreements have been approved by the Commissioners with some discussion relating to tweaking the Road Use Agreement. There will be no increase in traffic during the operations of the solar field.

3. There are no practical difficulties

There is no practical reason to deny the variances. In essence, what is being requested is that there be a much more efficient use of the property of the landowners. Instead of having... We are requesting that the side and the rear setbacks be to zero. That increases the use of each one of those 61 parcels that we have identified in 21-15 through 21-76. So, it is a much more efficient use of the property.

4. The conditions are not generally applicable to the same zone

Now work with me here on this one. It is a little bit difficult to walk through. As each property

within the project represents a unique element of the overall project, the conditions of each individual property cannot be generally applicable to other properties under the same zoning district. Especially within the context of the overall project, no two properties likewise zoned for long-term agricultural use could possibly be reflected by the same conditions.

5. The strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship if applied to the properties in question

Given that front, side and rear setbacks are required in order to protect adjoining properties that are not part of any permissible scenario, and given that the internal property lines within the project specifically do not impact adjoining non-participating properties, then the strict application of the setbacks in this instance constitute an unusual and unnecessary hardship. Given that virtually all SECS projects of any sizable scale provides for solar facilities abutting and crossing-over property lines within the confines of the project itself, when an ordinance interpretation requires setbacks internal to the project then such an interpretation meets the very definition of unusual and unnecessary, thus constituting a hardship as applied to the property in question.

It was explained to me by Kyle Gerking this afternoon when I was trying to understand how that would work. If you have an application of the setbacks on side, side, back, all of those solar arrays that run east to west you would not have the ability... if you have the setbacks on adjoining parcels, you would lack the continuity of those arrays going from one property to another. Therefore, when I said earlier about the efficiency of the project, it is much more efficient if there is no setbacks either on side or in the rear.

6. The granting of the variance will not interfere substantially with the comprehensive plan or materially increase street congestion

The project does not interfere with the Posey County Comprehensive Plan. The goal of the Comprehensive Plan is to promote the long-term agricultural use of large tracts of the county, which is exactly what the proposed project does. Once the life of the project is complete and decommissioned, the decommissioning agreement will ensure that the subject property is returned to its former agricultural use allowing the property owners to decide what they want to do with their property 35 years after this begins. Additionally, once constructed, the project will only require occasional visits by service personnel on-site, meaning there will be virtually no additional traffic.

LARRY WILLIAMS: Would someone from the opposition like to speak for the group?

KATHY WEINZAPFEL: I was asked to read this statement from Mike Schopmeyer who represents the members of the opposition.

Respectfully we are reaching out in advance of tonight's public hearing on Posey Solar LLC and Tenaska's variance request on behalf of our clients, a remonstrator group of nonparticipating neighboring landowners opposed to the proposed industrial solar project, to ask that the BZA condition approval of the variance request on Tenaska entering into a Use and Development Commitment, a UDC, with nonparticipating neighboring landowners, including a provision limiting the project's size and the other restrictions of record offered by Tenaska to date. Our client group may not oppose the variance request waiving setbacks between participating neighboring landowners and may not remonstrate vigorously against the variance at tonight's hearing. However, we are doing so by requesting that the BZA condition its approval of the variance on Posey Solar and Tenaska agreeing to enter into a UDC with our group that will include language limiting the project size within the fence to no more than 2,900 acres and other restrictions previously offered by Tenaska on the record at the APC. This condition will not burden the applicants, as Tenaska's counsel had previously spoken on the record at the September 13 public meeting before the Posey County Area Plan Commission that they support including a provision limiting the project's size and other restrictions outlined in a list of proposed conditions shared with the APC and discussed on the record at that hearing, a copy of which I think has been provided.

I also have copies of that statement for each of you. This is respectfully prepared and submitted by Michael Schopmeyer, Kahn, Dees, Donovan & Kahn.

LARRY WILLIAMS: Will this be "Exhibit 1"?

ATTORNEY BETH MCFADIN HIGGINS: It will be two. The power point presentation will be "Exhibit 1".

LARRY WILLIAMS: Ok, this is "Exhibit 2".

ATTORNEY REED SCHMITT: Respectfully, the BZA doesn't have the authority to condition approval of the variances on Posey Solar entering into a UDC. We have had discussions with Mr. Schopmeyer over the past, I don't know, this year. In those discussions, we have made concessions and those concessions are identified in the 23 separate conditions that were approved and submitted at the Area Plan Commission meeting. Those 23 separate conditions are in recordable form and they are conditions that run with the land. Those are the conditions that are applicable to the project. The Board of Zoning Appeals doesn't have the authority to condition its approval on additional items that Mr. Schopmeyer wants to be conditioned on through a UDC. All of those questions were addressed at the Area Plan Commission. Again, they are in the 23 separate conditions that have been submitted in recordable form.

LARRY WILLIAMS: Is there anyone from the public that would like to speak for or against this?

STACY WAGNER: 6703 Wade Park Drive, Wadesville, Indiana. I am a landowner with the Posey Solar Project and the local representative. I am here this evening with a lot of our landowners who are in agreement with what is being asked for in this application. They are in full support of the relaxation of setbacks between the participating landowners. It just makes sense. It doesn't make sense to leave that setback in there. There may be a few others that may plan to speak this evening. I wanted to get up and say that the discussions that I have had with landowners, they are in full support of this as well as I am.

TERRI ASH: 116 Thomas Terrace, Edwardsville, Illinois. I also am a landowner involved in the project. I wanted to say that for as long as our family has owned the property, we have never had a fence in between anything we decided to grow with our neighbors. I don't think this is any different. We want to grow solar and the people behind us also want to grow solar. I think that it is perfectly fine for us to just have those solar panels through those three tracts of land.

MIKE ZELLER: Marris Township. I have a question. Is the setbacks between two adjoining Properties that are under lease?

ATTORNEY BETH MCFADIN HIGGINS: Yes.

MIKE ZELLER: Leave it up to those two leaseholders whether they want to connect them and have a continuous flow. If they don't, they don't. I think common sense and logic and the income they would receive from the additional panels up to the property lines, they would probably want to do the smart thing.

VINCE FRAZIER: Caborn Road. I have a question on behalf of the opposition. Why is Posey Solar requesting variances on property that they show as not being developed on their preliminary plans. I have some parcel numbers here. 65-14-17-200.000-019, 65-14-17-500-005.001-019 on Meinschein Road, most of which is in a flood plain, 65-14-15-300-003.000-019 on South Ford Road. All is indicated as wetlands. We want to know why they need a variance on these parcels if they are not in the preliminary plan as being developed. I would like to know what they intend to do with them.

LARRY WILLIAMS: Mr. Frazier's presented sheet will be entered as "Exhibit 3".

WAYNE BILSKIE: 7510 Lower Mt. Vernon Road. Some of these parcels that they are wanting zero setbacks for, especially the one next to my place, has a natural drain. I would call it a natural drain. The farmers have plowed in between their fields. It starts at my property and heads east. If they are allowed to build across that, they could change the water flow in that area. The other thing about these setbacks is that this is such a large area that I know it has been mentioned before about if there is a fire in these solar panels, they let it burn because they are the source of the power. When you have a fire in a house or any other kind of place, the fire department cuts the power off. This is your power generator. So relaxing these setbacks, I would think you would want to look at these and say do there need to be firebreaks in such a

large area. You combine all of these together, I think where my house sits is probably the largest area there is. My house is right in the corner of it. I think a firebreak should be considered. Also, I don't think we have ever allowed zero setbacks for anybody to build across property lines. I just built a pole barn. I had both parcels of property. In order for me to build that pole barn, I had to combine my property into one in order to build that barn. I guess I could have asked for a variance and come up and got permission to go across the property line.

TINA KISSINGER: My family lives in Marrs Township. This will be all around my house and all around all of our ground. I would like to know if the ground they are getting these variances on, are they going to be moving ground from one parcel to another? They say they are going to return this to farm ground. If they take top soil off of these farms, it will never be farmed again. I believe they are going to move it from one parcel to another and this will ruin the ground. My husband makes a living off of this ground. We are going to take a hit because all of this is going to be... some of our landowners ground is going in to solar and it is going to hurt our businesses in Mt. Vernon because there will be less seed, fertilizer, fuel, because these farmers will not be able to produce a crop. If there are no farmers, there won't be food. I know they said one time that they had 42 other projects throughout the United States. It is going to hurt the farmers. We have got to produce more food for the people.

LARRY WILLIAMS: Is there anyone else wishing to speak? We will now close the public portion.

MINDY BOURNE: I do want to state that I have some emails to read off. I have an email from Ben Morgan, September 28, 2021. "Why are we allowing Tenaska to control this situation and ask for further variances? This isn't a county of everyone gets what they ask for. This is becoming crazy. They are constantly popping changes and we are playing right into their hands. I also want to know why they are asking for these variance changes on land that they said they weren't going to develop in their proposal? I also want to know why lease ground in the flood zones hasn't been thrown from this project yet? If I can't build a house or barn on a flood zone then why could a solar company develop it?" He took a picture of the variance poster on a piece of property.

We had a phone call from Paula Grimm on 10/4/2021. "Farmland is being bought up by Bill Gates and other entities that have no intentions of farming. So I think farmland should be used to grow food for people. It also takes away the habitats for animals."

