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Via Hand Delivery and Email: rford@kanecoboard.org; BerkhoutKeith@co.kane.il.us

Kane County Development Committee

Attn: Ron Ford and Keith Berkhout

719 S. Batavia Avenue, Bldg. A

Geneva, IL 60134

Re: Petition #4616
Property Owners: Blair Alexander and Richard Johnson
Property Location: 47W829 Route 38 (10-03-100-015)
Our File No.: G34964

Dear Members of the Development Committee:

I represent the above-referenced owners (the "Owners") of that certain property commonly referred to as 47W829 Route 38 (the "Property") with respect to their request for approval of Zoning Petition #4616 requesting the approval of the construction and installation of a solar facility.

While the Petition received the support of the Kane County Zoning Board of Appeals, the Owners' requested I provide the Development Committee with a response to the correspondence dated November 13, 2023 from the attorney representing the Property Owners to the north, east, and southeast of Owners' Property. As you can see from the November 13th correspondence, while the Owners have made sincere attempts to identify and put forward potential resolutions to address the neighbors' concerns, none to date have been acceptable because, as counsel for the neighbors has stated in his letter, there is no "real inconvenience to the Petitioners".

As is identified in the Petition, the Alexanders subdivided their Property in 2018 into a 38 acre farm and a 5 acre residential parcel. The 5 acre residential parcel was sold, and resold in 2021 to one of the objectors, the Argent-Light family. The Argent-Lights claim that they will no longer be able to access the southern portion of their property via the Alexander Property. As stated by Horizon Solar Power, the new Agent-Light neighbors have claimed that they can only access the southern portion of their property via Alexander Property. However, it is clear that the Argent-Light neighbors have obvious unobstructed access to the southernmost portion of their property via their own land. The Argent-Lights have owned their property for only two (2) years. Given the current condition of the area surrounding the claimed access, the claimed access has not been used during the Argent-Lights' ownership and, therefore, any rights that hypothetically could have existed have since been terminated. While it may be preferable to use someone else's property, preferences do not confer rights.

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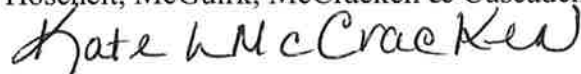
The legal elements required for the Argent-Lights to validly claim an interest in the access they would prefer to use (rather than property they own) by clear and convincing evidence are simply not present.

Similarly, the objecting Meredith Road neighbors (Haskins-Svihlik and Riggs-Greisinger) also each have frontage and driveways. But for the fact that all three parties use the same farmer, there would be no claim. The farmer has found an easy cut through by virtue of a hole in a fence. The access through the hole in the fence is not “necessary” in order to farm any of the objecting property owners’ property but is only for the convenience of the farmer. Again, the Haskins-Svihlik and Riggs-Griesinger (the “Meredith Road Neighbors”) all have their own access points to their own property. A hole in a fence, like a personal preference, does not confer property rights. In the case of Haskins-Svihlik property, they also have a farm building and gravel turn around immediately adjacent to their farm field such that access to the farm field is readily identifiable.

The Owners have proposed to add a culvert, move the fence, move the property line, among other potential solutions and have been met with what amounts to absolutely not. That is not a negotiation. The Owners have made offers to install, move or reinforce certain culverts but as stated by the neighbors none of the proposals provided actual use of an “access road” on the Alexander-Johnson Property that the neighbors now feel they have an interest in. Therefore, any alternative other than an easement grant is insufficient.

Each party to this dispute has access; no one is landlocked; realistic and practical alternatives have been identified. Only now after the solar project was proposed did the neighbors collectively claim some interest in and to an access on the Owner’s Property. As you are all particularly aware, neighbors often struggle with property uses they do not want but if that were the sole basis upon which parties could object, no development would ever occur. We would ask you to look at these claims for what they are: Neighbors who are unhappy with the changes occurring and are attempting to raise enough questions to side-track the process. Please know that their claims are unfounded and their refusal to come up with a realistic alternative unreasonable.

Very truly yours,
Hoscheit, McGuirk, McCracken & Cuscaden, P.C.



Kate L. McCracken

KLM/dj