

ZONING BOARD OF APPEALS

MARCH 11, 2013

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, March 11, 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.

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

PLEGE OF ALLEGIANCE WAS SAID.

received
4/9/13 LM

Vincent Cestone- The first item on the agenda is approval of minutes for February 11. Are there any corrections or changes?

Paula Clair- I found one typo, just one letter. It was grant, and the g was left off of it. I will show you later.

Tina Andress Landolfi- Ok

Vincent Cestone- I make a motion to accept the minutes as amended.

William Flaherty- I will second.

Vincent Cestone- All those in favor?

ALL BOARD MEMBERS WERE IN FAVOR

MINUTES WERE APPROVED

Vincent Cestone- Continuation of the Public Hearing for James Gleick. Applicant, first off thank you for this, it was very helpful. I did see the balloon, but I did not see you. I drove up and down the road. If you could for the record go over this for us please.

Connor Kays- Hi everyone, Connor Kays again (inaudible applicant standing to far away)

Tina Andress Landolfi- Vinny I am sorry, but can the applicant move up, because my recorder is up here and I have never used this one before. I don't want to take any chances.

Vincent Cestone- Just move right up here. That is perfect.

Tina Andress- Landolfi- Thank you.

Connor Kays- We took photos at the base tower, and then the balloon test itself. I went through the tree code, and determined how many trees and square feet we would be working on. Safety measures and sound. we sorta covered last time, but re-submitted. You will see the first set of pictures around the tower base, this will give you an idea of the surrounding area.

You have pictures of the _____ locations and the center pad. You can see the west and the north pad. My guess is the top one is the pad, and the very first one is the center of the tower. Not much to look at. You will see photos of the balloon test. There is a typo on the photos. They were taken at 100 feet and 300 feet, the label says yards.

Vincent Cestone- Feet?

Connor Kays- Feet not yards, it is correct on the opening page, and not correct on the photo labels. You can see the balloon, probably the best one is the North view at 100 feet. It is a four foot balloon, so it is roughly a quarter of the width of what the actual turbine will be from the hub all the way back to the tail. You can see 300 feet out if you really look in between the trees, you can barley make it out.

Robert Dee- From the ground up you are taking these pictures?

Connor Kays- Yes, from the ground up. Go the east view (inaudible) On the south view you can see it from 100 feet and the sun and trees obstruct you from 300 feet.

Robert Dee- What was the height of the balloon?

Connor Kays- The height of the balloon should have been at 152 feet, the very peek of the top blade pointing straight up. West view you cant see much at all, you can in the 300 view. You can make t out right there. They took some from the bottom of the driveway, about 1700 feet away, and you cant see it at all. That gives you an idea of the closest home outside the property. Then there is an arial shot, this was taken with pictometry, it is a program we use quite a bit. It sends planes at a low altitude all over the country, and they do fly byes. It is more accurate than Google Maps, and it lets you snap very accurate measurements. We have checked this on roofs, and different things we have done, and this thing is pretty close. The biggest thing to note here is that the closest home is 1700 plus feet away. We pulled up the code for tree removal, and we are looking at about half an acre, and under two acres there is nothing preventing the homeowner from removing those trees, so we should have no issue there. Anti climb submission, we are going to install a fence 10 feet high it is going to be 4 feet away from the base pad. You can see the bottom diagram there. The

base pad is three by three. The triangular tower system will sit inside that area, and a 4 feet perimeter around that will have a ten foot fence.

Paula Clair- With a ten foot fence, can a kid climb it?

Connor Kays- A kid can climb almost anything. In our mind it is a fence, and it will be 10 feet high, so that would be quite a climb for a small child, to get up that high.

Dominic Cordisco- In terms, if I may hop in, we talked about removing some of the runs, so that it would make it more difficult, even if they did get over the fence.

Connor Kays- Yes, we remove them up to ten feet. That is standard.

(Inaudible)

Lenny Lim- Does the fence need a variance, because it is over six feet?

Dominic Cordisco- I am trying to recall it.

Vincent Cestone- The max is six feet.

Dominic Cordisco- I understand that, but it has to do with

Lenny Lim- It has to have a separate variance

Paula Clair- It is a protective fence

Lenny Lim- It is still over six feet.

Dominic Cordisco- Let me check, because I believe it is related to setbacks.

Robert Dee- The higher the better.

Doug Passeri- The post are 4x4x10 foot tall. The fence is actually 8x8x6 feet tall. It is 8 feet long and only 6 feet high.

Vincent Cestone- Then you are on the code.

Robert Dee- I would rather it be 10 feet myself, but that is no problem.

Paula Clair- Yes, me too.

Connor Kays- I missed that measurement on the left there, so we will have a six foot fence with 10 foot post in the corners. The last thing was noise data that we did. I will go over a little bit. This takes you through the _____ rated sound level, and that is what most turbines are tested by. We are at 52 decibels there. There should be a table that runs through wind speeds, and you will see there the background pressure levels, and the turbine. You will see standard wind speed here is about five meters per second. If I can find the full report, it can tell us what the average wind speed is. Do you have that handy Doug? Typically we see wind speeds around 5 meters per second, that works out to about 20 to 30 miles per hr. Those are fairly high winds still, but that is the turbines max operating speed. You will see even at up to 12 meters per second, we are adding 60 decibels, which at the closest house being 1700 feet, should be in audible.