The next one is from Wayne Bilskie on 10/7/2021. "Dear APC members. I want to remonstrate the application by Posey Solar LLC for a variance of development standards of Posey County Zoning Ordinance. Docket 21-15-V-BZA through 21-75-V-BZA. Especially docket 21-32-V-BZA and 21-45-V-BZA. First, I would like to point out that the lot line variance should be clarified so that the public knows exactly what is being ask for in this variance request. None of these requests should say front, side or back relaxed to zero. They should say something like

north, south, east or west. In some cases, a more specific description may be required, especially the property bordering my residence at 7510 Lower Mt. Vernon Road. The property to the east should say north relaxed to zero and the property to the north of me should say south that borders 65-14-08-400-017.000-019 relaxed to zero. Right now, it says side and rear relaxed to zero. I interpret this as a zero setback all along the rear which part of it borders my residence. Maybe saying something to the effect relax to zero where participating properties border one another. Second, I would like to point out that in some instances some of these lot lines have a drainage ditch between properties that do not show on any drainage maps. These were created by the farmers to drain their fields and in my case there is one east of my property. This drainage ditch is between 65-14-08-500-006.000-019 and 6514-08-400-017.000-019. It starts at the northeast corner of my property and heads east. If not for this drainage ditch, water runoff from both of the above mentioned properties would run through my yard and across my drive adding to the already flooding issues we have going across the road in front of my house. I'm very concerned about the drainage issues that have not addressed in this variance request. Drainage issues were a great concern in the preliminary plan but was not address and still passed the APC." He provided a picture of these parcels and the drainage area he is talking about.

LARRY WILLIAMS: This is complicated. We will go through and read each individual docket and then have the Variance Findings of Fact after that, correct?

ATTORNEY BETH MCFADIN HIGGINS: You will call the first docket and we will go through the Findings on that. We will then go to the next one. As you go through, each parcel we are talking about will be shown on the screen. As we move to the second parcel, we will open it for public hearing and have discussion. If you feel as a board that your findings would be exactly the same on the next parcel, you can adopt the findings that your made on the first parcel just by reference to that docket number. If you think they should be different, then you can go through and we will read each one of them again.

The Ordinance 153.126.03 dealing with the allowed variances may only be granted relief from the setbacks. So that is the only thing we are discussing tonight. The application must include the executed agreement between all participating landowners. You will want to verify with Mindy that she did receive that agreement as part of the application and just confirming that they have done everything that they need to do as far as publications and that type of thing as you go.

LARRY WILLIAMS: Docket 21-15-V-BZA, Applicant: Posey Solar LLC, Owner: Stock, Brett Alan & Weinzapfel, Jennifer Ann Co-Trustees, Parcel ID 665-13-30-200-014.000-019, Legal Description: Pt SW NW 30-6-12-20A, Lot Line Variance: side relaxed to zero, Location Address: Benthall Rd., Mt. Vernon, In 47620

ATTORNEY BETH MCFADIN HIGGINS: This docket is shown (on the screen). I believe the actual parcel in dark green.

JARROD PITTS: The subject parcel is the parcel that has the parcel ID within the boundaries. In this instance, the parcel is seeking variances on both sides given the green represents participating parcels. The nonparticipating parcels are the ones that have no coloring associated with them. The blue parcels are participating but are not seeking a variance.

ATTORNEY BETH MCFADIN HIGGINS: Keep in mind if, from a standpoint from the Ordinance, if they are requesting any kind of setback and let's say part of the boundary meets up to a participating and part of it does not, any finding that will be made only affects the part where it joins another participating landowner.

JARROD PITTS: We illustrated that with the crosshatch yellowish color to show those are areas where there are no setbacks being sought.

ATTORNEY BETH MCFADIN HIGGINS: So, for the board, those are the areas darker green. On this one, it would be the side setbacks.

LARRY WILLIAMS: Is there anyone here wishing to speak for or against this particular variance request? Hearing none, we will close the public portion and open it to the board.

MARK SEIB: If we are talking about the adjacent properties, I'm assuming that everyone of these variances are where you are utilizing panels on.

JARROD PITTS: Each variance we are requesting is for any participating parcel that has a signed lease agreement with the project.

MARK SEIB: But you will be putting panels on those parcels for which you are asking for the variances?

JARROD PITTS: In most instances, there will be, yes, so the solar facilities can be built in that internal setback between the property lines.

MARK SEIB: So, what is the exception? If there is not going to be solar panels, you said there was going to be other exceptions.

JARROD PITTS: I can't think of any, I think it is predominantly solar panels.

MARK SEIB: So that means all of these variances will have panels on them.

JARROD PITTS: Most likely. Again we are still in the development stage of the project. The reason we are asking for the variances is so that the project has the ability to put solar panels across these setback locations. That is the reason for the request.

UNKNOWN IN THE AUDIENCE: Do I understand it has to be agreeable by both sides, both landholders.

MARK SEIB: It has to be.

UNKNOWN IN THE AUDIENCE: Good deal, that is free enterprise.

LARRY WILLIAMS: Turn over to the board for discussion or action.

ATTORNEY BETH MCFADIN HIGGINS: Just for discussion among the board or if the board has any questions from the petitioner, Tenaska.

MARK SEIB: My concern is they are asking for a variance on parcels that were not going to have panels on, or what would be the exception if they are not panels, why would they need the variance on the adjacent properties? So that is why I was wanting to clarify that those would be in what I would call in solar production.

ATTORNEY BETH MCFADIN HIGGINS: Some tracts were listed as undeveloped but included. This would be a good time for Tenaska representative to address that.

JARROD PITTS: The reason that there are some parcels that we are seeking variances on which do not currently indicate panels because we were in the preliminary development application. There is still the final development application. So, this gives the project the ability, if it is suitable, to have solar facilities in that variance area. We wanted to do this all at once. It doesn't mean they are going to use them all for solar panels. These are all the locations where there is the potential to have solar facilities. These are all parcels which are participating in the project and we wanted to be efficient with your time as well.

LARRY WILLIAMS: I have a question particularly directed to Beth, when we create a variance it goes with the property. So, in 30 years or so when these are all gone, will this variance have any affect to go back to existing farmland.

ATTORNEY BETH MCFADIN HIGGINS: Variance request is for this particular development only.

LARRY WILLIAMS: So, when this project is gone, then this variance is gone.

ATTORNEY BETH MCFADIN HIGGINS: Yes, that is correct. The variance is related to this project. As a reminder to the board, the APC has received the Preliminary Site Development Plan and they will be looking at all of the other issues. Drainage falls in as a part of that plan.

LARRY WILLIAMS: We are just looking at variances.

MARK SEIB: One of the other things brought up is the water flow. The drainage plan that they will have to present as well will address those issues as well. It is not that they can do just as they do, they will have to come up with a plan. Which will be present to the APC to go through

later, as we get into the final they will come into play.

LARRY WILLIAMS: Anything else from the board?

KEITH SPURGEON: Those were my questions as well. We are looking strictly at the variances. Those other questions that are of concern will be addressed elsewhere by other entities. Which we are looking just at the variance if both sides agree.

ATTORNEY BETH MCFADIN HIGGINS: Just make this part of the record that the advertisements have been done. I have may have missed them mentioned, but want them as part of the record. Are there any requests from Mindy?

LARRY WILLIAMS: Were there any phone calls, letters or emails. Have you already gone over that?

MINDY BOURNE: The applicant has met the statutory requirements for all the applications reference 21-15-V-BZA through 21-75-V-BZA.

ATTORNEY BETH MCFADIN HIGGINS: Just as long as we make that all a part of the record that has been done for all of them.

RON FALLOWFIELD: I make a motion to approve the docket 21-15-V-BZA

KEITH SPURGEON: I second the motion.

LARRY WILLIAMS: The motion is seconded for discussion, now we can move onto the variance voting sheet

MINDY BOURNE: Will the granting of this variance be injurious to public health, safety, morals and general welfare to the community?

RON FALLOWFIELD: I don't think so because the adjoining property owners to this will have them also.

LARRY WILLIAMS: It is not going to affect anything not adjoining to that so I agree.

KEITH SPURGEON: And again, we have a very narrow focus, we are looking at just the variances.

LARRY DROEGE: I can make a case though that all of the property values will be impacted. So, it is hard to say no that it isn't going to be impacted. Property values are definitely going to be impacted. There is a lot that you can read into that statement, 'will the granting of this

variance be injurious to public health, morals, safety and general welfare. You can look at loss of revenue, we talked about that while ago. If you look at the loss of revenue from the farming industry, is that the general welfare of the community? I think you can make an argument and say yes.

LARRY WILLIAMS: How much of the community is it? I agree with what you are saying.

LARRY DROEGE: That is the million-dollar question. There has been revenue impact Studies done on both farming versus solar. I mean that is a pretty broad question, you can make an argument that the answer to that question is yes It will impact the general welfare of our community. I don't know how anyone can say it is not going to affect the property values

ATTORNEY BETH MCFADIN HIGGINS: I guess the real question is the variances, not the Solar Project. Will reducing the setbacks be impact to the community not the solar project is what your focus needs to be.

LARRY DROEGE: You can make an argument for any part of the project in general or setbacks having an impact.

LARRY WILLIAMS: Any more comments?

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

Will the use or value of the property adjacent to the variance be affected in a substantially adverse manner?

RON FALLOWFIELD: As far as what we are looking at I don't think it will because the adjacent properties will have solar panels also.

LARRY WILLIAMS: Nobody has shown me anything that it is going to negatively effect property values.

LARRY DROEGE: Again, that is a question we really don't know about the project effecting property values, will the project make them go up in value? Maybe it will and maybe it won't.

LARRY WILLIAMS: But this question is will it be adversely affected. In some cases, I think it probably will but in others cases I think it could go in the other direction.

LARRY DROEGE: If someone's ground has drainage is impactable could you say the value is affected then could you say yes to that. I know we are supposed to be going by the guidelines.

LARRY WILLIAMS: Again, that is the Area Plan's responsibility.

LARRY DROEGE: If the setbacks mean that we are closing up a ditch that was used as drainage ditch, that may impact. I could argue that answer should be yes, because of the reduction in setbacks. A lot of drainage runs through property lines.

