

# **ZONING BOARD OF APPEALS**

**APRIL 8, 2013**

## **MINUTES**

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, April 8, 2013 at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

**DRAFT**

**PRESENT:** Vincent Cestone - Chairman  
Robert Dee - Member  
Bill Flaherty - Member  
Lenny Lim - Member  
Paula Clair - Member  
Dominic Cordisco - ZBA Council  
Tina Andress- Landolfi - Secretary

**ABSENT:** None

**PLEDGE OF ALLEGIANCE WAS SAID.**

**received**  
4/23/13 JH  
1

**Vincent Cestone-** As far as our minutes for March 11, are there any changes or corrections? I will make a motion to accept the minutes as submitted. Do I have a second?

**William Flaherty-** I will second.

**Vincent Cestone-** All those in favor?

**ALL BOARD MEMBERS WERE IN FAVOR.**

**MARCH 11, 2013 MINUTES WERE APPROVED**

**Vincent Cestone-** How many people here want to talk about the application for the Wind Turbine? The Public Hearing is closed. I wanted to know how many people wanted to talk, because we have to do some stuff here to re-open the public hearing, so you can talk. I make a motion to re-open the Public Hearing to discuss the wind turbine.

**William Flaherty-** I will second.

**Vincent Cestone-** All those in favor?

**ALL MEMBERS IN FAVOR**

**PUBLIC HEARING WAS RE-OPENED**

**Vincent Cestone-** Ok. Now we can hear what you have to say. What I am going to ask you to do is come up to the microphone and introduce yourself, and say where you live, and then say what you need to say. Who wishes to speak?

**Dominic Cordisco-** Mr. Chairman, Could I make a suggestion?

**Vincent Cestone-** Sure

**Dominic Cordisco-** Since there are so many people here that have not been here at prior meetings, perhaps it might be helpful if the applicant made a brief presentation. We have heard it on more than one occasion, but there might be members of the audience who are not familiar with the

particulars, and maybe some of their questions could be answered if the applicant updates us on the application. I also know that they submitted some additional information.

**Vincent Cestone-** Ok. Can you just bring us up to speed, so that everyone is on the same page please?

**Connor Kays-** I am Connor Kays with Hudson Valley Wind. We are proposing a residential wind energy system, or a wind turbine at 200 Long winding road. There are double pins up on the board to show the location of the turbine itself. The reason we are all here, is because we are proposing a 140 foot tower, and the town is I believe at 50.

**Vincent Cestone-** The length of the blade makes it 152 feet.

**Connor Kays-** Yes, 152 is correct. Our total tip to base is 152 feet. We have submitted a number of different documents, Visual studies, noise data, just to demonstrate what the machine is going to do. Most recently the board asked for a feasibility study comparing wind to solar, which I will go through in a second. We did another visual impact study with a second balloon test, and took some different pictures that the board has. We also just received a letter from the Conservation Board in support of the turbine, and they have no issue with it. We contacted the Scenic Board at your request, they have asked for a little bit more information. They have stated that they can only offer an opinion, but have no jurisdiction, and I believe you guys have that as well. At this point we are looking for approval on the turbine. Our feeling is that the location of the turbine, the proximity to the nearest home is over 1500 feet, is going to make the turbine all but invisible to the public. Noise is the same thing, we are so far away in this situation, that we don't feel noise is going to be a consideration. That is where we stand at this point in time. Does the board have any further questions for us?

**Vincent Cestone-** Just explain why the height that you are requesting is.

**Connor Kays-** I will go through that quickly, I also have a representative here from NYSEERDA with us from the state who issues these grants, so Mark will speak on this a little bit more, but the reason we want to go at this increased height is production, its financials and the actual amount of energy we can get out of the turbine. At this height compared to what is

allowed in the Town without a variance we are looking at anywhere from 3,000 to 5,000 more a year. That increases the amount of money the customer will get from the state, and obviously increases the amount of money he will save over the next 25 to 50 years with the life of the turbine. Financially this height makes the turbine considerably more feasible for the home owner, then it would if we went at a shorter height.

**Vincent Cestone-** Did you contact the Building Department about the bonding for a structure like that?

**Connor Kays-** No.

**Vincent Cestone-** I am under the impression that you would have to produce a bond for the removal of the tower if the homeowner abandoned it.

**Connor Kays-** Right, that's something we will have to tackle if that is the case. I am not sure if that is Zoning or Planning. If we need a bond, then that is obviously something that will have to be done.

**Vincent Cestone-** I think it is part of the code.

**Dominic Cordisco-** It is a requirement of the code.

**Vincent Cestone-** Yes.

**Lenny Lim-** I have a question, before you left the other night you said it might be a game changer posting a bond. What do you mean by that?

**Connor Kays-** Depending on how the bond is structured, and the amount that needs to be put in place, and how it is setup. It could add a considerable amount to the project over the next 25 years. We are hoping for an approval to move on to the next step, and obviously we would have to pull the bond in order to get the permit, so as long as we know we can do it, then we would tackle the bond situation.

**Lenny Lim-** Shouldn't we tackle the bond situation first? If we approve it, then comes back later, and then says I don't want to put up a bond.

**Vincent Cestone-** I know for cell towers, it is in the neighborhood of 40,000 to 60,000 dollars

**Connor Kays-** Yes, that is something we will have to tackle.

**Robert Dee-** Im gonna ask the attorney. Could this be made part of the variance?

**Dominic Cordisco-** Well they have not applied for it. They have not applied for relief from that request, and if they were, then we would have to consider it, but it is not part of the current application. I think to answer your concern Mr Lim, the code requires it and they have to comply with it or they have to request relief from it. They have not done either yet. There are a number of different ways to secure financial security, posting a bond would be one way. Posting a letter of credit which is a deposit of money in favor of the town that the town can call upon in certain circumstances such as abandonment is another way. There are fees for bonding. Fees for bonding is something that they are going to have to look at in the long term compared to the cost of actually posting the money in a letter of credit. In a letter of credit, if the town does not need it, then they get it back at the end of the day. These are all questions to look at and address, but they have to look at them and address them prior to getting a building permit.

**Lenny Lim-** The second thing I got, you sight that the tower on 301 is 200 feet tall.

**Connor Kays-** Yes

**Lenny Lim-** That is not in Philipstown, that is in Putnam Valley.

**Connor Kays-** Ok.

**Lenny Lim-** That has nothing to do with our town.

**Connor Kays-** Noted.

**Lenny Lim-** I want it on the record.

**Robert Dee-** Just a question from the attorney. You said that they can apply for relief from the bond. My question is if we approve this, then they apply for relief and he gets it, then there is no bond, and we are stuck.

