

LEE COUNTY AD HOC COMMITTEE

Special Meeting

Tuesday, January 5, 2021, at 9:00AM

**County Board Room
Old Lee County Courthouse, Dixon, Illinois**

Zoom Video- & Tele-conferencing

Meeting ID: 978 3467 2133

Password: 664673

YouTube

**<https://www.youtube.com/watch?v=5Wy6M8SpGVg>
or search, “Public Ad Hoc Committee Meeting – 01/05/21” in YouTube**

Appointed Ad Hoc Committee Members

Dave Bowers – Chair
Mike Koppien
Chris Norberg
Jim Schielein
Bruce Forster, ZBA member

At 9:00AM, Chair Dave Bowers called the meeting to order.

Chair Bowers called for roll call of members of the committee and county staff.

Members present:	Bowers, Koppien, Norberg, Forster, Schielein
Members absent:	None
County Staff:	Charley Boonstra (State’s Attorney) Dee Duffy (Zoning Administrator) Alice Henkel (Zoom operator)

The committee reviewed the minutes from the December 29, 2020 meeting. There were no changes and/or corrections. The minutes were approved as submitted.

Chair Bowers recognized the following visitors as present:

Courtney Kennedy (attorney, via Zoom)
Jenny Munson Miller (National Grid Renewables, via Zoom)
Amber Miller (National Grid Renewables)
Keith Boland (National Grid Renewables)

Adam Lusz, an interested party from Eldena, joined via Zoom at 9:26 a.m. Chris Henkel arrived in person at 9:33 a.m.

Under old business, Chair Bowers explained that at the previous meeting, this committee moved to accept setbacks. He had made a draft of this section of the ordinance with the agreed upon changes and sent it to committee members for review prior to this meeting. He asked if there were any comments and/or questions.

Mr. Schielein noted that the draft states, “Setbacks. A ground-mounted SES shall have a setback for all equipment excluding fences...” Since it says, “excluding fences,” he wanted to know if that means the fence will go on the property line. Chair Bowers said that still needs to be discussed because of differing opinions.

The draft goes on to state, “...a minimum of fifty (50) feet from the front property line and fifteen (15) feet from side and rear property lines in an agricultural district.” Mr. Schielein wanted to know what constitutes as, “front,” specifically regarding a bare, agricultural parcel that is located at an intersection, since two sides of the parcel are on roadways.

After much discussion, Chair Bowers stated that the setback of 50 feet seems to apply to roadways so essentially the term, “front,” means, “the road.” Mr. Norberg suggesting changing the terminology.

Mr. Norberg asked what the setbacks from the roadway would be if he were building a structure in an agricultural zone. Mrs. Duffy reported that the front property line setbacks for building a dwelling in agricultural zone are: 60 feet from the center of the roadway for township roads; 75 feet from the center of the roadway for county highways; and 50 feet from the right-of-way for state roads.

Mr. Schielein feels that if the County already has existing setbacks in place for building a structure in an agricultural zone, this committee should be following those instead of creating different ones for solar projects. He also questioned whether the constructed panels would be treated like a machine shed or livestock barn or as a completely different type of structure.

Attorney Courtney Kennedy agreed with Mr. Norberg and Mr. Schielein with regard to developing a simple ordinance that is consistent with the existing ordinance so that the solar ordinance is easy to apply, as well as enforce.

Mr. Norberg suggested taking the largest setback required in an agricultural zone and applying it to the solar projects. Several disagreed because they feel if different uses require different setbacks, there are reasons for those setbacks.

Amber Miller explained that the reason permanent structures, such as houses, have greater setbacks from the roadways is so that permanent structures do not interfere with any future widening of the road. She reminded the committee that the solar panels are a temporary structure, as in they do not have a foundation like a house.

The committee reviewed the current setbacks for a structure in an agricultural setting. Chair Bower suggested adding this language directly to the solar ordinance.

Mr. Schielein questioned applying setbacks for a permanent structure to a temporary structure. State's Attorney Boonsta acknowledged that while the solar array is not a permanent structure, and can be moved, it will still exist in the same place for 30 years.

The committee proceeded to discuss how to incorporate the agricultural zoning building setback requirements into the proposed solar ordinance.

Adam Lusz asked that the committee include the fencing in the setbacks, whether it is from the roadway or the property line. He feels that since the panels will be inside the fence, the fence should be the starting point for the setback.

Attorney Kennedy would like the ordinance to include an option for adjacent non-participating homeowners to waive setback requirements; similar to ordinances she has seen in other counties. With regard to Mr. Lusz's comments on fencing, she feels it will only cause problems for the County, lead to property line disputes with adjacent landowners, and cause claims for adverse possession. While it may not be the County's issue initially, it will snowball and end up requiring more County involvement and resources. She feels the fence must stay on the property line.