MARK SEIB: Larry I understand what you are saying on that. The APC does have a hydrologist and they do have the Soil and Water. And one of the meetings was today with the solar company to basically discuss what the run off is and the water paths and stuff like that. This was their first meeting, so this was basically general meeting just to set things up to what questions we have and what different things. The one thing I am pretty sure we are not going to do is change water flow, and doing those kinds of things.

LARRY DROEGE: But pretty sure is not 100% guarantee.

MARK SEIB: We can't say anything until we receive that information from the solar company.

LARRY DROEGE: But are we putting the cart before the horse a little bit here tonight.

LARRY WILLIAMS: Should we be looking it at a point where is it going to affect the drainage on that docket, on this particular docket or is it not. We are kind of throwing everything into one decision.

KEITH SPURGEON: I don't think approval of the variance means they are getting a free pass on the drainage issues. Just because they get the variance doesn't mean they get approval for other things

LARRY DROEGE: If we don't allow the setbacks and there is a drainage ditch on a property line it would not affect that drainage ditch.

LARRY WILLIAMS: We can make these variances contingent on them answering those questions.

LARRY DROEGE: It would actually be contingent on the site plan being approved period.

ATTORNEY BETH MCFADIN-HIGGINS: And the variance would naturally be and you can make that subject to approval of their final site development plan which is part of the ordinance which they have to go through.

MARK SEIB: Beth, is this not the BZA's recommendation to the APC?

ATTORNEY BETH MCFADIN HIGGINS: No, it won't come back here, it is no recommendation. APC has no control over variances.

MARK SEIB: I understand but that is part of APC on the solar project.

ATTORNEY BETH MCFADIN HIGGINS: The site development approval, correct. Just like when you give a sign special use or if you do other variances and there is another governmental entity. Then we always make our approvals subject to the other entity also approving. We always make that a condition, just that the variance is granted, but you still have to get the final site development plan to make sure the issues like what Larry brought up about drainage have been addressed. And then they can address it knowing these variances have been granted, so it kind of helps them as well.

LARRY WILLIAMS: Further discussion? Mindy?

Roll call vote on the Findings of Fact (4-1) No. Motion carried.

MINDY BOURNE: Does the need for this variance arise from conditions peculiar to the property included in the variance?

KEITH SPURGEON: Peculiar to the property because they are abutting each other. So that makes it unique.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

MINDY BOURNE: Are these conditions general in the same zone?

KEITH SPURGEON: I am going to say no, just because these two meet, doesn't mean they all do and everybody gets a variance.

Roll call vote on the Findings of Fact (5-0) No. Motion carried.

MINDY BOURNE: Will the strict application of the applicable ordinance constitute unusual and unnecessary hardship if applied to the property.

KEITH SPURGEON: Unusual and unnecessary when both of the landowners agree. That they don't need that setback. That they are willing to forgo that setback.

LARRY DROEGE: I didn't hear anyone say that if they couldn't get the setbacks that they wouldn't be able to put panels up. They can still put panels in with setbacks, correct?

MARK SEIB: Yes, that is correct. I would think if it was with adjacent property owners in agreement if they did not agree that it would take more parcels and more panels. If there wasn't a continuous line. If they had to meet the setbacks requirements around each individual unit, then it would take more ground to put enough panels up.

KEITH SPURGEON: And they did say that.

LARRY DROEGE: I have to believe that if they wanted more ground they would have already acquired more ground they would have already have it.

MARK SEIB: I am saying that this is saving some farm ground.

Roll call vote on the Findings of Fact (4-1) Yes. Motion carried.

Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

MARK SEIB: I believe the comprehensive plan as we did with the Area Plan does allow for development in that area that we have set forth. What I am saying is the comprehensive plan does allow for it. Am I correct in that?

LARRY WILLIAMS: I believe you are right.

ATTORNEY BETH MCFADIN HIGGINS: There was some areas identified as future industrial growth. Some around Poseyville, west of AB Brown Power Plant and West Franklin Area.

LARRY WILLIAMS: I don't think the street congestion will be an issue.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

LARRY WILLIAMS: Roll call vote please.

Roll call vote on the Findings of Fact (4-1) Yes. Motion carried.

RON FALLOWFIELD: I make a motion to add as contingency to every docket we approve contingent on the site plan being approved by the Area Plan.

LARRY WILLIAMS: We have a motion on the floor.

KEITH SPURGEON: I second that.

LARRY WILLIAMS: Is there any further discussion?

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

LARRY WILLIAMS: Now, docket number 21-16-V-BZA. The applicant is Posey Solar LLC, the owners name is Stock, Brett Alan Weinzapfel, Jennifer Ann, co-trustees. Location address, Benthall Rd, Mt. Vernon, Indiana. Side relaxed to zero. Any discussion?

LARRY DROEGE: My findings, my voting is probably not going to change, we don't have enough information that we can really dig into each one of these. I don't know how everyone else on the board feels but we can adopt the findings from the previous docket for me.

LARRY WILLIAMS: Is there anyone from the public who would like to speak for or against this next variance request.

VINCE FRAZIER: My name is Vince Frazier, that is my house in the corner there, next to diagonal cut out there. Back in 07', I started a business at that residence. The business has grown, this address goes to Larry's question about economic development. My son runs a business, he has two employees. I started another business, we ship to six continents. If this project goes through we are leaving. We will be taking 2 businesses, 4 employees and a whole lot of money some where else. I have a question for Mindy. Mindy told me a long time ago that the road there that runs east to west and then curves south that it wasn't a road. Now I see here on this map that it is clearly shown as a road. I would like to know how that is going to affect the traffic next to my house? Particularly the garage in the north corner right next to the curve on Caborn Road. That garage has been there since 1933 and it is probably a foot from where that road is being shown. So that will have a huge impact on my property. I would like to know how this is going to affect me with what is going on there. And also, there is drainage there that runs kind of at an angle and runs right down where they are wanting to put all of these things together. I can guarantee that the drainage is going to be affected by anything that is built across that line.

LARRY WILLIAMS: Again, the drainage is going to be addressed

VINCE FRAZIER: Just pointing it out.

LARRY WILLIAMS: Anyone else? Hearing none, we are closing the public portion and open up to the board.

MARK SEIB: Is that a road Mindy?

MINDY BOURNE: I would have to look at my notes. It appears to be an easement of some sort. If you see like Benthall Road, Mt. Vernon those are all indicated in white, those are county roads with a road name. If I see what he is referring to I believe it appears to be just some sort of an easement, I don't know. I would have to go back and look at my notes, it has been awhile since I had that conversation with him.

LARRY DROEGE: Does the County maintain it?

MINDY BOURNE: I can't answer that question.

VINCE FRAZIER: If I had a laser pointer I can show you where there is a driveway if you will next to my property right next to the garage. But the green strip and the strip that goes around there, there is nothing there except the normal radius between the fields. There are no improvements on that easement.

MARK SEIB: So, if that was a road it would have to be white, right?

MINDY BOURNE: If it was a county road it would be indicated in white like the others. Like I said it could be an easement of some sort. I am not sure if it is a recorded easement. I remember talking to you, but it has been awhile though.

ATTORNEY BETH MCFADIN HIGGINS: If you recall the ordinance does not give the board any permission to vary a required setback from certain things including public ways, roads. I mean those are going to have to be, they are public and non-participating landowners. If there is a variance and if the area we are talking about is next to where the variance is requested between the dark green and the light green that is the only thing you are discussing. If there are roads, you don't have the authority to grant a variance and put it any closer to what the ordinance allows next to a non-participating landowner.

LARRY WILLIAMS: I guess that goes back to the question is it a road.

MINDY BOURNE: But what they are asking for is a side between the light green and the dark green.

RON FALLOWFIELD: I make a motion to approve 21-16-V-BZA.

LARRY WILLIAMS: We have a motion. Do I hear a second?

KEITH SPURGEON: I'll second.

LARRY WILLIAMS: We have a second, any further discussion? Do we want to adopt the findings of facts or do we want to go through the variance voting sheet? Findings of facts of the previous one.

ATTORNEY BETH MCFADIN HIGGINS: Now is Larry's question.

LARRY DROEGE: My view and opinions probably won't change, if the committee wants to discuss more, we can. My opinions and findings are probably not going to change on any of the

dockets. Again, I have a hard time voting for the setbacks when we carte blanche setbacks on the whole project without reviewing them.

LARRY WILLIAMS: We have to make that motion on each docket, correct?

ATTORNEY BETH MCFADIN HIGGINS: You will go through this...

LARRY WILLIAMS: Are you making that a motion?

LARRY DROEGE: I will make a motion that we adopt the Findings of Fact from the previous docket 21-15-V-BZA in reference to the remaining dockets.

RON FALLOWFIELD: I will second it.

LARRY WILLIAMS: Now we will have discussion on your motion.

ATTORNEY BETH MCFADIN HIGGINS: Larry we will have to do that because we will have to open up for public hearing on each one or if someone on the board wants to make a change to their position on any given docket.

LARRY WILLIAMS: We have had a motion and a second. We have to do a roll call vote on this motion.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

LARRY WILLIAMS: Now we go to the next one for discussion. Number 3, BZA docket number 21-17-V-BZA, Posey Solar LLC applicant. The owner's name is Pauline Denning. 6400 N. Caborn Rd., Mt. Vernon, IN, rear and side relaxed to zero. Anyone here wish to speak for or against this variance. Hearing none, we will close the public portion and we will open it up to the board for discussion and or action.

Keith Spurgeon made a motion to accept Variance 21-17-V-BZA. Mark Seib seconded the motion.

Ron Fallowfield made a motion to accept the Findings of Fact adopted under the previous docket 21-15-V-BZA. Larry Droege seconded the motion. **Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.**

LARRY WILLIAMS: Now we need a roll call vote on approving the variance.

Roll call vote on Variance 21-17-V-BZA (4-1) Yes. Motion carried.

