

PLANNING BOARD MEETING of October 23, 2012: Town Hall Banquet Room

**I. ADMINISTRATIVE BUSINESS**

Chairman Wayne Hayward – Opened the meeting at 6:30pm

Quorum/Attendance

Members Present – Chairman, Wayne Hayward, Albert Borges, Francis Budryk, Rene Fleurent Jr., Peter Nopper and Gary Staffon. Jeffrey Lucas arrived at 6:45pm.

Members Absent - Joseph Morra

Planning Director William Roth was also in attendance.

Acceptance of Minutes October 9, 2012

Gary Staffon made a motion to approve the minutes of October 9, 2012, and it was seconded by Peter Nopper. The motion passed by unanimous vote.

Planning Board Bills

1. PB – **DesLauriers & Associates, Inc.** – GIS Update - \$880.00

William Roth explained this was being taken out of the Contractual Services line item of the Purchase & Services Account, and the total bill for the GIS Update was \$1200.00. \$880.00 out of this account and the remainder of \$320.00 out of the 89 Account.

Wayne Hayward asked how Mr. Roth was taking \$880.00 out of a line item that only allotted \$800.?

William Roth explained that as long as the overall Purchase & Services Account has sufficient funds you can run a deficit in any one line item.

Albert Borges asked if they get help from SRPEDD for this bill?

William Roth stated they don't go thru SRPEDD, they used a private company.

Wayne Hayward made a motion to pay the bill to DesLauriers & Associates Inc, in the amount of \$880.00 out of the Purchase & Services Account, and was seconded by Gary Staffon. The motion passed unanimously.

2. 89-Account – **DesLauriers & Associates, Inc.** – GIS Update – Fees-\$320.00

William Roth explained the balance of \$320.00 would be paid out of the 89 Account @ \$40.00/lot, 8 lots.

Wayne Hayward explained to the Board members that every time they approve a lot in Town, they get a \$40.00 GIS fee.

Gary Staffon made a motion to pay this \$320.00 bill to DesLauriers & Associates, Inc. out of the 89-Account; and was seconded by Albert Borges. The motion passed unanimously.

### 3. Staples - \$83.51

William Roth explained that the bill from Staples was for office supplies.

Gary Staffon made a motion to pay the Staples bill, and was seconded by Albert Borges. The motion passed unanimously.

## II. CURRENT PLANNING:

### Receipt of Plans:

William Roth explained he received plans today from PharmaHealth on 132 Alden Road to build a two story, 18,000 sq. ft. addition to the existing building. Mr. Roth advised the Board that the public hearing would be scheduled for November 27, 2012.

Gary Staffon made a motion to set the public hearing date for November 27, 2012, and was seconded by Albert Borges. The motion passed unanimously.

### Approval of Plans:

#### 1. Welcome Street Subdivision – Revised Form D Covenant & From E Covenant Release

William Roth explained this is a 9 lot subdivision. He explained that about four years ago they released covenants on lots 2, 4, 5 & 6. The applicant requested to swap one of the released lots for lot 10 because he had a buyer for lot 10. To accomplish this, the owner will have to amend the covenant and re-covenant all of the unsold lots and then the Planning Board can release lot 10.

William Roth advised that all the taxes are being maintained and up to date. He also advised that the applicant can't do some upgrades until they pave the subdivision. He said there are still upgrades that need to be done in the subdivision that would cost approximately \$40,000.00. Mr. Roth said he did speak to their Real Estate Attorney, and he also recommended a new amending covenant be done and to only release one lot.

Gary Staffon asked why don't they ask for the \$40,000.00 from the applicant and release all covenants.

William Roth said, We don't want the \$40,000, we need him to complete the subdivision

Wayne Hayward said he was willing to work with him.

William Roth said the applicant was under the impression that once the four lots sell, he said he would pave the subdivision.

Jeffery Lucas said, 'he wants us to release lot 10, in exchange of giving up 2 lots?'

William Roth said, 'correct.'

Wayne Hayward said covenants only work when you hold all.

Wayne Hayward made a motion to release Lot 10 and at the same time we amend the covenant and take back two; the motion was seconded by Gary Staffon. The motion passed unanimously.

Jeffrey Lucas asked if the applicant was the original developer?

Wayne Hayward said, 'yes.'

William Roth said, 'He needs to come and talk to the Board on the next lot.'