**Dominic Cordisco-** He would have to apply for relief from this board.

**Robert Dee-** He would have to apply for relief from this board?

**Dominic Cordisco-** That is correct, and he has not at this point.

**Robert Dee-** Oh Ok, thank you.

**Vincent Cestone-** Any more questions?

**William Flaherty-** I have some comments that I would like to make to you, and I would like to first of all commend you on the thoroughness of your application. You did a very good job, and a very professional job in every respect. However, there are two areas that I am concerned with. The tower is 152 feet high. I do have some concerns about the safety of the structure, and therefore I would like to know how often the structure would be inspected.

**Connor Kays-** Sure.

**William Flaherty-** To determine the structural integrity. What safety criteria would be used to inspect such a structure as this? How often would this be done?

**Connor Kays-** Sure, per manufactures recommendations, the installer would come out one month after it is installed and re torque the tower and check gable tensions one month after we install it. That same process would be done again in six months. After that they recommend a two year inspection, so every two years the homeowner or the installer would come out and check the security of the structure itself.

**William Flaherty-** Would you then provide us with or the Zoning Officer with that inspection?

**Connor Kays-** I don't believe that would be a problem.

**Vincent Cestone-** That should be a requirement.

**William Flaherty-** You would do that?

**Connor Kays-** Yes.

**William Flaherty-** I think that is essential that he be informed of the results of your inspection. At which time in the event that we approve this issue, the Zoning Officer could revoke your permit if you don't provide it. The second aspect I have is the removal of the structure. I could not find anything in your proposal that you would do to remove the structure in the event that the technology would become obsolete over a period of time, or a new owner assumed ownership of the property, and did not want to continue with the turbine. What kind of plan do you have in place that would ensure us that the tower would be removed, and the site would be fed back into the original state prior to the construction of the tower?

**Connor Kays-** The turbine itself is not difficult to take down. It would probably take about a day. The crane would come back out, and take the hub down and lay the tower down, unbolt it, and scrap it eventually. All you are left with is concrete footers, and can be removed. They are easy to dig back up and soil reclaimed in there. It is fairly straight forward process. It comes down just as quickly as it goes up. You are talking about half a day of crane work, then a couple of guys to unbolt everything and remove the structure.

**William Flaherty-** You don't address that at all that I could find in your proposal. I think it is important that you make a statement to that affect in writing with those provisions.

**Connor Kays-** Sure, Ok. We can certainly add that to the application, and that is pretty routine to have a plan to dismantle the tower if need to be for whatever reason.

**William Flaherty-** I would appreciate if you would do that.

**Conner Kays-** Sure, No problem.

**William Flaherty-** What about insurance? Liability insurance?

**Connor Kays-** For the homeowner?

**William Flaherty-** Yes. You mention that, but you don't go into any detail.

**Connor Kays-** I am not sure if the homeowner has gone through all the details yet. Nine times out of ten the homeowners insurance will cover it. I have run into one or two incidents in the last five years that a rider was required by the insurance company. That will be the responsibility of the homeowner to make sure that the turbine is insured. Normally the homeowners insurance will cover it, and they just want to know about it. If a rider needs to be taken out, then he will have to do that.

**William Flaherty-** Will that insurance exempt the town from any liability in the event that there was a law suite in property damage or someone getting seriously hurt?

**Connor Kays-** Yes, That kind of thing the insurance company should cover.

**William Flaherty-** Would you provide us with a copy of that? You say in here that you provide New York State with a copy of the insurance, but you don't say that we would get a copy. I think it is important that we do get a copy.

**Connor Kays-** Sure, Again that is something that the homeowner will do on his own, but I don't see any reason why he would not be able to provide that for you. Both of those things could be added to the application without any issues.

**Vincent Cestone-** We can require that as a condition.

**Dominic Cordisco-** One of the conditions of approval, is that they have to get site plan approval from the Planning Board, so this is a two part process. Some of these issues relating to removal of the facility if it gets to the Planning Board, would have to be conditions of the Planning Board as well.

**Connor Kays-** Should that be part of that application, or both?

**Dominic Cordisco-** I don't think that you need to amend the application that is before the board right now, but I want you to be aware that it is a two step process.



**Robert Dee-** How many of these turbines have you installed in New York State in the past three years?

**Connor Kays-** Probably about 20 to 25 of the Bergey.

**Robert Dee-** How many in Putnam County?

**Connor Kays-** Putnam, how many do you got?

**Doug Passeri-** None

**Robert Dee-** How many in Dutchess?

**Doug Passeri-** Four

**Vincent Cestone-** Any more questions from the board? Anything else you wish to present?

**DRAFT**

**Connor Kays-** The last thing I wanted to go over the solar comparison. We did go over the two, and got a price from a company that does solar that would produce a comparable amount of energy similar to the the wind turbine. (inaudible) You will see on the analysis there that the payback on the solar is about twice as long in this situation.

**Vincent Cestone-** That is because there is no money coming from NYSERDA?

**Connor Kays-** There is some money coming from NYSERDA it is a considerably smaller amount. NYSERDA for the solar, they just lowered the amount, so the amount you see is about seven hundred dollars more than what they can get now. It is a much smaller cap. With wind you can get up to about 50 percent with solar there is a 10,000 dollar cap, so that is part of it. If we can put the turbine in at this height the wind is very good,so it makes the turbine considerably more productive. Solar does not have those types of restrictions, it is how much square footage of solar you can put in, so with wind having this potential and the wind on this site the payback on wind is much better.

**Vincent Cestone-** Any questions on that?

**Robert Dee-** The payback is much better on the wind, but if the owner wanted he could but solar on his roof, correct?

**Connor Kays-** You would have to analyze his roof, but he would need a southern facing roof to do that, and would have to be out of shade, I'm gonna say solar on the roof would get tricky. I would almost guarantee we are looking at some kind of ground mounted structure, which would result in removal of trees, probably on a bigger nature than we are looking at this point, because you do need quite a bit of space front to back and side to side.

**Vincent Cestone-** Any more questions?

**William Flaherty-** We have addressed this issue before about the overall height. 152 feet is significant. What is the absolute minimum height you could use that would achieve your objectives?

**Connor Kays-** That is in the perspective of the homeowner. In my professional opinion I would think the bare minimum we would go is 120 feet at the tower so you are 132 feet at the tip of the blade. That is one step down in tower size with the manufacturer. Any lower than that I would recommend that the homeowner not look at wind in general, even there it would be up to the homeowner. At that point you are right at the cost of production, whereas an installer and a seller I would say here are the numbers, how do they look to you. At 140 feet I can tell him this is a sound investment.

