

December 3, 2024
Special Meeting of the
Marshall County Board of Zoning Appeals
Plymouth Wesleyan Church
11203 Michigan Rd.
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 6:00 p.m. on Tuesday, December 3, 2024, at Plymouth Wesleyan Church 11203 Michigan Rd., Plymouth, Indiana. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett, Jim Kephart, Matt Miller, and alternate Joe Allyn. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry, Board Attorney Derek Jones and interested parties.

Mr. Hostetler made a motion to re-open the public hearing, seconded by Mr. Bennett. Motion carried.

- Lynn Studebaker 7063 E. 800 S.-43 Lives in Kosciusko County where they have a protective ordinance. They have a farm in Whitley County where there is a 1500 setback to property lines that protects their families. Here to represent stepdad Bill Crow that is a farmer in Marshall County for 67 years and owns 650 acres. It is believed that solar panels leak hazardous chemicals rendering the ground useless. This will bring a food shortage. Please protect the families of Marshall County and the heritage.
- Casey Neidlinger 16682 14B Rd. Read a letter from Katie Lewallen on East Shore Dr. Culver. Talked about the soil analysis done in the spring and has a concern that only part of the data was shown. A more comprehensive analysis was needed. Believes the study that was done shouldn't be compared to a utility scale solar project. The inserting and removing of posts will disrupt a large area of land. Gave a testimony from a farmer in Decatur County. Don't allow our county to be scarred for years to come.
- Janelle Prochno Naylor 16541 Robert Ct. Passed out information to

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the board. Believes what is being proposed is a misconception. What is being proposed is a power plant. The value of land is not only appraisal, but desirability. Studies on property values were included in the packet. This board has the right to protect the health, safety and general welfare of the county. This application should be denied or require language to protect the county. Please deny the application.

- Cindy Casper 13805 Jarrah Rd. Good neighbor agreements. These are nothing less than a bribe to keep nonparticipating neighbors silent. The solar company keeps saying no losses to values, noises won't have an effect to your health, EMF won't have an effect on your health and no damage to your water. These agreements sometimes offer money to reduce opposition to solar farms. Shared a portion of a contract from another county. Are there any landowners or county officials who have signed these good neighbor agreements in Marshall County? Is this county willing to hand over Marshall County to these solar companies when the majority of people are against it?
- Mavin Houin 7563 Plymouth Goshen Tr. Representing Marshall County Farm Bureau and wants to propose a two (2) year moratorium on this. This would allow time to sort out all the pros and cons and protect all the property rights of all the people involved. Has a concern how these power companies re-sell and also acquiring property through eminent domain.
- Nancy Miller 16270 Pear Rd. Owns land in Marshall County. They had a test wind energy system on their property years ago when wind energy was first out. Despite the financial gain they chose against. Has several questions on the proposed solar. Has heard that this solar project involves .7% percent of ag ground. Concerned about setting a precedence. No matter the size of land used, it matters. Ag land has decreased by 14% over the years. If ag land is being used for solar, how can we keep up with demand? Don't take away farmland that the majority doesn't want. How much of the power will stay in Marshall County? Where do panels go when they are removed? How do we commit to these solar panels for 35 years when we don't know what will be in 35 years. Safety is a

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concern. Requesting denial.

- Debbie Vandemark 14750 Tulip Rd. Lives a mile away from two properties leased for battery storage and surrounded by ground that's leased to solar. Lived in Union Township her whole life and raised on a farm. Wants to protect the value of their property. There are rules and regulations in place that require permission to build. These landowners that have signed contracts will have lost rights to their land for nearly 50 years. Many of the owners with contracts don't even live in the area. Was contacted by Invenergy multiple times to sign a contract. Supposedly Invenergy has spent 3 million dollars and hasn't even started the project. Why wouldn't they have gotten approval before spending the money? A timeline was given. The application should be denied and doesn't follow the Comprehensive Plan. The application should be denied.
- Shannon Lunetta 18929 12th Rd. Real Estate Broeker and purchased new property last October on corner of 12th and Tamarack. Previously lived on 12B & Tamarack lived across from the solar testing site. Was never notified by Invenergy. The installer said it would be in 9-12 months and it was there 2 years with weeds growing all around it. Nothing grew under the panels. Property values will go down when you have less people desiring a property next to a solar farm. The only reason taxes go down is because property values go down. Invenergy won't be the only solar company coming to Marshall County. "You give them an inch and they will take a mile." Mr. Gustafson asked if realtors have to disclose and neighboring solar farm. Ms. Lunetta confirmed with her managing broker that sellers do not have to disclose a solar field not going in.
- Gale Lambert 3343 N. 700 W. Speaking for Randy Hoing from Decatur County. The finding of fact states you have to vote for general welfare and not be injurious to the public health and general welfare of the community. Shared information from a long-time firefighter and his concern of fires at solar facilities.
- Vera Tetzlaff 19814 SR 8 Lives directly north of