Robert Dee- What happens to this when the winds become 30-40 miles per hour? Does it give you more electricity or does it blow the propeller off?

Connor Kays- That is a great question. At a certain point it maxes out around 17,000 watts around 30 mph winds. Once it gets to around 55 mph winds the tail feathers. The tail will move to about 90 degrees, and becomes perpendicular to the blades, and that will spin the turbine out of direct wind, and that is what the turbine uses to protect the blades. It does not have brakes or cut out speeds like commercial turbines and many residential turbines have. This one will start to _____ in the 40 mph range and upwards of 60 you will see it right at 90 degrees. It will still be producing, and you will see it spinning, but the blades will be out of direct wind. That is how the blades protect themselves. That is a big perk to the Bergy. We don't have brake pads or electronic braking.

Vincent Cestone- You don't actually feather the blades?

Connor Kays- The blades themselves do not feather, it is a solid structure, and the entire hub will move out of direct wind. The last thing was safety. We talked about the fence. All of the electrical will meet the 2011 electric code as well as National Grid Code. Self conduit, and lock disconnect, all of

that is part of this code. It will have a third party inspection, and NYCERDA will most likely inspect the system as well. Everything will be up to code (inaudible) The runs removed, so we should be well covered there. That about covers the additional materials.

Lenny Lim- I don't understand the acoustic test data. What you are saying is the nearest house would barley hear this?

Connor Kays- Yep, This one was done at a 46 meter slant distance which is about 175 feet slant distance, so that is from me to the top of the turbine, so if you bring that down that will be the hypotenuse, you are actually closer to the turbine than the 175 feet lets say. Those are the audible levels there, so we are talking you are over ten times that to the nearest home. In a straight , and sound does not really work that way, you divide that by ten you would get the decibel level at that distance. (inaudible) even at 13 meter per second winds, which your talking 60 mph type winds, you would be looking at 6.3 decibels added from the turbine at a total of 101. At that speed if you were 100 feet away you will here it, but at 10 times that distance you will not. Any more questions you guys?

Vincent Cestone- Any more questions from the board?

Robert Dee- I was away, but did anyone go see the balloon test?

Lenny Lim- I got there a little late, and it was gone, and the road was closed by the time I got there. Im sorry. You did not leave it up long did you?

Connor Kays- How long did you leave it up Doug?

Doug Passeri- We did it the first day when we took the pictures, but last Sunday when I got down there, I was texting back and forth to just make sure everybody was going to come, but it did not seem anyone was going to, and I did not send the balloon up in the air.

Lenny Lim- Is that why nobody opened the gate, because when I got there the gate was closed.

Doug Passeri- When you drive up to it it opens.

Lenny Lim- At first I went up the wrong street.

Doug Passeri- I waited at the driveway just to be fair and give everyone time to get there from about 12 to 1:15.

Vincent Cestone- Anything after more than two members has to be advertised because it is considered a meeting. We make a point of not coming with three or more.

Robert Dee- Could it be seen from the road? Vinny did you see it?

Vincent Cestone- Yes. I went on Thursday in the lovely weather we had. Any more questions from the board? Any comments from the audience? Anything else to add? I make a motion to close the Public Hearing, do I have second?

William Flaherty - I will second.

Vincent Cestone- All those in favor?

ALL MEMBERS WERE IN FAVOR EXCEPT PAULA CLAIR

Vincent Cestone- Oh You have something?

Paula Clair- Are we going to have a chance to comment on this project before we vote?

Vincent Cestone- Like we normally do, if you want to have a discussion, because I was thinking we would have a discussion.

Paula Clair- I would like to.

Vincent Cestone- When we close the Public Hearing, unless we ask you a question you cant add anything. Do you feel comfortable with that?

Connor Kays- Yes, I think you guys have all the information that you need. I cant imagine there is much else there. Hopefully when you drove by the location you see the location is fairly remote, and is not too much of an eye sore for anyone in the area.

Vincent Cestone- Ok there is a motion and a second to close the Public Hearing. All those in favor?

ALL MEMBERS WERE IN FAVOR

Vincent Cestone- All were in favor, unanimous. Do we want to have a discussion now? Do you think we should have a closed session with our attorney to discuss it?

Dominic Cordisco- If you want to, if you have legal questions for your attorney you are free to go into closed session.

Vincent Cestone- I have a couple of questions, unrelated from a legal stand point. Not about this, it is procedural stuff.

Dominic Cordisco- Procedural stuff would be a basis to go into closed session.

Vincent Cestone- Ok, then I make a motion to go into closed session.

Robert Dee- Second.

Vincent Cestone- All those in favor?

ALL WERE IN FAVOR

Vincent Cestone- We are going to go downstairs to discuss this, you can all stay here, then we are going to come back.