**William Flaherty-** We would have a smaller grant, we would get less money from the state, because he would anywhere from 2,000 to 3,000 kWh hours less production for the year. He is talking anywhere between 2,000 and 3,500 dollars less from the state.

**Lenny Lim-** You keep talking finances, I want to know about production. Would a lower tower produce enough electric for a single family home?

**Connor Kays-** No

**Lenny Lim-** A lower tower would not?

**Connor Kays-** It will not.

**Lenny Lim-** This tower wont produce 100 percent electricity for the either?

**Connor Kays-** Not for this home. This tower would produce 100 percent for the average home, this home uses a fair amount of electricity. We shoot for 10,000 kw per year from our turbine, that is what the average home uses. If we drop the turbine down to 120 feet we are at least going to lose 2,000 kw per year. If you get any lower than that you are getting down to the 5,000 kw range, on a turbine it is not productive.

**Robert Dee-** You keep saying funding, is there any cost to the homeowner? Or is it all coming out of state grants?

**Connor Kays-** Yes, NYSEERDA will only fund up to 50 percent of the project. The rest will come from the homeowner, and they are also eligible for a tax credit with their 2013 taxes if this were to get approved that would come back to them, but even after the tax credit they typically pay anywhere from 20 to 35 percent of the project cost.

**Vincent Cestone-**Any more questions? Anything else you would like to add?

**Connor Kays-** I think we are all set.

**Vincent Cestone-** With that, I am going to open up comment from the audience. You need to address your questions to the Board, do not talk to the installer, talk to us. Who would like to speak?

**John Hersh-** My Name is John Hersh. I am a lawyer from Peekskill, and I am here for Dr. Kien who resides at Cloudbank Rd. I do have a few questions for the board, and then hopefully the board will ask the witness. I am not clear from my review from the minutes of February 2013 or from what I heard tonight, exactly how this is being paid for. Another wards what is the state provide procedurally. How much is it going to cost, and what is the benefit to the homeowner?(inaudible) of doing something, that council indicated that might not be fitting within the surrounding community. That is one of the text. I would kind of like to flash that out a little bit. How does this happen? Who pays for it? What really would be the impact to homes in the

area? I understand there was something about a balloon test. There are homes in the area that look down upon that structure, whether it is 140 or 152 feet in height, and that is an issue in this two step major process, at least for my client. I know that Mr. Flaherty is a former accessor, and I would like to know what he thinks the impact on the fair market value of the homes that look down over that turbine, that now just look over the Hudson River Valley.

**Vincent Cestone-** I don't think we are going to discuss that there, because that is not within the privy of this board to discuss as far as that.

**John Hersh-** I understand, can we flush out

**Vincent Cestone-** The effects to the values and the people in the neighborhood, that is something to be determined. It is an intangible that we have dealt with cell towers, it is a similar thing. If the applicant would just go through the numbers quickly it would be appreciated.

**Connor Kays-** The total cost of the turbine, lets say is 80,000. The installer, and we will go through an application process to the state for a grant. That grant comes from anybody in New York State that pays an electric bill, unless you are co-op. National grid, Central Hudson, all utilities in the state have a very small charge on your bill that the money for this funding comes from.

**Robert Dee-** So I am paying for it?

**Connor Kays-** Yes, everybody here is paying for it.

**Robert Dee-** (inaudible) I just caught that little one. Go ahead.

**Connor Kays-** Everybody is paying for it, and you are all eligible for these grants. It is a fairly involved process in design, the state reviews this design. The state reviews local laws, and they have their own mandates, and it is a two month approval process for them. Assuming that we are approved they will pay up to 50 percent of the project cost based on production, and that money goes directly to the installer and that money comes right off of the customer price. If we get a 30,000 dollar grant on an 80,000 dollar project the customer has to come up with 50,000 dollars. The installer gets the other 30,000 from the state directly. Tax credits come at

the end of the year, and we leave that up to the customer to work out. Everybody's tax situation is different, but the project is eligible for up to 30 percent of the customers expenditures that he can get back in tax credit over the next 5 years.

**Robert Dee-** What does he save again? Does he save about 40 percent of electric per month? Is that what your saying?

**Connor Kays-** We are cutting his bill in about half.

**Robert Dee-** So his electric bill is going to be half? So that is pretty much the whole value to one person?

**Connor Kays-** Yes, that is correct.

**Vincent Cestone-** Did he answer your questions?

**John Hersh-** He answered the first one, but the second one was did the board request the applicant to preform any studies from the view from any of the homes that are geographically above the 152 foot proposed tower, to see.

**Vincent Cestone-** We did not require that. Have you seen our packages?

**John Hersh-** The only thing that I could get off line were the minutes where council raised the question to the applicant back in February or October, that it was a major project, and part of the component was site plan approval, so there had to be some weight given to the homes in the surrounding community. My question would be is the applicant going to travel around the area and take some photos to show which houses will be impacted.

**Vincent Cestone-** He did supply us with pictures, that is really a function of the Planning Board, but we use the information that was provided, and it is very similar to what we got when we do a cell tower. If you would like to look at it, the file is downstairs. If you would like to look at it now, I can give you a file to look at.

**John Hersh-**How many different homes did the applicant.

**Vincent Cestone-** He did not go on anyones property.

**John Hersh-** How is he able to determine that if he did not go to their homes?

**Vincent Cestone-** He could not go on private property but he has pictures from multiple locations, and maybe the best thing for him to do is give you the pictures to look at.

**John Hersh-** I will take his answer, but I am not allowed to address him.

**Vincent Cestone-** Would you want to answer that?

**Connor Kays-** Yep. In general we picked some distances from the tower that we thought would so a reasonable expectation of what we thought the tower would look like. I am not sure how close these homes that are at a higher elevation are, but we start at about 100 feet, and work our way around to about 300 feet. We went back and did a second study with a couple of specific locations that the Conservation Board asked us for, that are quite a bit farther away, the railroad station being one of them. We canvased the area fairly well. I don't know, as I said, how close the homes that are at a higher elevation are, but typically anything that is not within a mile or so would be very difficult to see the turbine.

**Vincent Cestone-** This board did have the opportunity to look at the balloon test. I did myself. I happen on Saturday, even though the Public Hearing was closed, and I could not use it in my deliberations. I was across the river, and I saw the balloon test, because I knew where to look. If you did not know where to look, you would not see it, but the point being, you could see it across the river.

**John Hersh-** You could see the balloon test?

**Vincent Cestone-** Yes

**John Hersh-** At 152 feet?

**Vincent Cestone-** Yes

**John Hersh-** From across the Hudson River?

**Vincent Cestone-** Right, but I knew where to look, and the balloon was, I don't know how big it was, but it looked like it was this big, but I am sure it was quite large.