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- Dave Stults 2941 CR 28 Bought property early spring. Found out later that there was a solar farm being proposed. Is concerned about loss in property value and who will reimburse this loss? Vote No.
- Kevin Strong 18914 12th Rd. Is against this project. Moved to Marshall County because of its rural nature. Would not have moved to this county if there was a possibility of a solar farm. If I wouldn't have wanted to move here with solar there's probably a lot of others as well. Has a concern about the negative health aspects. A major concern what this solar farm will do to the wildlife.
- Deb Johnson 20707 9th Rd. Is a member of the Planning Commission and TRC. Tamarack's solar project application 2.0 has included in the application has many variances the first one being setbacks. Another variance that is a great concern is the project deadline from one (1) year to four (4) years. This specific issue was won in court by Madison County in both local and Indiana Court of Appeals. Included with this application of Marshall County properties are properties in Culver's jurisdiction. Does state law allow Marshall County to make decisions for Culver's jurisdiction? Is a county councilman for this district. Requesting denial.
- Pam Craft 18700 12th Rd. Is a schoolteacher at Culver who is concerned about the safety from possible fire as they live next to three miles of woods. There has to be better industry to come into our community than this solar farm.
- Albert Labron 14474 W. County Line Rd. Submitted letter to Plan Commission. Moved away from Gary 31 years ago for peace and solitude. Concerned about the safety, water and pollution from the batteries. Personal gain is the only interest. Is opposed to the request.
- Jim Hart 20346 15B Rd. Lives off the land. How are the deer and wildlife going jump over the proposed fencing? This proposal will affect their way of life.

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- Jared Sommers 14189 Union Rd. Doesn't want to tell other people what to do with their property, but when it affects his property and value becomes an issue. Purchased this property 6 years ago to raise a family in a rural setting. If this project gets approved his property will be surrounded by solar panels. The financial benefits will be gained outside our county. There is a great concern that the land will not be taken care of. The water quality and wildlife is a concern. The New Carlisle solar facility was discussed. Requesting denial.
- Brandon Schadek 19921 9th Rd. Read an article out of Forbes magazine from 2020 on Invenergy about conflicts of interest. Asking the board to say no.
- Jeff Tetzlaff 19814 SR 8 Agriculture is number one. His job is to haul agricultural products all across the united states. Don't destroy our great state and country. Solar is not the answer.
- Joseph Krozul 20804 SR 8 Hasn't heard the solar company respond saying their panels don't leach into the ground. Who is going to pay for the remediation if this happens? Is against the project.
- Mark Samuelson 14222 Union Rd. If this project gets approved the floodgates of more solar will follow. Once this 1400 acres of ag ground goes into solar field it will probably never go back to agricultural production land. With proper procedures being taken all types of land can be productive.
- Paul Vandemark 14750 Tulip Rd. They purchased 150 acres from the Roy Overmyer farm. After all the years of hard work cleaning the property up it will be in the middle of the proposal industrial solar operation. Hates to see all the time and effort be turned into an industrial farm.
- A person from the audience requested to speak on the side of in favor for the project. After conversation the president stated that she could speak after the petitioner responds.
- Attorney Kuchmay addressed the board saying the previous person possibly had someone read a letter in favor and this would allow someone to speak twice.

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favor as there are economic benefits to renewable energy.

Mr. Kephart made a motion not to read the remaining letters and take those letters into consideration, seconded by Mr. Miller.

Attorney Jones stated, “At the last meeting on November 7th it was stated that the letters were going to be read outload, but given the amount and volume of letters that are left to read we are sitting here at 9:00pm and Ty has only about 20-30% read. The letters aren’t required to be read but considered by the BZA. In other words, they have to be read by you, but not read aloud in the public portion of the meeting.”

Mr. Kephart made a motion to amend the previous rule and forego the reading of all the letters for public hearing and review the remainder of the letters and take them into consideration, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The petitioner was given fifteen (15) minutes to rebut.

Invenergy’s representative, Ethan Sternberg, thanked everyone for taking everything into consideration. Tamarack Solar continues to take into consideration everyone’s concerns. They have developed over fifty (50) solar projects across various communities. They have answers to many of the questions. If the board has questions, please ask.

Mr. Sternberg gave an overview of the project from the beginning to where they are at to today. The project started five (5) years ago signing leases. During that time there was a moratorium put in place to allow a committee time to prepare and update their ordinance. Invenergy felt like the proposed ordinance was something they could live with. The ordinance was approved 3-0. Invenergy moved forward with studies, interconnection, and later into 2021 the application portion was started based on the original ordinance. After four (4) failed attempts during the moratorium process the application was submitted in

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2024. The new solar ordinance was implemented and staff recommended reapplying under the new ordinance. Invenergy complied with the request and amended the application and resubmitted. Most of the questions have already been addressed.