MEMBERS LEFT AND WENT TO CLOSED SESSION

Vincent Cestone- I make a motion to come out of closed session, do I have a second?

William Flaherty- I will second.

Vincent Cestone- All those in favor?

ALL MEMBERS WERE IN FAVOR

Vincent Cestone- We have a couple of questions we would like to ask you. One thing that I did after our last meeting, and previous to this, is I went out to a couple of wind energy sites, and if they had a lower facility

they had a more efficient generator on the back of the windmill that compensated for the less wind and less clean wind. Is this something that you can do?

Connor Kays- No, Bergy does not have any. The Bergy is the Bergy, it is about as efficient as they can get. I am not sure, do you have any idea what type of turbine you were looking at?

Vincent Cestone- It escapes me, but it was more than one turbine site.

Connor Kays- The only ones that I know of that have anything like that are redrivens, and they are all white.

Vincent Cestone- It was white.

Connor Kays- No tail?

Vincent Cestone- I don't think so.

Connor Kays- Ok, so that is a redriven, and they have modifications for that, and that company is out of business for the lack of production those turbines had. The modification they made was in renegade to the fact that those turbines were so poorly performing, and it did not fix anything. We have an upwards of ten customers across the state that are looking for maintenance on them or to have them taken down. That company has gone belly up in a bad way.

Vincent Cestone- The company has not gone belly up, because they were still marketing, so maybe it is not that one.

Connor Kays- If it was not out, then they definitely were no Redriven, Bergy does not have any type of modifications for that. The alternator and the inverter itself are as efficient as they feel they can get it, so they can get mass production in any type of weather.

Vincent Cestone- Was there another question?

(inaudible)

Robert Dee- My question is, that 9D is a scenic highway, and there a lot of restrictions there, like sign height and this and that. There is a guy who wants to put a Dunkin Donuts, and they have been driving him crazy for two years for something like that. I am not sure with the scenic highway, so I would like to check with them, and get some opinion from them, and do a presentation to them.

Connor Kays- We are certainly willing to do that.

Robert Dee- Yea, give them your presentation (inaudible) it is designated as a scenic highway.

Vincent Cestone- As you may have noticed, there are gas stations on 9D that have no canopies. Every gas station has a canopy, they don't have them because they are designated scenic highways. You will also notice that the ones outside of Cold Spring have low size or monument type signs all because of the scenic highway stuff, and that is a concern. We could approve this, then you get sued, then you cant do it anyways, that is our concern. I don't even know who to contact on something like that, because this is the first time something like this has come up.

Robert Dee- It is the Scenic Highway, I don't know what group, but you know who I am talking about?

Lenny Lim- Who designated it? Did the state designate it?

(inaudible)

Connor Kays- Will they have jurisdiction out there?

Dominic Cordisco- Would that be something the Conservation Board would also weigh in on perhaps?

Vincent Cestone- Good question. I would guess they have something.

Lenny Lim- Was this a federal designated Scenic Highway, or a state?

Vincent Cestone- That is state. That is a New York State designation.

Robert Dee- Contact the state and find out.

Vincent Cestone- It may be nothing, or it could be a big deal. Any other questions we have from the board? We are not going to deliberate and vote on this tonight, we have 62 days to vote on this. At the next meeting my goal is to vote on this, so that it can be closed one way or the other.

Robert Dee- Do you know that if this were to be granted, if they still have to go to the Planning Board on this?

Connor Kays- Yes we are aware.

Vincent Cestone- When you build a tower in Philipstown, you have to put a bond through the town, so if the tower is abandoned the town can go in and tear it down.

Connor Kays- Phew, ok. I am familiar with them, depending how they have this one set up.

Vincent Cestone- I know it is not cheap, it is thousands and thousands of dollars.

Connor Kays- Do you know if it is a one time fee, or if it is carried out.

Vincent Cestone- I am sure the Building Department can tell you, because I really don't know.

Connor Kays- Ok. We will look into that.

Vincent Cestone- With cell towers it is 40 to 50 thousand.

Dominic Cordisco- It would likely be a condition with the Planning Board approval. It is more of a site plan issue than a Zoning.

Vincent Cestone- Right, we would not do that. The Planning would.

Dominic Cordisco- This is a learning, this is a first.

Connor Kays- I have dealt with bonding before, if it is structured ok, then it wont be a problem. I have run into some, that you are talking (inaudible)

Vincent Cestone- I am just telling you that, because I did not know if you knew.

Connor Kays- Sure. We will check into that, and we will check with the state on the highway.

Vincent Cestone- When we meet, and the next meeting will be April 8th, which is the second Monday in April. Hopefully we will put this puppy to bed, and you can proceed.

Connor Kays- Thanks Guys

Vincent Cestone- Any old or new business? I make a motion to adjourn.

Robert Dee- Second.

Vincent Cestone- All those in favor?

ALL MEMBERS WERE IN FAVOR.

MEETING CLOSED.

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

DATE APPROVED: April 8, 2013

Respectfully Yours,
Tina Andress- Landolfi, ZBA Secretary