**John Hersh-** Thank you. I have no further questions.

**Vincent Cestone-** That gentleman in the back over here had his hand up. If you would come up and introduce yourself.

**Robert Cutler-** I am Robert Cutler, and I live at 540 Route 9d, so I am a neighbor below and north. I have a number of questions. Should I ask them one by one?

**Vincent Cestone-** What ever you feel comfortable with.

**Robert Cutler-** I am curious of how this will be built. What is the actual process of building this thing? What size trucks? How will they get up and down safely? What effect will it have on the road, because it effects us directly.

**Vincent Cestone-** From what I understand, and the applicant will correct me if I ma wrong. There will be some clearing of trees and groomed for the wind turbine itself,its tower and its guide wires. The trucks will be of substantial size. It comes in pieces, and assembled on site, then tilted up, and the guide wires are used to hold it with the wind turbine on it. Is that correct?

**Connor Kays-** That is correct, except the trucks of substantial size. We bring this in on an 18 foot flat bed that we tow in with a standard pickup truck. The cement truck and the crane are sizable, but they are the only two commercial vehicles that will be coming in.

**Robert Dee-** So you will be poring the pads from a concrete truck?

**Connor Kays-** Yes.

**Robert Cutler-** Those are tight turns, and the board could probably notice that.

**Vincent Cestone-** They are tight turns. You are not going to have to do any clearing to the road to get in there?

**Connor Kays-** I do not believe so, no. We should be able to work our way in there.

**Greta Passeri-** It was pre tested.

**Connor Kays-** Ok, it has all been pre tested, so we are good on that.

**Robert Cutler-** If there is a failure to inspect down the road, I gather every two years. What happens if there is a failure to inspect?

**Vincent Cestone-** What the town is suppose to do, the Zoning Officer who is downstairs, would contact the homeowner, and ask for the inspection. If it is refused to do the inspection, and it's part of the conditions of this application, then he has the right to have the structure taken down. That is what the bond is about. It has never gotten to that point in the town. Usually when the Town threatens to take your thing down, then it is amazing, they get an inspection. That is what happens.

**Robert Cutler-** I have been told on good authority that towers above a certain height have to have lighting to alert migrating birds.

**Vincent Cestone-** That is for planes. Two hundred feet is the height that you have to have a blinking light. This is below that.

**Robert Cutler-** There is another question. What reassurances do we the neighbors near by have that this thing wont make a lot of noise? I know the Berg is supposably silent, but I have been near these things, and they do make quite a racket.

**Vincent Cestone-** They don't make a tremendous racket, because when this application came, I did a lot of research on this, and I went to a commercial site to see what a wind turbine makes when it is in production. It is a low woof woof woof sound. It is not one of those things, it does not sound like a train or something like that. There is also lots of information out there about the decibel level, and if the applicant would like to talk about the decibels.



**Robert Cutler-** I love the sound of the train, but they come and go. I cant imagine woof all day long.(inaudible)

**Vincent Cestone-** Yea.I am going to ask the applicant to talk to that, because I was at a commercial site which is orders of magnitude larger.

**Connor Kays-** That is commercial turbines which are anywhere from 5 to 10 times or more larger than this. The average blade there is 300 feet, and our entire structure is only 150 feet tall. That low base woof that you here is far and away different from what these turbines produce. We gave these distances, and we talked about this at the last meeting. At about 150 feet to 200 feet, they only add 50 decibels. the nearest residence is about 1700 feet from the turbine. We don't anticipate anyone being able to hear this period from the surrounding properties. Are you at the base of the driveway?

**Robert Cutler-** Yes I am at 540 right down at the bottom.

**Connor Kays-** You are the closest.

**Vincent Cestone-** You may or may not hear it, and you might hear it more in the winter time when the leaves are off.In the summer time you probably wont hear it, because 50 decibels, is there something you can analogize what 50 decibels sounds like.

**Connor Kays-**A refrigerator is about 50 decibels. It is very very slight. I would be very shocked if you could hear the turbine at any point in time.

**Robert Cutler-** Will be and my neighbors be able to see the turbine from where we are? We are down at the bottom.

**Vincent Cestone-** It depends. It depends on how many trees you have on your property, and my guess is if you are heavily wooded, then you wont see it.

**Robert Cutler -** It is all woods.

**Vincent Cestone-** There is a chance that the people that are up high looking down towards the river might see it.

**Robert Cutler-** Last question. We all know that storms are becoming more severe. What projections have been done to make sure (inaudible) projections have to be done to take that into consideration. Have their projections done that?

**Vincent Cestone-** This board has asked that kind of question, and one of the things that we want is if it falls down, it wont it the house, and someones property, because of the size of the property, if it did fall down, it would not hit the house or fall off of his property. It is not feathering, they change the direction of the wind turbine once it gets above a certain wind level to slow the blades from spinning. When we had Sandy come through, and we are getting 90 to 100 mph winds, then it would feather away from the wind so it would not spin. Excuse me?

**Robert Cutler-** You go right into it so the thing would not be pushed.

**Vincent Cestone-** Right

DRAFT

**Connor Kays-** The blades would be perpendicular to the wind direction. They will still rotate, but at a significantly lower speed.

**Vincent Cestone-** Does that answer your question?

**Robert Cutler-** Yes, Thank you.

**Vincent Cestone-** You are quite welcome.

**Paul ?-** My name is Paul \_\_\_\_ I live on East Mountain Rd South, and I read about this only today, and I was rather taken aback by the fact that this particular person is asking for a variance that should not be granted in my opinion. The reason I am saying that is, and I am just giving an opinion, I am just making a statement. I think that if you do that you are making a bad precedent. What happens is the next person coming along is going to say you did it there, I can do it on my property, I can do on this property, and so forth. It does not seem logical to me, for the sake to save 40 percent of your electrical bill, for which you have to pay 80,000 dollars for a home, it does not make since to me. I am also surprised that Mr. Gleick is not here at this particular hearing. I don't know where he is, but I think it is only appropriate if an issue like this comes up in front of the town, he would be here to answer questions. As to visibility, I know that Mr. Gleick bought the

land, and he is from New York, and He bought the land. I travel from New York for work as well, and you know I could see Long and Winding Road for years. I was a little upset about that, because it takes away from the mountain range that you have there. I think it was rather a little arrogant frankly to make this big road in this mountain. I find it a little bit arrogant that someone comes along and puts up a 150 foot tower, a 100 feet above the town requirement. I think that it is silly.