LARRY WILLIAMS: We will now need to take a roll call vote on approving the variance number 21-16-V-BZA

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

Roll call vote on the Variance (4-1) Yes. Motion carried.

LARRY WILLIAMS: BZA docket 21-18-V-BZA, Applicant: Posey Solar LLC, owners: Catherine Biggs, South Ford Rd, Mt. Vernon, IN, rear, side and front relaxed to zero.

Does anyone wish to speak for or against? Hearing none, we will close the public portion and open it up to the board.

RON FALLOWFIELD: Ron Fallowfield made a motion to approve 21-18-V-BZA. Keith Spurgeon seconded the motion.

Larry Droege made a motion to adopt the Findings of Fact from docket number 21-15-V-BZA. Mark Seib seconded the motion.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

Roll call vote on the Variance 21-18-V-BZA (4-1) Yes. Motion carried.

LARRY WILLIAMS: Docket 21-19-V-BZA, Applicant: Posey Solar, LLC, Owner: James A. Meinschein and Lorna S. Meinschein owners, Darnell School Rd., Mt. Vernon, IN, Side relaxed to zero. Is there anyone who wishes to speak?

REED SCHMITT: Mr. President, I have a suggestion for Beth in order to address some of these in a more expedient fashion. I think you can call for anyone who has a public comment to any of the variances 21-19-V-BZA through 21-61-V-BZA, and you can address those and then you can address other that have no public comment in a chunk of ten, or fifteen or however you decide to parcel that out. It is just a suggestion as a method by which you can expedite this.

ATTORNEY BETH MCFADIN HIGGINS: I hope we get into a flow. That goes a little quicker. My concern honestly is just to let the public see each parcel as it comes up, because they may or may not be interested in making a comment. I would just rather protect that opportunity for the public so they can look at it on the screen, see where it is at and look at it. It is just the matter of protecting the process. Hopefully we will get into the motions and the seconds and we will start moving along if no one has comments. But I appreciate that.

LARRY WILLIAMS: Any additional public comments? Hearing none, we will close the public portion and open up to the board.

KEITH SPURGEON: Keith Spurgeon made a motion to approve Variance 21-19-V-BZA. Ron Fallowfield seconded the motion.

Keith Spurgeon made a motion to accept the Findings of Fact from docket 21-15-V-BZA. Ron Fallowfield seconded the motion.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

Roll call vote on Variance 21-19-V-BZA (4-1) Yes. Motion carried.

LARRY WILLIAMS: 21-20-V-BZA, Applicant: Posey Solar LLC, Owner: James A. & Lorna S. Meinschein, Darnell School Rd., Mt. Vernon, IN, side relaxed to zero. Open to the public for comment. Hearing none we will consider the public portion closed and we will open it to the board.

RON FALLOWFIELD: Ron Fallowfield made a motion to approve Variance 21-20-V-BZA. Mark Seib seconded the motion.

Mark Seib made a motion to adopt the Findings of Fact from docket 21-15-V-BZA. Ron Fallowfield seconded the motion.

Roll call vote on the Findings of Fact (5-0) Yes. Motion carried.

Roll call vote on the Variance (4-1) Yes. Motion carried.

LARRY WILLIAMS: 21-21-V-BZA, Applicant: Posey Solar LLC, Owner: Richard Kincade and Terri Jo Ash, 6910 Lower Mt Vernon Rd., Mt. Vernon, IN, side relaxed to zero. Open to the public for discussion. Anyone here want to speak for or against?

TERRI ASH: Yes, my name is Terri Ash and I have been patiently waiting my turn and I just want to say I am 100% for the variance.

LARRY WILLIAMS: Is there anyone else wishing to speak for or against this variance? With no one, we will close the public portion and open to the board for discussion and or action.

A motion was made in the affirmative by Keith Spurgeon to accept Variance 21-21-V-BZA. Mark Seib seconded the motion. **Roll call vote (4-1). Yes. Motion passed.** Larry Droege made a motion in the affirmative to adopt the Findings of Fact of 21-15-V-BZA and apply to this variance. Ron Fallowfield seconded the motion. **Roll call vote (5-0). Yes. Motion passed.**

LARRY WILLIAMS: 21-22-V-BZA

RON FALLOWFIELD: Can't we at least include the next three since they are the same owner?

ATTORNEY BETH MCFADIN HIGGINS: Perhaps we can ask if there is anyone here that would like to see any particular parcel shown on the screen for public comment.

TINA KISSINGER: I would like to see B&K Solar and Solar Flowers.

MINDY BOURNE: 21-43-V-BZA and 21-44-V-BZA.

ATTORNEY BETH MCFADIN HIGGINS: We are doing this for your benefit. If you will let us know if there is one you want to see, then we can show that. Then we can talk about consolidating. I want to make sure that if there is anybody here from the public, they get the opportunity to see the parcel that they are concerned about.

RON FALLOWFIELD: Is there anyone else from the audience that has a particular plot to look at?

WAYNE BILSKIE: Some plots are rather large. When you look at them they are 300 acres or so around housing. Here again, when you look at that and relax that zoning who is going to look at that and say where is your fire break at?

MARK SEIB: Safety Report.

RON FALLOWFIELD: APC will do that.

WAYNE BILSKIE: As long as they take in consideration the magnitude of that.

ATTORNEY BETH MCFADIN HIGGINS: Is there anyone else from the public with a parcel they wish to have shown on the screen and to make a comment? The parcel on the screen currently is referred to as 21-43-V-BZA which has been requested by the public for comment.

TINA KISSINGER: Conveniently they have not put Marrs School on here because it would upset people. There is a little bit of the playground there. I have a problem with this because there is a major drainage ditch which drains just about half the county over there. It is a big ditch.

LARRY WILLIAMS: Mam, this is a topic which will have to be addressed at the Area Plan Commission. They will look at that. There is nothing we can do about that.

LARRY DROEGE: Wouldn't that be better to do that individually on this on the parcel? Rather than carte blanche the whole thing and saying let's eliminate the setbacks everywhere. That just doesn't make sense to me. There has been issues with drainage, location and probably

no estimate on the thousands of trees are being removed because the setbacks are going to be changed to zero. Trees are a lot of the line fences on property. I have said my peace, but I think this the wrong way to approach this.

ATTORNEY BETH MCFADIN HIGGINS: The next parcel which was requested was 44. So, Mam, I believe 44 is being shown on the screen now, are there any additional comments? If so, then can you approach the podium.

TINA KISSINGER: No

LARRY WILLIAMS: Are there any other particular parcels that anyone wants to look at? Hearing none. Can we take the rest of these?

ATTORNEY BETH MCFADIN HIGGINS: So, if there are no other public comments on any of the other docket numbers that have not already made a comment.

INAUDIBLE FROM THE AUDIENCE:

LARRY WILLIAMS: If someone wants to address it, please step up to the podium. Otherwise we need to move on. Hearing none, we will close that portion.

ATTORNEY BETH MCFADIN HIGGINS: What I would suggest is, so that we can protect the process, if you can get the screen to go back to 22, we can show every parcel on the screen and that way we don't miss out on anything and everyone has an opportunity and if you can announce the numbers as we go through. We will just need someone to announce as we go from screen to screen. These are referred to docket numbers, so we would be referring to the docket number.

JARROD PITTS: 21-22-V-BZA, Owner: CN2 Farms, LLC, Location: Benthall Rd., Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-23-V-BZA, Owner: CN2 Farms, LLC, Location: Benthall Rd, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-24-V-BZA, Owner: CN2 Farms, LLC, Location: Benthall Rd, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-25-V-BZA, Owner: Stephan P & Stefani R., Miller, Location: Off Ford Rd., Mt. Vernon, Indiana. Rear, side & front relaxed to zero.

JULIA VANTLIN: Caborn Rd., where all of these variances are going in are all these trees going to be removed? They are supposed to be green and I have heard horror stories of all the trees being removed. Thank you.

JARROD PITTS: This is similar to the other items; the preliminary development plan has a natural resource impact report in the site plans at Area Plan Commission.

LARRY WILLIAMS: So, the answer is that they might be, that we really don't know.

JARROD PITTS: That information is in the solar ordinance and we are discussing the variance requests.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-26-V-BZA, Owner: Robert M & Patricia A. Miller, Location: 9450 Darnell School Rd., Mt. Vernon, Indiana. Rear & side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-27-V-BZA, Owner: Kenneth W. Burgdorf Trustee & Marilyn T. Burgdorf Trustees, Location: 8000 S. Ford Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-28-V-BZA, Owner: Sheryl Jean Miller-Covert & Debra June Van Zandt, Location: Lower Mt. Vernon Rd., Mt. Vernon, Indiana. Rear & Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-29-V-BZA, Owner: Sheryl Jean Miller-Covert & Debra June Van Zandt, Location: Lower Mt. Vernon Rd., Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-30-V-BZA, Owner: H & w Real Estate Holdings, LLC., Location: Off Caborn Road, Mt. Vernon, Indiana. Side & front relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-31-V-BZA, Owner: H & W Real Estate Holdings, LLC, Location: Caborn Road, Mt. Vernon, Indiana. Rear & Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-32-V-BZA, Owner: Robert Leistner Trustee, Location: 7515 Lower Mt Vernon Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-33-V-BZA, Owner: Harley M. Kauffman Holdings LLC., Location: Off Darnell School Road, Mt. Vernon, Indiana. Landlocked parcel – variances required for all lot lines, including any determined to be front, side and rear.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: It depends. Typically, sometimes landowners prefer that we option everything to give us the ability to determine what is suitable for solar. When it comes to trees...

LARRY DROEGE: So, you will have to option to eliminate that woods if...

JARROD PITTS: Potentially. We have to get various state and federal permits that would pertain to that. We are in the development phase of the project. It gives the ability to assess that and determine if that is suitable or not. We do have some landowners that want us to carve out woods. They don't want us to touch it and we will work with them to do that as well.