Mr. Norberg stated that all the citizens he's asked has said the fence should not be on the property line, it should be 600 feet away with trees and screening. Attorney Kennedy said that while she respects that, currently in Ag-1 zoning, any landowner can build a chain link fence and not have to worry about setting it off his or her neighbor's property. She suggested the use of a woven-wire fence that looks more like a cattle fence, which would be less intrusive and more aesthetically pleasing.

Ms. Miller stated that chain link fencing with barbed wire is required around the substation; however, they can use woven-wire fencing around the project perimeter if the fence is at least 7 feet tall. She did state that the fence is sold in 2-foot increments so the fence, if woven-wire, would likely be 8 feet tall.

Discussion resumed on how to incorporate the agricultural zoning building setback requirements into the proposed solar ordinance and whether the 50-foot setback should be removed since the 600-foot setback from the foundation of a dwelling should cover that. This led into discussion of whether the fence should be located on the property line or setback.

Mrs. Duffy stated that any property owner in Lee County can build a fence up to the property line. She said the adjacent property owners also have the same right.

Mr. Lusz disagreed with Mrs. Duffy and said Amboy Township in town requires a 2-foot setback of a fence on a residential lot line so the property owner can maintain both sides of the fence. He feels the fence should be setback and disregarded concerns over potential property line disputes and adverse possession claims. He feels the fence should be behind the visual screening and should be setback off the right-of-way to allow for UTVs and small tractors.

He feels proper setbacks will cause these commercial projects to be less impactful to property owners. Additionally, he feels it will steer these developers to less populated areas of the county. Mr. Lusz believes that would be a more natural setting for these projects and the projects would then manage themselves.

He understands anyone can put a fence up on the property line but these developers are big corporations that plan to have surveillance on the fence and this is a violation of privacy. The visual screen being located in front of the fence would protect privacy.

Attorney Kennedy reminded the committee that solar energy systems are considered a special use in an agricultural zone in Lee County. They are not considered commercial or industrial.

Additionally, she noted any landowner in Lee County can construct a fence on their property line and have surveillance on that fence. There is nothing in the current ordinance that prevents property owners from doing this. Furthermore, the surveillance cameras for the solar energy projects are located at the entrance and around substations. They do not have surveillance cameras along the project perimeter or directed at adjacent properties.

Attorney Kennedy suggested setting the fence back off the property line about 3 feet, with the visual screening placed between the fence and property line.

Mr. Koppien noted fencing and visual screening do not help property owners who have residences with more than one story. He also does not believe the fence should go on the property line. He would not like that if his neighbor did it.

Chair Bower said that while he thought the issue of setbacks had been resolved at the last meeting; however, there is still changes that need to be made with regard to roadway setbacks. He will work with Mrs. Duffy to draft what was discussed for review at the meeting.

Prior to a discussion on screening, recess was taken at 10:27 a.m. The meeting resumed at 10:35 a.m.

Chair Bowers requested Mr. Lusz to share his thoughts on the matter. Mr. Lusz said he didn't have his notes in front of him, but he hopes the ordinance will define what low-growing trees are, what size they need to be when planted, how they will be maintained, and other things of that nature.

He wishes the County would require better visual impact studies be done for non-participating landowners. He feels like the developers should be able to provide a computer-generated replica of what the view will be from each property once a project is developed and that the visual impact information should be provided to the County for consideration when reviewing these projects.

Mr. Schielein questioned where else in the ordinance the County regulates view. Mr. Lusz said these studies wouldn't be done for regulation but rather to make people aware of the impacts to the view.

Mr. Norberg stated that from the previous meeting and in reference to the redline version of Section J1, he suggested removing the topography language but he liked the 1,000 feet. He also liked the 8-foot woven-wire fencing option.

Mr. Schielein feels the language creates vagueness and needs further clarification.

The committee briefly discussed the placement of fences on property lines, as well as the placement of the visual screening and whether it should be place inside or outside of the fence.

Mr. Norberg asked Ms. Miller how her company would handle this. Ms. Miller explained that typically, they like to place the visual screen (a double row of trees) as close to the property line as possible, with the fence located directly behind the trees. She said once the project ends, the trees will be removed so they give landowners the option of having the trees planted on their property if they wish to keep the trees once the project is over.

At 11:00 a.m., Mr. Norberg motioned for a recess to a later date. Motion passed.

The next meeting will take place on Friday, January 22, 2021, at 9:00 a.m.

*Live feed can be viewed on **YouTube** at Public Ad Hoc Committee Meeting – 01/22/21.*

Respectfully submitted,
Alice Henkel