**Vincent Cestone-** It is a very large variance that they are asking for.

**Paul-** My suggestion is, that I would oppose that, and I think if you do that, the next person is going to come along and do it. I am going to do it on my East Mountain Road property as well, if this is the case. I think you are setting a bad precedent in my opinion. You see what I am saying? I don't think it is economically feasible. A single home does not consume that much energy that it requires an 80,000 dollar tower for which you and I are paying. On a piece of property that is huge that he builds on a mountain, there is something illogical there. I think that you should really think hard about the precedent that you are setting here.

**Vincent Cestone-** That is a big concern of mine, the precedence.

**Paul-** I could come along, and a neighbor could come along and say you did it for so and so. I think that the town in its wisdom has created a certain height for the town not to be interrupted by whatever it is. A 150 foot tower is a little bit self serving I think. It is wise to keep the town in mind. The town is beautiful, and it is not wise to interrupt it with things sticking up. I can see the Polhemus tower. I can see it from down there from across the river. This is going to be visible.

**Vincent Cestone-** Absolutely.

**Paul-** That is my opinion.

**Vincent Cestone-** I was wondering why we did not have residents here, because we advertise every application, whether this size or not in the Putnam County News and recorder, and we contact people in a certain distance of the applicants property by mail. I really surprised that no one came till tonight. I am glad to see that people have come.

**Allen Smith-** The mailing just arrived three days ago.

**Vincent Cestone-** If you wish to speak you can come up here and speak.

**Allen Smith-** The mailing did not arrive. I just found out, it came in the mail box probably i the middle of the week.

**Robert Dee-** That is the first time you got notified?

**Allen Smith-** The first time I got notified. I am at 524 Route 9D.

**Tina Andress- Landolfi-** What is his name?

**Allen Smith-** I am Allen Smith. I was going to ask one question that he just asked. Can I put up a tower, now that you have granted my neighbor a tower. Can I do it?

**Vincent Cestone-** We did not grant anything

**(inaudible multiple speaking)**

**Allen Smith-** If you grant it, would it set a precedence that allows me who is an adjoining property to do the same thing? Or are you going to restrict me, because I am not on top of the mountain like Mr. Gleick

**Vincent Cestone-** The law is written in a way that everyone has a right to apply for anything. You would not be denied from that.

**Allen Smith-** My neighbor addressed the idea of storms. It seems that an inspection every two years, at least you should shorten that cycle, because we do have severe winds. The other thing, what about the wildlife? I have deer, turkey flocks, it is a part of my life to watch the animals come up and down the hill. As far as noise goes low frequency is not what matters. When you have a 300 foot thing vibrating, and it has a low hum is one thing for distance that will travel. When you have a small thing you have a high frequency noise, and it is in the middle of a mountain, it is going to echo and travel. High frequency travels much more direct, and I believe that I will constantly hear a pitch.

**(inaudible multiple speaking)**

**Allen Smith-** You only went and heard a commercial low frequency tower.

**Vincent Cestone-** We have a sound study.

**Allen Smith-** A sound study. 50 DB does not mean anything. It is how it travels, how it echoes, and what the frequency is .

**Vincent Cestone-** Absolutely, but the frequency is similar to what the commercial is.

**Allen Smith-**With all do respect if you are going to tell me a 24 foot blade puts out the same frequency as a 300 foot blade.

**Vincent Cestone-** I did not say the same frequency.

**Allen Smith -** I am saying frequency. I am not saying DB. 50 DB at thirty cycles does not bother you as much as 1000 cycles.

**Vincent Cestone-** I agree with you 100 percent.

**Allen Smith-** It just appears that there is no need for this, since I am hearing what you are saying. The only thing is to reduce the cost to the homeowner, half of which is being absorbed. My electric bill is high, So let me put a tower up. Do you care if I put a tower up?

**Audience Member-** You bet I do

**Allen Smith-** They are granting a tower

**Robert Dee-** We are talking about it

**(inaudible multiple speaking)**

**Allen Smith-**you are talking like It was done if we did not find out. You started out by saying this meeting was closed, and the public that lives next door did not even know about the meeting.

**Tina Andress- Landolfi-**Yes, Every adjoining property. The last Public Hearing that we had, adjoiners were sent notifications.

**Allen Smith-** I did not get one.

**Tina Andress- Landolfi -** If they are not returned then it is deemed received.

**Allen Smith-** I did not receive.

**Tina Andress- Landolfi-** I don't know what to tell you, I just checked the list.

**Allen Smith-** If he did not come and tell me about it, then I go and find it.

**Tina Andress- Landolfi-** Did Dr. Kien get his? Did your client get one?

**John Hersh-** No. He gets the Putnam County News Recorder. It was published.

**Tina Andress- Landolfi-** He did not get the adjoiners notification that was sent to his address in New York City?

**John Hersh-**No, It was in the newspaper, and he asked me last week, showed it to me and faxed it to me and said that you cant put a six foot fence in this town. You cant get a soil screener in this town, and they are going to put a turbine up on the mountain.

**Tina Andress- Landolfi-** So who you are here for never got got any notification at his New York City address? Where he gets his tax bills he never got anything?

**John Hersh-** He sent me a copy of the Putnam County News Recorder.

**Tina Andress- Landolfi-** Right, Because I sent him a copy of the public hearing.

**John Hersh-** Then that answers your question.

**Allen Smith-** I never got it, when the Kellies, when I lived at 627 Route 9.

**Vincent Cestone-** We send it to where you get your tax bill.

**Allen Smith-** I got nothing

**Tina Andress- Landolfi-** We send a letter with a copy of the public hearing.

**Allen Smith-** Well I did not get it, sorry. When the Kellies lived across the street from me when I lived at 627., and they went for a variance, I got a notice. Not only did I get a notice, I got a package of information. I got nothing here.

**Dominic Cordisco-** The Towns obligation is to send only the notice.

**Vincent Cestone-** We did send the Notice, and we have record that we did.

**Allen Smith-** How do I know you sent the notice? How can you tell me you sent it?

**Vincent Cestone-** Im not going to argue with you, unless you have something else to say.

**Allen Smith-** Im done, only because you wont let me say anymore. It sounds like your mind is made up.

**Jim-** My name is Jim \_\_\_\_\_ from 18 Howland Road in Garrison, although this does not impact me directly, I think this impacts all of us in some way. There is clean energy, if the client is going to have to pay for it, then does not really, I mean he gets grants, but that money is being collected by energy companies anyways. I think for our location, it might prove to be something we could look at, but obviously there is a lot to learn. I don't see how this hurts everyone else's pocket book. It is already being collected anyways, what is the harm.