LARRY WILLIAMS: Additional comments or questions?

JARROD PITTS: 21-34-V-BZA, Owner: Garrett, Krista D Etal, Location: Lower Mt. Vernon Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-35-V-BZA, Owner: Glenn V. Angermeier and Margaret C. Brooks, Location: Lower Mt. Vernon Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-36-V-BZA, Owner: Glenn V. Angermeier and Margaret C. Brooks, Location: Lower Mt. Vernon Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-37-V-BZA, Owner: Burris, Steven S. & Mary Ann, Location: Lower Mt. Vernon Rd., Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-38-V-BZA, Owner: Angermeier, Paul L., Location: Ford Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-39-V-BZA, Owner: Pfingston, Owen K. & Jacqueline S., Location: Ford Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-40-V-BZA, Owner: Horton, Martha Louise, Location: Gun Club Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-41-V-BZA, Owner: Horton, Martha Louise, Location: 6301 Lower Mt. Vernon Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-42-V-BZA, Owner: Strupp, Dale E. & Linda S., Location: Layer Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-43-V-BZA, Owner: BNK Solar, LLC, Location: Ford Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-44-V-BZA, Owner: Solar Flowers, Location: Ford Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-45-V-BZA, Owner: Rexing, Kent G. & Melissa R., Location: Lower Mt. Vernon Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-46-V-BZA, Owner: Rexing, Gary L. & Barbara A., Location Lower Mt. Vernon Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-47-V-BZA, Owner: Rexing, John L., Location: E. Hwy 62, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-48-V-BZA, Owner: Rexing, Kent G. & Melissa L., Location: Caborn Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-49-V-BZA, Owner: Schmitt, Larry E. & Melody A., Location: Caborn Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-50-V-BZA, Owner: Schmitt, Melody A., Location: Caborn Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-51-V-BZA, Owner: Schmitt, Larry E. & Melody A., Location: Upper Mt. Vernon Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-52-V-BZA, Owner: Pfeiffer, Deborah Kay, Location: Off McKinnies Road, Mt. Vernon, Indiana. Landlocked parcel – variances required for all lot lines, including any determined to be front, side and rear.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-53-V-BZA, Owner: Pfeiffer, Deborah Kay, Location: E. Blackford Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-54-V-BZA, Owner: Pfeiffer, Deborah Kay, Location: E. Blackford Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-55-V-BZA, Owner: Zwahlen, Marvin L. Jr., Location Davis Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-56-V-BZA, Owner: Zwahlen, Marvin L. Jr., Location: Davis Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-57-V-BZA, Owner: Howery, Elizabeth A. Trustee & Bauman, Sharon L. Trustee, Location: 7401 Carson School Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-58-V-BZA, Owner: Howery, Elizabeth A. Trustee & Bauman, Sharon L. Trustee, Location: Off Carson School Road, Mt. Vernon, Indiana. Landlocked parcel – variances required for all lot lines, including any determined to be front, side and rear.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-59-V-BZA, Owner: McNamara, Sondra L., Location: Nation & Layer Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-60-V-BZA, Owner: Schmitzer, John D., Location: McKinnies Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments?

JOHN D. SCHMITZER: 712 Mulberry, Mt. Vernon, Indiana. I am for the variance and I agree with it.

LARRY WILLIAMS: Any additional public comments? Hearing none, next.

JARROD PITTS: 21-61-V-BZA, Owner: Juncker, Ralph W. & Sharon L., Location: McKinnies Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-62-V-BZA, Owner: Simpson, Roger A., Location: Benthall Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-63-V-BZA, Owner: Simpson, Ronald L. & Rita L., Location: Off Benthall Road, Mt. Vernon, Indiana. Rear and front relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-64-V-BZA, Owner: Simpson, Ronald L. & Rita L., Location: Benthall Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-65-V-BZA, Owner: McCutchan, Keith L. & Connie S., Location: Nation Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-66-V-BZA, Owner: Murray, Susan L. Irrevocable Trust, Location: Nation Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-67-V-BZA, Owner: Hoehn, Stephen N., Location: McKinnies Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-68-V-BZA, Owner: Wright, Margaret Anne, Location: Gun Club Road, Mt. Vernon, Indiana. Rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-69-V-BZA, Owner: Allyn Land Company LP, Location: Layer Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-70-V-BZA, Owner: Simpson, Allyn G. Etal, Location: Hwy 62, Mt.

Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-71-V-BZA, Owner: Miller, Robert M. & Patricia, Location: Off Meinschein Road, Mt. Vernon, Indiana. Side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-72-V-BZA, Owner: Miller, Robert M. & Patricia A., Location: Darnell School Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-73-V-BZA, Owner: Nurrenbern, Roger A., Location: Meinschein Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-74-V-BZA, Owner: McCluskey, Michael H. & Vicky A., Location: 8500 S. Ford Road, Mt. Vernon, Indiana. Side and rear relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none, next.

JARROD PITTS: 21-75-V-BZA, Owner: Mader, Richard J. & Julie C., Location: 7010 S. Davis Road, Mt. Vernon, Indiana. Rear and side relaxed to zero.

LARRY WILLIAMS: Public comments? Hearing none we will close the public portion and open it up to the board.

ATTORNEY BETH MCFADIN HIGGINS: I appreciate everyone's indulgence. I do think that it is important for the public and the board members to have an opportunity to see each parcel as it was pulled up on the screen. I think that was a protection for our process.

MARK SEIB: We have had some discussion and these are all with notifications and agreements between landowners which is a requirement. This was the landowner's choice that they do this. When we are taking out the setbacks and removing the property lines, that is utilizing more land between adjacent property owners which have agreed to lease. That means we are not having to take land from someplace else to use what we would have on a border all the way around. I hate to see the prime farmland, go to anything else, but it has been the landowner's choice. The other big thing is, if this gets approved they have more to go through. There are a lot more things to answer yet. This is just one phase of it and it is just the variance part of it only.

LARRY WILLIAMS: I think when the motion is made, it should be contingent on passing the APC final site development plan. Any further discussion or do I have some action.

ATTORNEY BETH MCFADIN HIGGINS: Since you have opened public hearing on each parcel now at this point everyone has had a time to make their point, from the board and the public. Then I believe we are ready you may not combine if you chose. You don't have to, if any board member wants to vote on a parcel separately, you can discuss that. You may also make a motion for approval of the dockets that we just went through which would be 21-21-V-BZA through and including 21-75-V-BZA.

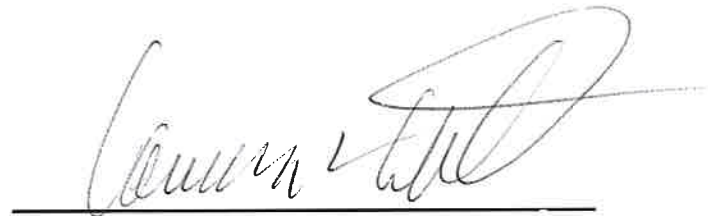
A motion was made in the affirmative by Ron Fallowfield to approve Variance 21-21-V-BZA through 21-75-V-BZA with the contingency of the approval of the APC Final Site Development Plan. Motion was seconded by Keith Spurgeon. The Variance Voting Sheet was read.

MARK SEIB: Does anyone want to change their voting as pertaining to their voting sheet as it pertains to their Findings of Fact. Finding no changes, I make a motion that we accept the Findings of Fact that we stated in docket number 21-15-V-BZA. Motion was seconded by Larry Droege. **Roll call vote on the Findings of Fact (5-0) Yes. Motion carried. Roll call vote to approved the Variances (4-1) Yes. Motion carried.**

ADDITIONAL BUSINESS: None

CITIZEN CONCERNS: None

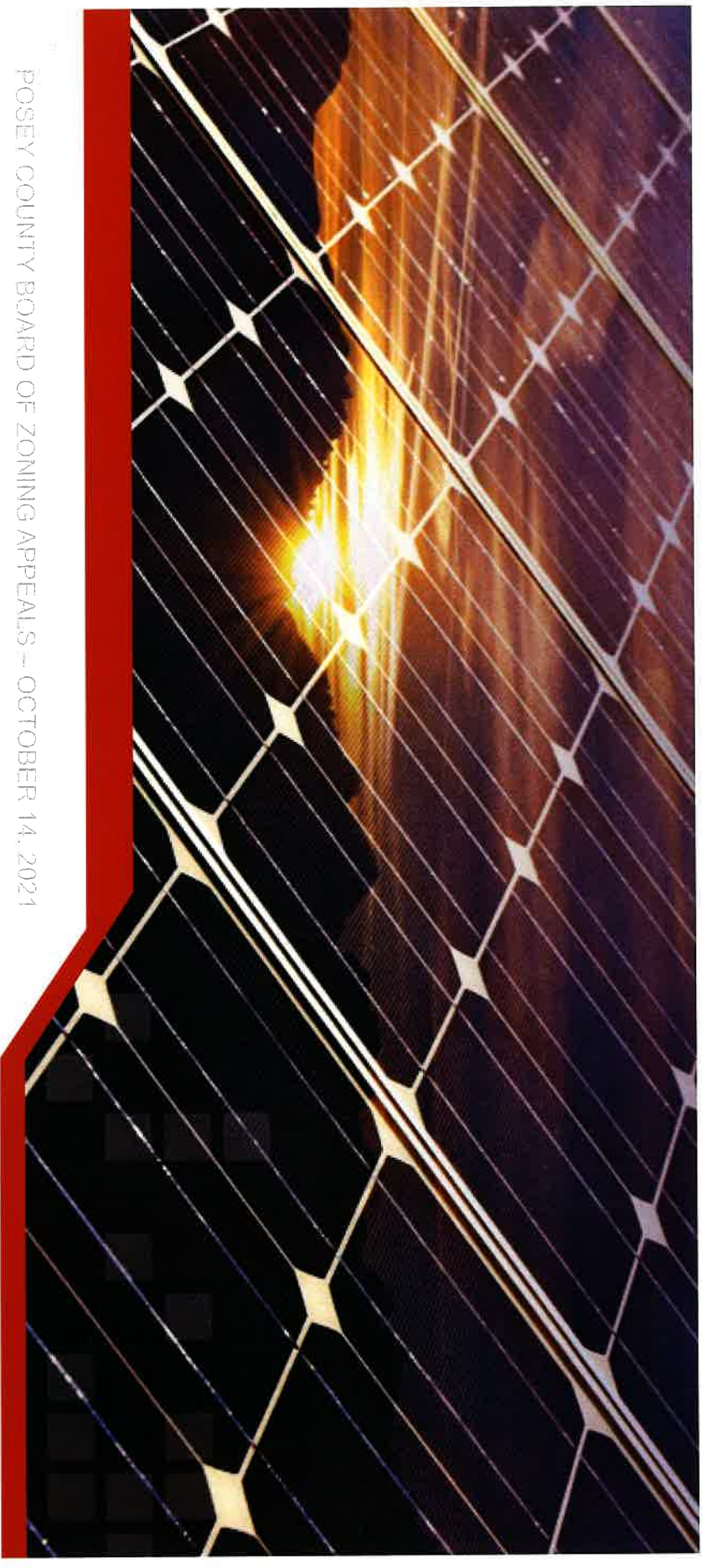
ADJOURNMENT: Ron Fallowfield made a motion to adjourn the meeting at 9:18 p.m. Larry Droege seconded the motion.