Over a thousand letters have gone out. After the county's public meeting notification letter went out Invenergy followed up by sending a letter with their contact information and additional facts and information on the project and only received six (6) responses. During the process they also knocked on doors of houses that could be affected by the project. There were forty-seven (47) people they spoke with. Twenty (20) people opposed the project, and twenty-seven (27) people were either neutral or for the project.

The meeting on the first night the application was heard and there were twenty-six (26) people who spoke in favor of the request. He encouraged the board to consider those people's future. Mr. Sternberger re-stated a few comments from the people who they have signed contracts with.

Encouraged the board to review information from their packet of a broker from the Clinton County area where Invenergy just installed a solar farm. The conclusion was there was no imperial evidence the solar farm affected property values. The ultimate decision of whether to farm row crops or signing up for solar energy is up to the property owner. There will be changing political environments locally and federally and they commit to working with the elected leaders in this community. Invenergy hopes the board sees their willingness to follow the rules, work with the county and be willing to take feedback from the community. Every single requirement has been met or exceeded the requirements from the solar ordinance. Tamarack and its landowners are willing to meet the conditions as suggested by staff. A table was submitted summarizing the conditions they can meet as written. There are a few they can meet with substantial form with a few edits. If there are any additional commitments the board wants added, Tamarack solar would be happy to consider them. Would encourage an open dialogue to answer all the questions the board

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might have.

Allen Townsend, Bose McKinney & Evans, Outside Attorney for Invenergy, 111 Monument Circle Suite 2700, Indianapolis. First, The role of the Board of Zoning Appeals is to determine Tamaracks compliance with the application requirements as set forth in the ordinance. Second, does Tamaracks application satisfy the approval criteria specified by law. Tamarack solar believes that it meets everyone by the materials submitted and testimony given.

Mr. Townsend has reviewed the staff report and the four components that decide whether the request meets the ordinance requirements. The four components include, general welfare, development standards, ordinance intent and comprehensive plan.

One of the options the board has is to approve with conditions. Tamarack is willing to do that. Staff's recommendation on this project was denial due to "its occupying unique agricultural ground that is key to supporting the specialty crop sector." The comp plan is a guideline to future development. Mr. Townsend said there is no mention in the comp plan of soil types for specialty crops using those as a basis to deny a solar project.

There has been discussion about a pending lawsuit between Marshall County Council and the County Commissioners that prohibits the BZA from moving forward. Mr. Townsend stated that he was familiar with the lawsuit as Tamarack was included in the lawsuit. There is no injunction or order from a judge that says the BZA can't move forward with Tamaracks application.

Mr. Townsend concluded by saying, "evaluate this project on its merits and not emotion it is deserving of your support."

After the rebuttal the board members didn't have any additional issues or questions they

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needed clarified from the public.

After a question from the board Attorney Jones explained that the consideration of the unread letters are for the board members to read and consider before a decision is made.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried with a voice vote 5-0 to close the public hearing.

Following the closure of the public hearing the board began asking questions.

Mr. Kephart asked if the solar ordinance was for commercial, retail or both? Mr. Townsend stated that he cannot comment on retail solar, but commercial for sure specifically what Tamarack has applied for.

Mr. Gustafson asked if they don't like the setbacks, can they make them bigger? Mr. Townsend replied that the board can impose conditions on any improvements and Tamarack would have the authority to accept or reject.

Mr. Gustafson stated that the ordinance allows one (1) year from approval of the variance to completion. Why is the applicant asking for four (4) years and longer if there is litigation? Mr. Sternberg replied that the nature of these types of requests can take from six (6) to nine (9) years.

Mr. Gustafson asked when Tamarack Solar would start construction. Mr. Sternberg replied that if the board approves the application for Tamarack Solar there is a second approval from the Indiana Regulatory Commission. This process usually takes six (6) to nine (9) months. If an extension to four (4) years isn't granted what would you do? Mr. Sternberg replied that Tamarack would not be able to pull a permit in one (1) year. Mr. Gustafson asked for a date of when they would start putting solar panels in the ground. Mr. Sternberg replied that it probably wouldn't start till the late 2020's.

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Mr. Gustafson asked what a “que” is? Mr. Sternberg explained that if one project connects to the grid making sure the grid can support it. Mr. Sternberg further explained that we are currently in phase 2 of phase 3. Part of the process also includes an interconnection agreement which allows you to connect to the grid. That process for this project could take two (2) years.

Mr. Gustafson asked why Tamarack Solar didn't come to the board five (5) years ago instead of getting the land first? Mr. Sternberg replied saying they didn't have all the land then. Once they had the land, they initiated all the studies required. Then they prepared a layout which is required for these types of projects. Mr. Sternberg responded saying it's a balance when to say something as a developer, because they don't know any specific details until they find out all the pertinent information. As for the comment on taking advantage of communities without a solar ordinance, Mr. Sternberg stated that is why Tamarack Solar waited to apply until after the county finalized their Solar Ordinance.

Mr. Hostetler made a motion to table the public meeting until December 9th, 2024, at 6pm at the same location, Plymouth Wesleyan Church to continue discussion, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

Secretary