**Vincent Cestone-** Ok. Thank you. Anyone else wish to speak? Sir?

**Louis Lanza-** Hi my name is Louis Lanza, I live in Garrison on Nelson Lane. I have a home, dairy business and a maple farm, and I would like to applaud the application, because New York State is in big trouble, and there is so much going on with the energy, and we need to find renewable energy. I am filling out an application right now for a Wind Turbine. I will be looking with you guys I guess in a few months. I think it is true, if the money

is being given by New York State, if we can save money, and reduce the carbon footprint, then it is a great thing all around. Especially for myself. I have a dairy barn, a maple business all using electricity, so if I can reduce my cost, then it is a great thing for myself and my family. I am definitely in favor for it, and I am the second guy sorry to say who is going to make an application. Thank you.

**Vincent Cestone-** Anyone else wish to speak? Yes ma'am?

**Rep from Manitoga-** I am with Manitoga, and I did want to say that the first Notice that I did receive was last week. I started in January, so I am not sure if they got one before this. I think it is a difficult decision. I think we all want new ways of energy. on the other hand, we are open to the public. We are a 75 acre woodland landscape park, and I have concerns about the sound, and the view shed. I think that I would like to add to other concerns of our neighbors, and that people are on the property. What we offer is the experience of man and nature. If there is, and I know it is hard to quantify what that sound will be, and I am not a scientist or engineer to know what that will be, but it is something that we are concerned with, to have a low hum, if we are equating it to a refrigerator. I think it would be louder, or a large scale refrigerator. It is a concern of ours, as people explore and use that property. One was the lights, but we are assured that there wont be lights, then that would not be problematic for us. I don't know, I don't think on our site we would see the tower. We might, but we have a concern about the sound.

**Vincent Cestone-** Ok, does anyone else wish to speak? Yes Sir.

**Mark ? -** Mark \_\_\_\_\_ project manager NYSERDA wind program. Basically this application will come to my desk if it ever gets approved here, and goes through the who;e process. I guess first what I will talk about is the height, and wind turbines need clean wind to function effectively. If you put a turbine into turbulent wind you will have that. Our program requires that the bottom of the blades have to be 30 feet taller than anything within 500 feet. That is to try and minimize the turbulence that the turbine will see. If you are ever in a plane and the pilot says you are going to experience some turbulence, you know what you are going to be up against. There will be excessive sound when a turbine is put in a turbulent wind event. I guess I want to make sure that you understand that it does happen. The higher you make it, you are minimizing those chances of extra sounds of it. For



the view shed, I think you said it very eloquently, when you looked at the balloon, you knew where to look, so you could see it. This is always a concern people have, is the view shed. I have gone out and around the state and looking at our turbines, and finding spots from public highways from 1/2 mile, and a mile and 1 1/2 miles to try and see these turbines, and really they are not utility turbines, these are small. From a 1/2 mile you can see it. From 1 mile you can see it, but you better know where you are looking. From a mile and a half, if you can see it, it is like a blip on the screen. It is very difficult to notice. The fact that it is going to constantly make a sound, if there is no wind, then it is not going to be turning, so it will not be making a sound. I can guarantee it will not be making sound 100 percent of the time, because you will not have wind 100 percent of the time. You asked about how it works in high winds. I guess I will point out that these are manufactured in Oklahoma, so tornado alley. They have videos showing that these things survive tornados, so they are a robust machine that is built to withstand elements of nature. If the board has any questions I would be happy to answer.

**Vincent Cestone-** No, so you are talking about the \_\_\_\_\_ flow of air. I guess the air foil, I guess it is important to be in clean air?

**Mark-** yes, exactly.

**Vincent Cestone-** Ok, Any questions from the board? Thank you. Anyone else wish to speak on this. Yes ma'am?

**Mary Finger-** Good evening, I am Mary Ellen Finger.

**Vincent Cestone-** Could you speak a little louder, I am hard of hearing.

**Mary Finger-** Me too. I am Mary Ellen Finger, thank you for listening to us. I just wanted to say that this is a ground breaking application in Philipstown, particularly, because this is the first one that is trying to build a real sustainable structure for energy production. I think that I have to commend the board for all of the questions and thoroughness of your review on this project, and there may need to be more review, because I did not hear anything about setbacks, and acreage requirements and stuff. My question is and a few comments is, all of the work that you are putting into this, obviously we are going to have to amend the code, in order to make such energy production infrastructure more available to the public and establish

rules, that many have concerns about. If one can put up a turbine, then why cant neighbors. If we have requirements, I'm just asking that perhaps we can work on an amendment to the code that will make this process much easier, much less expensive so that we can work towards addressing climate change.

**Vincent Cestone-** The code is created and amended by the Town Board. We interrupt it. We don't have the authority to amend the code.

**Mary Finger-** Do you have any authority to make recommendations based on this really intense review of this project/

**Vincent Cestone-** Yes, but the town is under no obligation to act upon it. Sometimes they do, sometimes they don't. My suggestion is, if you feel that strongly about it, I tend to agree that this is a hole in the Town code, that you approach the town at one of their town meetings. Richard Shea, and the Town Board are very agreeable to listening to the citizens speak about things like this. I think it would be to the advantage of a citizen to discuss it with them.

**Mary Finger-** I do have one comment.

**Vincent Cestone-** Ok Sure.

**Mary Finger-** I am on the Planning Board, and this application did come to us last year, and I have been somewhat interested in following along, and I did want to address the issue about view sheds, because that has been discussed a few times, and that has been covered at the June 22, 2011 training for the Zoning Board and the Planning Board, I went to that, and I did quote what Gram Trist had said at that meeting regarding view shed He said that, a structure such as this has to have a significant negative impact on the enjoyment of the view from a public place, that it cant just be because it can be seen. I think that said is pretty significant, because there are so many things that can be seen in Philipstown, and a few other things in the Zoning. Changes were made to make it so that it would be reasonable, and we would have to use common sense, and our discretionary approval of some of these projects that come before us. Instead of the visibility of certain items like storage, was changed to should not be visible should be screened from adjacent versus other, because

there are people that live on top of the mountain who can see everything all around. This could create a \_\_\_\_\_ of applications looking for a variance.

## **INAUDIBLE**

**Vincent Cestone-** These kind of things are unique because, and I can only speak from my experience from cell towers. People within a certain distance from a cell tower that cant see it, their property values are effected. That is a concern for me, because our goal here is administer the code and protect the residence. I have to think about that. Yes, this is something unique, and I think that sustainable energy is the wave of the future for the United States as a whole. I don't think it should be on the backs of the citizens.

**Mary Finger-** I agree with you about the cell tower issue, because it has been (inaudible) from the damage from the EMF's within 200 feet of those towers. I don't know what the safety studies have produced, I don't know if enough information has been presented to you today. I have missed one of the meetings, so that will be your \_\_\_\_.