Mr. Larry Williams, Chairman



Mrs. Mindy Bourne, Executive Director

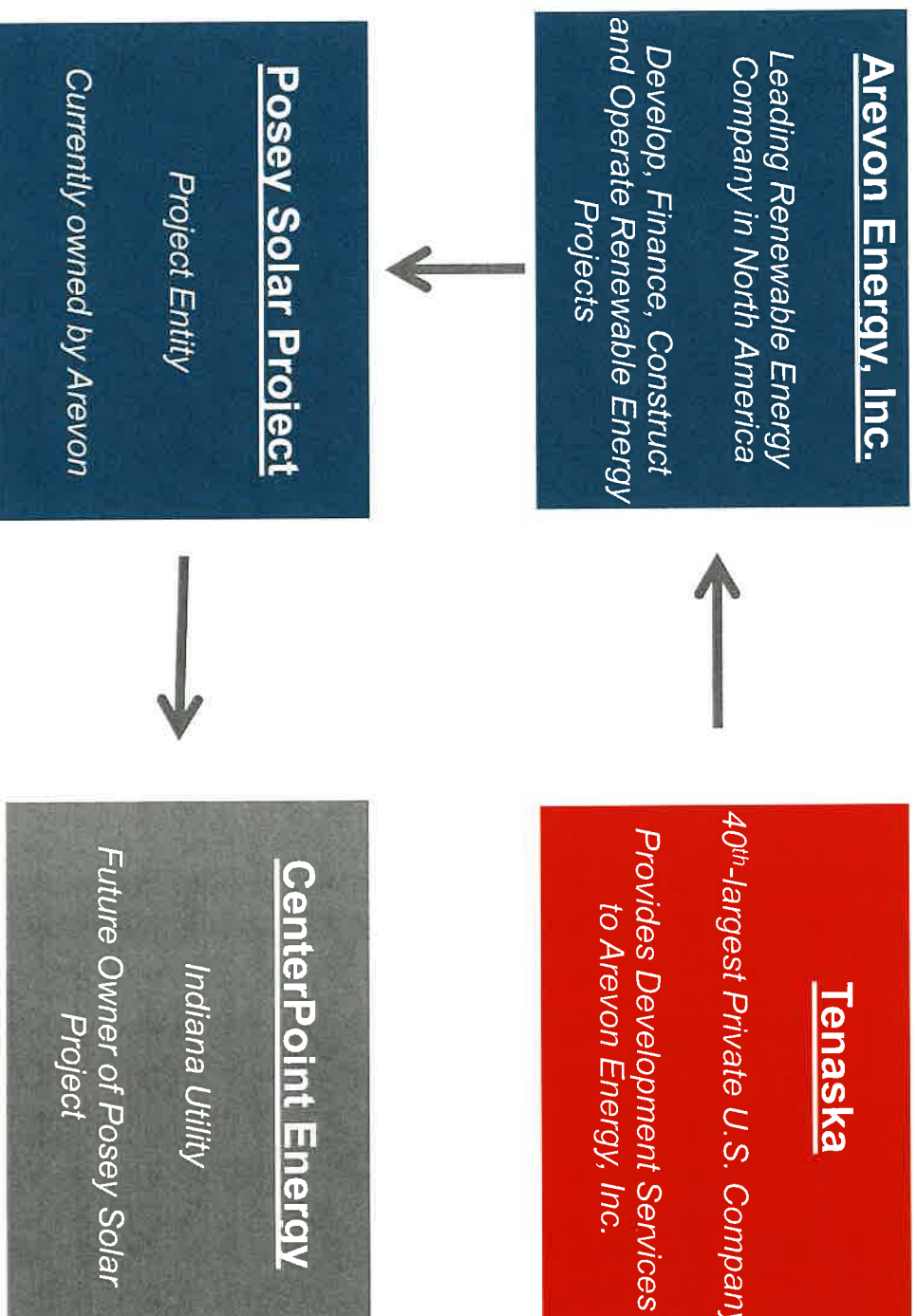


POSEY COUNTY BOARD OF ZONING APPEALS – OCTOBER 14, 2021

POSEY SOLAR PROJECT



ABOUT US



Arevon & Tenaska
developing 8,000 MW of solar projects across the United States

PROJECT TEAM



Aron Branam
VP, Development &
Construction
Arevon



Jarrod Pitts
Director,
Project Development
Tenaska



Mary Solada
Legal Counsel
Dentons



Josh Chavez
Project Manager
Arevon



Kyle Gerking
Director,
Engineering
Tenaska



Reed Schmitt
Legal Counsel
Dentons



Timberly Ross
Director,
Community Relations
Tenaska



Stacy Wagner
Community
Representative
Tenaska



PROJECT ECONOMIC BENEFITS

\$264 Million Investment

- Taxes: \$46.5 million estimated by BakerTilly – no tax abatement requested
- Economy¹ (addition to local GDP)
 - Construction: \$47.8 million
 - Operation: \$1.2 million/year
- Jobs¹
 - Construction (FTE/18 mo): 250 direct jobs, plus 92 indirect jobs = 342 Operation (FTE/yr): up to 5 direct jobs, plus 9 indirect jobs = 14
- Landowner Lease Payments: \$145 million over 35 years

¹ Gnarly Tree Sustainability Institute, in collaboration with Dr. Kenneth Richards of Indiana University's O'Neill School of Public & Environmental Affairs

PROJECT SUMMARY

Location:

Marrs and Black townships

Size:

300 MW / ~2,400 acres within project fence

Target Schedule:

2022 start of construction / 2023 start of operations



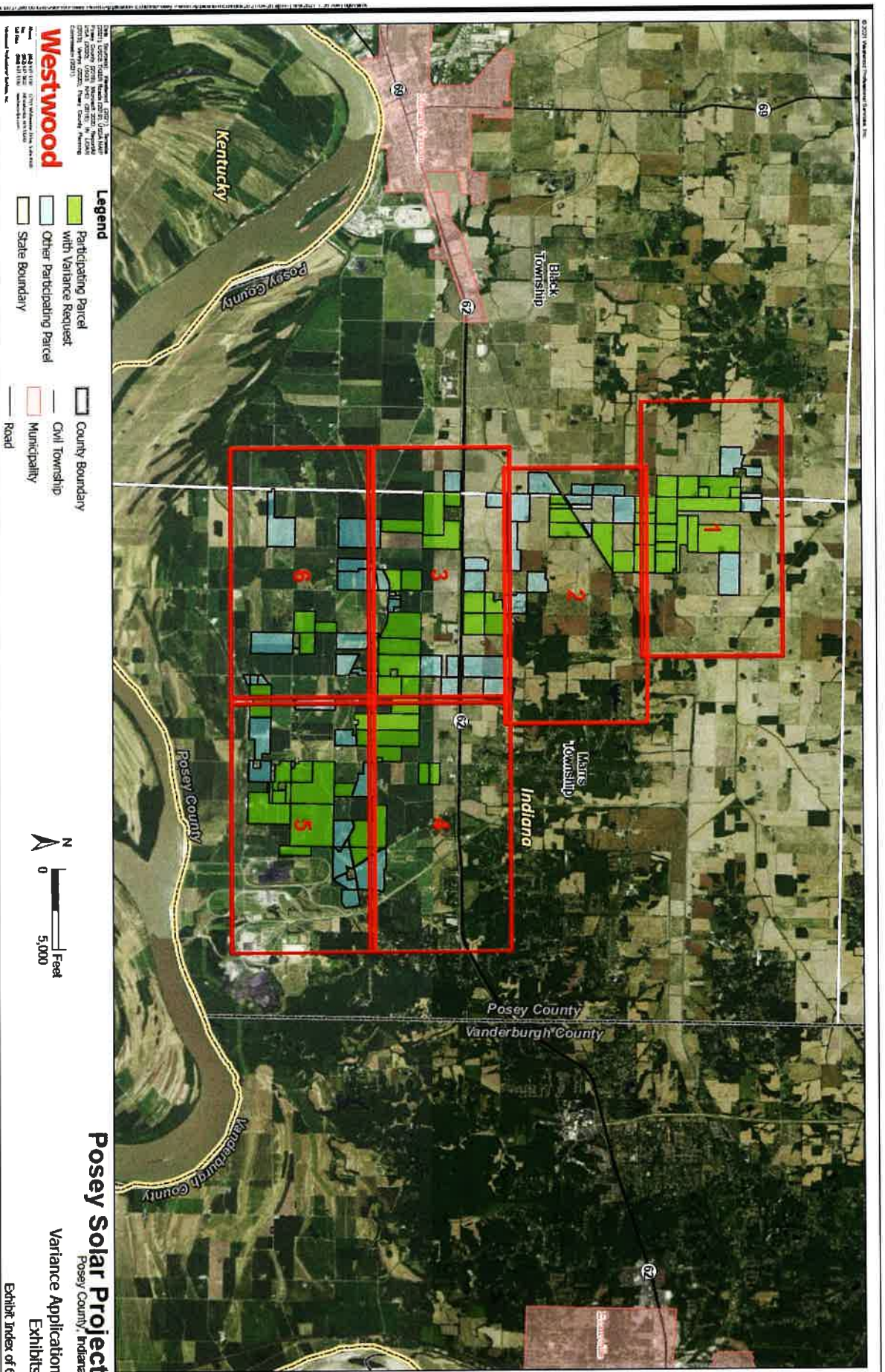
Source: Indianapolis Airport Solar Project