**Vincent Cestone-** Anyone else wish to speak?

**Andy Schmar-** Im with Hudson Highland Land Trust. As with any application to the town on a particular project, our organization does not take a position. It is the towns responsibility to make its decisions and what is in the best interest of the town. The balance between sustainable energy and less reliance on fossil fuels from other countries is a powerful one. This is one of the most scenic areas in the United States. This particular applicant, and I don't want to speak to this location, but the Hudson River is in a state wide area . The application I presume, and I only found out about it today addresses that. I hope that the state I the Appalachian Trail Conference if it reaches that point are asked their opinions of the impact of a project like this. I like Mary's point, several points. This is more of a policy decision, then an individual application decision, because undoubtably the precedence that you will set in deciding for or not in favor of, or approving or disapproving this application will set a precedent for the future, and to me, just the fact the people in this room, only a few are aware of this application and the implications of a cell phone tower in a very visible location. Also the implications for cell phone towers through out Philipstown is really a public policy issue. One that the town and its residence should

consider in great detail, and with great public involvement, and the town should decide, as you suggested Mr. Chairman, an amendment to the Zoning Code if this is in the best interest of the town. I don't know whether it is or not. I would love to be engaged in that public debate about alternative energy sources, and wind turbines in particular, because of their implications. I think we have heard about this same dialogue off the coast of Cape Cod, and ultimately the permit was granted to allow that commercial wind turbine farm, so I would, again without suggesting that you take one position or the other. I would just like to agree with the proposition that this may be a Zoning issue and a Zoning Code issue. It deserves the full and complete involvement in the community before it is decided. Then the applicant can offer its application if the Zoning is adopted. This puts a pause in this, but this decision is a multi generational decision. I think the residents in this town deserve the opportunity to have their. I am holding a piece of paper, and there is a 150 foot cell phone tower being proposed in the heart of Fort Montgomery right now right next to the Holiday Inn express, and that has implications for Philipstown, just as it does for that town. It requires a variance as well, so your counter parts across the river, not the same thing, but it is a 150 foot tower they are considering putting there as well. I think this is a philipstown wide issue.

**Vincent Cestone-** Anyone else? Sir you can speak again.

**Robert Cutler-** I just have one more question, and that is that as he suggested this may be part of a process. Is this part of a process? Is this the only hearing? I did indeed only find out a few days ago.

**Vincent Cestone-** If I did not see the residents here, and this Public Hearing was closed, and this board was probably going to vote tonight. This Board is not closed to the Public, and when we see that citizens wish to speak and add value into a meeting, it is the policy of this Board that we let them speak. That is why it is open. Are you suggesting that it stay open longer?

**Robert Cutler-** I would like to see if there is more interest from my neighbors. I was able to tell Mr. Smith, and I am delighted he is here, and I was able to tell Andy a few hours ago. Probably a lot of people don't even know that this is going on.

**Vincent Cestone-** I am surprised, because we have not changed our procedure. We handle things like this, and I tell you we do certain applications, and the room is filled, and other times no one comes here. I was so surprised that there were not more citizens here to discuss this with us.

**Robert Cutler-**Curtis who is at 544 or 546 I think, he did not know about it.

**Vincent Cestone-** I am truly surprised, because we have not changed anything that we have done for years and years.

**Robert Cutler -** I did get the letter, but a lot of others did not.

**Vincent Cestone-** Only adjoiners get notified. Only the people who touch the applicants property. In a densely populated area, I think it is 500 feet.

**Robert Cutler-** There are few who are contiguous, but many who will be effected.

**Tina Andress- Landolfi-** That is why the Public Hearings go out, they are notified in the paper.

**Vincent Cestone-** That is why it is advertised in the paper.

**Robert Cutler-** I would hope that there would be more. I mean it is your decision, but I would recommend it.

**Robert Dee-** How many meetings have we had so far with this?

**Vincent Cestone-** We have had four meetings.  
(inaudible)

**John Van Tassel-** Two Town Board meetings as well, I have read the report discussing this entire topic, which is televised as well, so it is out there.

**Paula Clair-** I think that even though we did what we normally do to advertise this, and the Town Board has done what they do to advertise this. Obviously people were not informed in much of a manor that we would like

them to be. I would vote to extend the public hearing longer, because more people will know about it from this group, I am sure.

**Lenny Lim-** I would second that

**Vincent Cestone-** I don't think we are going to have a problem. If we come to the next meeting, and there is only the same people, then we are not going to proceed. It is not fair to the applicant. It is not fair to the homeowner to extend this out forever. I think it is justified that we get all the public comment that we can get. It can be important to a lot of people. Im going to say that we will have one more meeting, unless there is something earth shattering. Monday, May 13 will be our next meeting. At that time my goal will be to close the meeting and possibly if the board agrees to vote on this. We never do anything behind closed doors, even if it was allowed, and it is not, it would not be right, and we don't do that.

**Paula Clair-** I want to say, that in as much as this is a ground breaking issue, and if the board decides to allow it, it would open the door for a lot of people who wish to take advantage of this. My personal opinion is that I am concerned about the carbon footprint, as we heard from other people, and even though it may not benefit a person financially right now, if it helps to reduce the carbon footprint, then I think that is a good thing. That is only my opinion.

**William Flaherty-** I would like to say that this is the fourth public hearing that we have had on this issue, and this is the first time that we have had the adjacent property owners participate in the meeting. I don't know why that did not happen earlier, and I am sure that there was a legal notice in the paper, and adjacent property owners were notified?

**Tina Andress- Landolfi-** Yes

**William Flaherty-** But for some ( inaudible multiple speaking)

**Vincent Cestone-** You had your point, no more please.

**William Flaherty-** I think that we have heard this issue significantly over the past three months, and we have to look at. This is historic ground breaking. This is the first issue we have had before this board relative to solar energy.

**Vincent Cestone-** Wind

**William Flaherty-** You are contemplating on doing the same thing, and (inaudible) The big difference here is the fact that we have a variance which is significant. It is 152 feet with our standard 40 foot code, and that is significant. I don't suspect that other turbines will be that much greater than what we are talking about now. We have to be constantly aware of the fact that technology is changing, and we have to change with it. Renewable energy is a very hot button no matter where you go. You want renewable energy. This is one aspect of it, and it is an important one as well. I am a very strong opponent of renewable energy.

**Vincent Cestone-** You mean you are in support?

**William Flaherty-** Yes I'm in support (inaudible) We can't put our head in the sand and say it does not exist. This board is concerned with one very important aspect about it, and that is the height, there is no question about it. It is larger than and greater than the 40 foot maximum that we have in our code. I can understand some of the adjacent property owners, how this is going to effect the resale value of your property. I can't answer that. I don't really know what kind of impact it will have on adjacent properties. Given the fact that this is going to be on forty acres, I think if I remember correctly that the nearest land owner is what?

**Connor Kays-** The nearest home is 1,700 feet. Where that property line is I am not sure

**(inaudible)**

**William Flaherty-** This gentleman said you go a mile away, and you can hardly see it, or maybe you could not see it. I was not available at the time the balloon test was done, I know you had seen it, and you knew exactly where to look. I am one who is very \_\_\_\_\_ of this environment, and the scenic beauty that we have in our community. I don't want anything that is going to effect the overall beauty of our town. Whether or not that fits that description, I really have to look at that and study that, and see that it would. The blades are going to be 18 feet

**Vincent Cestone -** 12 feet

**William Flaherty-** Oh, 12 feet. I have visited wind farms out west where 100 towers were involved, and yes there was noise. This is only one tower. According to the information given to us seemed to be within our code. It really is not going to have in my judgement the impact of noise level that the adjacent homeowners will experience the result of this tower being constructed on that property, unless I am missing something, I don't think it will. I think this board is breaking ground here, and never before have we had an opportunity to do so. I think our code should be and will be amended to cover this more thoroughly than it currently does. The only thing that we have reference to is the towers. We are stretching it when we say it is similar to the cell towers, but it is not the towers. We are going to have to look at that very carefully, and this new zoning that is before us, and codes (inaudible) so we can look at these more intelligently in the future, and come up with a decision quicker than we have. I am glad that we had the opportunity this evening to have participants from the area here, so we can get your input as well, as to what direction we are ultimately going to be taking on this issue. That is all I have to say at this point in time.

**Vincent Cestone-** Unless anyone else, I am sorry

**Kim Connor-** My name is Kim Connor. I just wanted to say that I am glad you are going to continue the Public Hearing, because I think a lot of people will have some input. I think what the board is going to consider is if this is appropriate for Philipstown. This does not just effect the adjacent properties. It effects the whole town, and all of our view shed, even if you don't live right next door, it will be something visible from across the river, and it is not going to be the only one. I think when you consider this, you need to think about whether or not it is going to be appropriate. I did not get into the first part of the meeting. I would like to know if the energy production is significant from this turbine, whether this is an area really appropriate in terms of the kind of wind that we have. (inaudible speaker speaking very low)

**Allen Smith-** Will you allow me to make one more statement?

**Vincent Cestone-** Yes

**Allen Smith-** I will be less belligerent. I have heard what people have said about the idea of renewable energy. I don't think by any means you should



think that our position is that we are against renewable energy, or that we don't recognize the need for us coming up with different energy sources. I don't know if addressing it as an individual tower on one person's piece of property is addressing the issue of what we should be doing for renewable energy. Yes, it would save on that one piece of property, but if it is going to take putting a tower on everybody's one piece of property, to bring about a different form of energy, then we are failing as a public. If money is being directed from grants and it goes to individuals, then that means that it is money taken away from a larger kind of project. There is a limited amount of money, and if you keep assigning pieces of it away, by the time you turn around it's gone. I think our focus, if you want to have a Philipstown focus, have a bigger focus. Have a focus looking for a wind farm in a way that is commercial and provides energy for all of us, not just one person who can afford it.

**Vincent Cestone-** Anyone else?

**Robert Dee-** I just want to say one thing. You have to understand that there is no town code for wind energy. Basically we are dealing with one thing, and that is a variance. The man is asking for a 112 foot variance over normal conditions. Normally it is 40, and he is looking for 152 feet, that is a big variance. We have nothing else to go by, and what I mean by that is he has 40 acres. The next guy that wants to put one up might only have one acre. We have no ordinance that says he can't do it. The only thing we can decide on, and correct me if I am wrong, is a variance for the height.

Allen Smith- He is looking for a variance of over 200 percent.

**Robert Dee-** Correct. I agree.

**Allen Smith-** That is a major variance. Try and get a variance to build a fence one foot higher on your property.

**Robert Dee-** I built a house here seven years ago and tried to get a variance of six inches, and I could not get it. Believe me I understand it.

**Vincent Cestone-** With that we are going to continue that on to the May meeting date, which that is Monday the 13th of May. At that time, unless something significant is being produced. The applicant, this will be his 5th meeting that he has been with us. It becomes a matter of balance. If there is something significant that we need to keep it open, then we will keep it

open. My intention is to close the Public Hearing, out of fairness to the applicant.

**Andy Schmar-** I have got just one question. When the Zoning was adopted in 2011, it was clearly understood that there were things missing from the Zoning. Does this board, I know that one of the Town Board members is here, have the authority, regardless of what ever decision you make. Can you ask the Town Board to deal with this issue?

**Vincent Cestone-** We have, but it is the privy of the Town.

**John Van Tassel-** You guys directed the applicant to come before the town, and unless I have missed something, we have not seen anything.

**Andy Schmar-** In fairness to the applicant, is to get a decision for them that reflects this boards authority. I think there is no reason (inaudible) to address Mr. Lanza's desire to build one, and undoubtedly others. The Town Board should put this on the front burner, because there is obviously a gap in the current zoning, and needs to be addressed, so you are not put in the same position time and time again on this one area. I was very much involved in the Zoning for the five years that it was discussed, and this just never arose. Sustainable energy, renewable energy, just I don't recall it ever being addressed. It is definitely a need that the Town Board needs to address and recognize on that. I would encourage you once again to ask them to take the burden off you, and the unfairness to the applicants that you are posed with to try and make a policy and a zoning decision as opposed to a variance decision.

**Vincent Cestone-** Better to do it by changing the code than by case law.

**Andy Schmar-** Exactly, and you are not a case law court. We all know the challenges that the Supreme court has, and the precedence that they are setting, and how much that irritates all of us that they are making the law through their decisions, and you all should not be making law from those decisions.

**(inaudible)**

**Vincent Cestone-** Without a doubt, I have no doubt in my mind that the town will take this on and do what needs to be done.

**Andy Schmar-** Thank you sir.

**Vincent Cestone-** With that I will make a motion to adjourn.

**William Flaherty-** I will second

**Vincent Cestone-** I have a second. All those in favor?

**ALL MEMBERS VOTED IN FAVOR**

**MEETING WAS ADJOURNED AT 8:50 pm**

**DRAFT**

**NOTE:** These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation, and approval thereupon.

**DATE APPROVED:** \_\_\_\_\_

Respectfully Yours,  
Tina Andress- Landolfi, ZBA Secretary