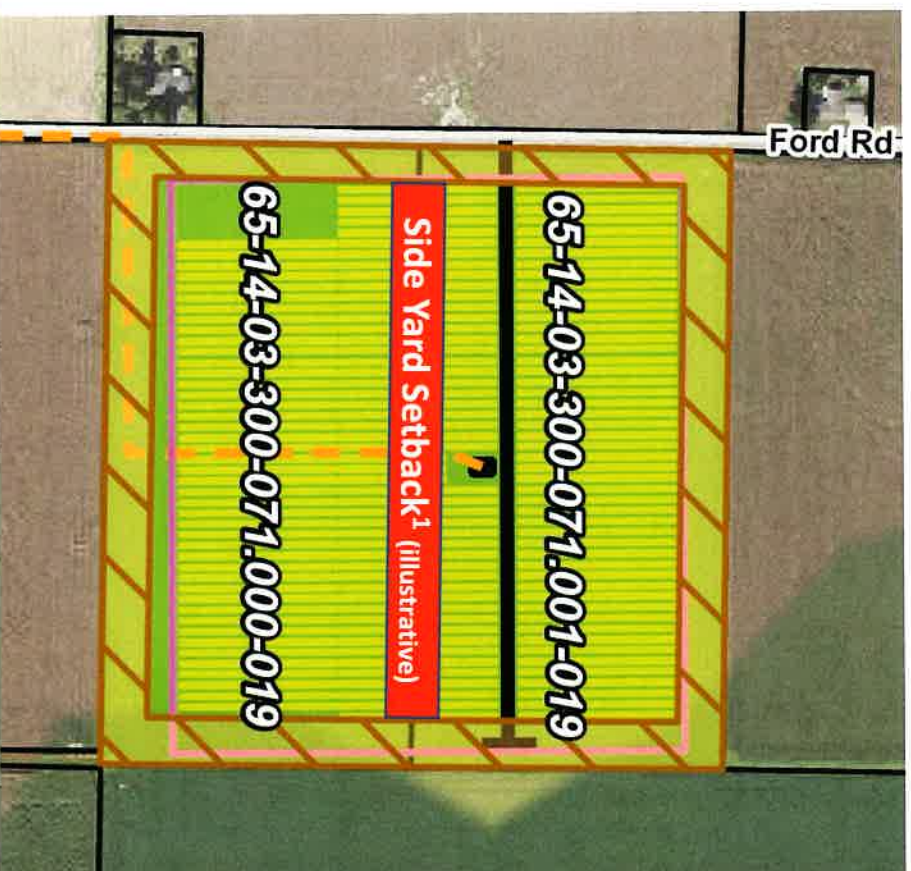
SETBACK VARIANCE SUMMARY

- The Posey County Solar Ordinance requires the Applicant (Posey Solar, LLC) to receive INTERNAL SETBACKS variance approval from the Board of Zoning Appeals.
- Posey Solar is seeking a setback variance for 61 parcels as allowed under 153.136.03(H) of the Posey County Solar Ordinance.
- The setback variances would relax applicable front, side and rear setbacks to zero for **INTERNAL SETBACKS on participating properties ONLY**.
- The setback variances provide for a more efficient use of the land for participating landowners and reduces the project footprint for the county.
- **The variances do NOT affect any property line of non-participating properties.**
















PROJECT OVERVIEW MAP



SETBACK VARIANCE MAP (EXAMPLE)



Legend

	Participating Parcel with Variance Request		Non-Participating Parcel		Access Roads		O&M Building
	Other Participating Parcel		Road		Collection Lines		Substations & Switchyards
	No Lot Line Variance Requested		Security Fence		Inverters		PV Array
			Transmission Line		Laydown Yard		Drainage Basins

1) not drawn to scale



FINDINGS OF FACT

1. NO INJURY TO PUBLIC HEALTH AND SAFETY OR TO THE GENERAL WELFARE OF THE COMMUNITY

- Solar Ordinance: Safety & Security Plan
- Community benefits

2. USE AND VALUE NOT IMPACTED

- Temporary land use
- Conditions of Approval submitted to APC
- Road Use Agreement & Decommissioning Agreement
- No increase in traffic during operations

3. PRACTICAL DIFFICULTIES

- There is no practical reason to deny the variances

4. THE CONDITIONS ARE NOT GENERALLY APPLICABLE TO THE SAME ZONE

- As each property within the overall SECS project represents a unique element of the overall, the conditions of each individual property cannot be generally applicable to other properties under the same zoning district. Especially within the context of the overall SECS project, no two properties likewise zoned for long-term agricultural use could possibly be reflected by the same conditions thereon.

5. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL CONSTITUTE AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY IN QUESTION

- Given that front, side and rear setbacks are required in order to protect adjoining properties that are not part of any permissible scenario, and given that the internal property lines within the SECS specifically do not impact adjoining non-participating properties, then the strict application of the setbacks in this instance constitute an unusual and unnecessary hardship. Given that virtually all SECS projects of any sizable scale provides for solar facilities abutting and crossing-over property lines within the confines of the project itself, when an ordinance interpretation requires setbacks internal to the project then such an interpretation meets the very definition of unusual and unnecessary, thus constituting a hardship as applied to the property in question.

6. THE GRANTING OF THE VARIANCE WILL NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN OR MATERIALLY INCREASE STREET CONGESTION

- The SECS project does not interfere with the Posey County Comprehensive Plan. The goal of the Comprehensive Plan is to promote the long-term agricultural use of large tracts of the county, which is exactly what the proposed SECS project does. Once the life of the project is complete, the decommissioning agreement will ensure that the subject property is returned to its former agricultural use. Additionally, once constructed, the SECS project will only require occasional visits by service personnel on-site, meaning there will be virtually no additional traffic at all.

MORE INFORMATION

Website:

PoseySolarProject.com

Facebook:

www.facebook.com/poseysolarproject

Email:

info@poseysolarproject.com

Local Office:

434A Southwind Plaza, Mt Vernon
(6-8 p.m. Tues/Thurs; 8-noon Sat)

Community Representative:

Stacy Wagner
stacy@poseysolarproject.com
812-573-0032



On Tue, Oct 12, 2021 at 3:27 PM G. Michael Schopmeyer <mschopmeyer@kddk.com> wrote:

Trent and Mindy – We are reaching out in advance of this Thursday's public hearing on Posey Solar LLC and Tenaska's variance request on behalf of our clients, a remonstrator group of nonparticipating neighboring landowners opposed to the proposed industrial solar project, to ask that the BZA condition approval of the variance request on Tenaska entering into a Use and Development Commitment ("UDC") with nonparticipating neighboring landowners, including a provision limiting the project's size and the other restrictions of record offered by Tenaska to date.

Our client group may not oppose the variance request waiving setbacks between participating neighboring landowners and may not remonstrate vigorously against the variance at Thursday's hearing. However, we are doing so by requesting that the BZA condition its approval of the variance on Posey Solar and Tenaska agreeing to enter into a UDC with our group that will include language limiting the project size within the fence to no more than 2,900 acres and other restrictions previously offered by Tenaska on the record at the APC. This condition will not burden the applicants, as Tenaska's counsel had previously spoken on the record at the September 13 public meeting before the Posey County Area Plan Commission ("APC") that they support including a provision limiting the project's size and other restrictions outlined in a list of proposed conditions shared with the APC and discussed on the record at that hearing (a copy of which is attached).

Please distribute this request among the BZA members. Please let us know if you or the BZA members have any questions regarding the above request following your review.

Cordially,

G. Michael Schopmeyer

(812) 423-3183 Office • (812) 455-2439 Mobile • (812) 423-3841 Fax • mschopmeyer@KDDK.com

Kahn, Dees, Donovan & Kahn, LLP

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[LinkedIn](#) • [Facebook](#) • [Twitter](#) • [RSS](#)

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REMINDER: LEGAL NOTICE OF PUBLIC HEARING

Notice is hereby given by the Board of Zoning Appeals of the Posey County Area Plan Commission of a public hearing to be held at **6:30 P.M. on Thursday, October 14, 2021 at The Hovey House**, 330 Walnut Street, Mt. Vernon, Indiana concerning the following Variance application. The Board of Zoning Appeals will at that time hear comments pertaining thereto.

Posey Solar LLC requests a variance of development standards of the Posey County Zoning Ordinance to provide for development of a Solar Energy Conversion System (SECS) -- Tier 1 (Greater than 20 acres) relaxing front, side, and rear setbacks to zero across various participating properties. These variances only affect participating properties within the overall project area. These variances do NOT affect any property line of non-participating properties.

One question to ask regarding this variance - why is Posey Solar requesting variances on property they show as not being developed on their preliminary plans?

- Parcels 65-14-17-200-004.000-019 and 65-14-17-500-005.001-019 on Meinschein Road most of which is in a flood plain

- Parcel 65-14-15-300-003.000-019 on south Ford Road indicated as wetlands

Why would they need a variance on those parcels? What are they planning to do with that land if they're not planning to install panels? What are they not telling us? This needs to be questioned at the public hearing.

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-13-V-BZA

Joseph Smith

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community? *No impact - Keith Spurgeon*
Will not have a negative effect at all - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *There is a 10' alley through there - should allow any traffic to go by - Ron Fallowfield. There are other out buildings back there - Larry Droege*

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance? *To make it line up with the driveway. I + kind of clutter where it needs to be. - Keith Spurgeon*

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

4. Are these conditions general in the same zone? *It's needed for the location of where it is. - Mark Seib*
Other out buildings around there - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question? *He wouldn't be able to access the front of the garage. Ron Fallowfield. I agree due to being able to back out - Larry Droege*
I have enough room -

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion? *Will not interfere with traffic. Larry Williams*
There is still plenty of room to get to the house that gets behind. Ron Fallowfield
Homes are spread out. - Larry Droege

Larry Droege	(X) NO	() YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	0	5
Mark Seib	(X) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statue you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:
 is hereby granted _____ (X)
 is hereby denied _____ ()
 subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 14th day of October 2021
 (date)

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-14-V-BZA

Kent Hertel

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community? *This is storage for a camper - Keith Spurgeon*
It is off the street far enough. Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *I think he is going out of his way to save some trees. - Larry Williams*
There are other out buildings in & around the area. - Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance? *Yes, because of the ravine. - Ron Fallowfield*
Yes, because of the lay of the land. - Larry Droege *Trying to save the trees. Keith Spurgeon*

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

4. Are these conditions general in the same zone? *No. Mark Seib*

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question? *I think just because of the terrain surrounding the house. - Larry Droege*

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion? *No, he has plenty of room to back off the street to get his camper stored. - Ron Fallowfield*

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statute you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (☒)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 14th day of October 2021

(date)

See attached Findings of Fact

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-15-V-BZA

Posey Solar LLC

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	<u>1</u>	<u>4</u>
Mark Seib	(X) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	<u>1</u>	<u>4</u>
Mark Seib	(X) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

Larry Droege	() NO*	(X) YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(X) YES					

4. Are these conditions general in the same zone?

Larry Droege	(X) NO	() YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(X) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

Larry Droege	(X) NO*	() YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	<u>4</u>	<u>1</u>
Mark Seib	() NO*	(X) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statute you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (☒)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 14th day of October 2021

(date)

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-13-V-BZA

Joseph Smith

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community? *No impact - Keith Spurgeon*
Will not have a negative effect at all - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *There is a 10' alley through there - should allow any traffic to go by - Ron Fallowfield. There are other out buildings back there - Larry Droege*

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance? *To make it line up with the driveway. I + kind of clutter where it needs to be - Keith Spurgeon*

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	5	0
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

4. Are these conditions general in the same zone? *It's needed for the location of where it is. - Mark Seib*
Other out buildings around there - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question? *He wouldn't be able to access the front of the garage - Ron Fallowfield. I agree due to being able to back out - Larry Droege*
a horse room -

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	5	0
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion? *Will not interfere with traffic. Larry Williams*
There is still plenty of room to get to the house that gets behind. Ron Fallowfield
Homes are spread out. - Larry Droegge

Larry Droegge	(X) NO	() YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(X) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statue you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (X)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 14th day of October 2021

(date)

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-14-V-B2A

Kent Hertel

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

This is storage for a camper - Keith Spurgeon
It is off the sheet far enough. Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

I think he is going out of his way to save some trees. Larry Williams
There are other out buildings in & around the area. Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

Yes, because of the ravine. Ron Fallowfield
Yes, because of the lay of the land. Larry Droege
Trying to save the trees. Keith Spurgeon

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	5	0
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

4. Are these conditions general in the same zone?

No. Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	0	5
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

I think just because of the terrain surrounding the house. Larry Droege

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	(<input checked="" type="checkbox"/>) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(<input checked="" type="checkbox"/>) YES	Larry Williams	() NO*	(<input checked="" type="checkbox"/>) YES	5	0
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

No, he has plenty of room to back off the street to get his camper stored. - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statue you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (☒)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision.

Adopted this 14th day of October 2021
(date)

See Attached Findings of Fact

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-15-V-BZA

Posey Solar LLC

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	1	4
Mark Seib	(X) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	1	4
Mark Seib	(X) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

Larry Droege	() NO*	(X) YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	5	0
Mark Seib	() NO*	(X) YES					

4. Are these conditions general in the same zone?

Larry Droege	(X) NO	() YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	0	5
Mark Seib	(X) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

Larry Droege	(X) NO*	() YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	4	1
Mark Seib	() NO*	(X) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statute you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (☒)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 1st day of October 2021

(date)

**VARIANCE VOTING SHEET
REPORT OF FINDINGS OF FACT
21-15-V-BZA THROUGH 21-75-V-BZA**

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

-I don't think so because the adjoining property owners to this will have them also – Ron Fallowfield

-It's not going to affect anything that is not adjoining to that – Larry Williams

-Again, we have a very narrow focus. We are looking at just the variance. I don't see any issues – Keith Spurgeon

-All of the property is going to be impacted. All property values will be impacted. I don't know how I can say it won't be impacted. There can be loss of revenue – Larry Droege

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

-As far as what we are looking at, I don't think it will because the adjoining properties will have solar panels also – Ron Fallowfield

-Nobody has shown me anything that it will negatively affect property values – Larry Williams

-Again, that is a question we really don't know how it will affect property values – Larry Droege

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

-Peculiar to the property because they are abutting each other – Keith Spurgeon

4. Are these conditions general in the same zone?

-No, this doesn't mean everybody gets a variance – Keith Spurgeon

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

-I think it is unusual and especially unnecessary when both of the landowners agree that they don't need that setback – Keith Spurgeon

-I didn't hear anybody say that if we didn't do the setbacks, we couldn't put panels in. They can still put panels in with the setbacks – Larry Droege

-That is correct. I would think if it was with adjacent property owners and they were in agreement that it would take more land if it is not. There would be more parcels that would have to have panels on

them as a continuous line. If they had to meet the setback requirements all the way around each individual unit then it would take more ground to put the same panels on – Mark Seib

-I would have to believe if they wanted more ground, they would have already acquired more ground – Larry Droege

-I am saying this is saving some farm ground – Mark Seib

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

-I believe the comprehensive plan as we did with the Area Plan. It does allow for development within that area. I am saying that the comprehensive plan does allow for it – Mark Seib

-I don't think traffic will be an issue – Larry Williams

-It's not going to affect the street – Larry Droege

See Attached Findings of Fact

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 21-15-V-BZA

Posey Solar LLC

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	1	4
Mark Seib	(X) NO	() YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

Larry Droege	() NO	(X) YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	1	4
Mark Seib	(X) NO	() YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

Larry Droege	() NO*	(X) YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	5	0
Mark Seib	() NO*	(X) YES					

4. Are these conditions general in the same zone?

Larry Droege	(X) NO	() YES*	Keith Spurgeon	(X) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(X) NO	() YES*	Larry Williams	(X) NO	() YES*	0	3
Mark Seib	(X) NO	() YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

Larry Droege	(X) NO*	() YES	Keith Spurgeon	() NO*	(X) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	() NO*	(X) YES	Larry Williams	() NO*	(X) YES	4	1
Mark Seib	() NO*	(X) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	() YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	() YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	() YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	() YES*					

***If any one of your answers above is followed by an asterisk, under the statue you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

is hereby granted _____ (☒)

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this _____ day of _____

(date)

**VARIANCE VOTING SHEET
REPORT OF FINDINGS OF FACT
21-15-V-BZA THROUGH 21-75-V-BZA**

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

-I don't think so because the adjoining property owners to this will have them also – Ron Fallowfield

-It's not going to affect anything that is not adjoining to that – Larry Williams

-Again, we have a very narrow focus. We are looking at just the variance. I don't see any issues – Keith Spurgeon

-All of the property is going to be impacted. All property values will be impacted. I don't know how I can say it won't be impacted. There can be loss of revenue – Larry Droege

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

-As far as what we are looking at, I don't think it will because the adjoining properties will have solar panels also – Ron Fallowfield

-Nobody has shown me anything that it will negatively affect property values – Larry Williams

-Again, that is a question we really don't know how it will affect property values – Larry Droege

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

-Peculiar to the property because they are abutting each other – Keith Spurgeon

4. Are these conditions general in the same zone?

-No, this doesn't mean everybody gets a variance – Keith Spurgeon

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

-I think it is unusual and especially unnecessary when both of the landowners agree that they don't need that setback – Keith Spurgeon

-I didn't hear anybody say that if we didn't do the setbacks, we couldn't put panels in. They can still put panels in with the setbacks – Larry Droege

-That is correct. I would think if it was with adjacent property owners and they were in agreement that it would take more land if it is not. There would be more parcels that would have to have panels on

them as a continuous line. If they had to meet the setback requirements all the way around each individual unit then it would take more ground to put the same panels on – Mark Seib

-I would have to believe if they wanted more ground, they would have already acquired more ground – Larry Droege

-I am saying this is saving some farm ground – Mark Seib

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

-I believe the comprehensive plan as we did with the Area Plan. It does allow for development within that area. I am saying that the comprehensive plan does allow for it – Mark Seib

-I don't think traffic will be an issue – Larry Williams

-It's not going to affect the street – Larry Droege