#### **IV. LONG RANGE PLANNING:**

##### 1. Chapter 316 Procedural Rules: Street Acceptance Procedure Flow Charts

William Roth said that he and Jeff Osuch talked back and forth, and he had just one question under 'street acceptance' being accepted by 2 out of 3 Boards, and he was going to look into that.

##### 2. Chapter 198-29.5 Wind Energy Facilities: Bylaw Review (Discussion on Setbacks and Height)

Wayne Hayward explained again to the Board that this was just a working meeting to discuss and review the by-law. He said this is a Board functioning workshop meeting, and that he wanted the Board to focus on heights and setbacks; he encouraged the members to talk back and forth.

Wayne Hayward first explained that Nacelle = Hub; and explained how the wind turbine is measured.

Jeffrey Lucas wanted to know the distance between the Hub, how is it they are measuring?

Wayne Hayward explained the Maximum Tip Height (MTH). Proposed is 265', the current regulations allow 350' to the hub then factor in the blades the height is even greater.

Gary Staffon wondered aloud, 'I'm figuring the Zoning By-Law is not for the blades.' Proposed is maximum height tip.

Wayne Hayward said they are trying to protect houses from the Maximum Tip Height, so not from the Nacelle/Hub.

Rene Fleurent, Jr. said that he read if the blade snaps, it would fling out 2.5 times.

Wayne Hayward said they are talking about setting heights. He said the MTH creates a "fall zone" – and the important concept to remember is it's a universal measurement; the developers then have to take your measurements.

Francis Budryk asked if the blade on the existing ones would fall now where it is, would it hit Town Property?

Wayne Hayward said, 'there's nothing in the fall zone.'

William Roth asked the question, on Utility Scale, there are three different calculations on setbacks. He asked if the first (a) is an on-site fall zone type of setback?

Wayne Hayward asked the Board members if they all understood what the MTH is? To which everyone replied, "Yes."

'So the ones that are there are close to 400'?', Gary Staffon asked.

Wayne Hayward said, 'yes.'

Rene Fleurent, Jr. said, 'we're calling the height of tower the "fall zone".'

Jeffrey Lucas said that most of what he has read the fall zone is 1.1 times the MTH, and that they are proposing 1.5 times under the utility grade.

Wayne Hayward discussed residential towers, which is small scale; using the white board to draw it out.

Jeffrey Lucas said, 'So, it's unlikely the towers are not going to jump 1.5 times.'

William Roth referred back to the Draft copy, page 4; 5 a) *a distance equal to one and one-half (1.5) times the (MTH) of the wind turbine from buildings, critical infrastructure, above-ground natural gas distribution infrastructure or private or public ways that are not part of the wind energy facility.*

William Roth asked if that means “on the same parcel”.

Wayne Hayward said, “Yes. I’d say so.”

William Roth said, “If it is, I think we need to say “within the 10 acres.”

Wayne Hayward explained Parcel vs. Lots. He said the current by-law they would need a 10 acre parcel, not lot. 88 lots = 1 parcel.

William Roth advised that he might just reword a) to add “within the 10 acre parcel”.

Wayne Hayward said they would be thinking it would be a paper street for future use. He also said they would need to reword to ‘residential structures.’

Discussion continued around what the wording should be for 5. Setbacks, item a).

William Roth read a)..residential structure.. may add ‘critical infrastructure within the leased parcel’; saying that a) pertains to ‘within the 10 acre parcel.’

Wayne Hayward said again they are trying to protect residential structures.

William Roth said the first one is the fall zone within the 10 acre parcel; the second one he was going to make say ‘how far turbines should be off-site’

Jeffrey Lucas requested the words “above ground” to be taken out.

William Roth said he was going to rewrite it to say, “such as... above ground”; so adding “such as”

Jeffrey Lucas asked if they have the ability to put “fall zone” vs. “setbacks”; 1.5 times seems like a big fall zone, he said.

Wayne Hayward reminded them there are three critical measures. He explained that “Fall Zone” is 1 type of Setbacks.

Rene Fleurent, Jr. wanted to understand what critical infrastructures.

William Roth said that the Fall Zone is to protect critical infrastructure and he was going to change the words as stated previously.

William Roth said he would word as “Critical infrastructure such as but not limited to.”

William Roth referred to pg. 4, 5. Setbacks c) *a distance equal to one and one-half (1.5) times the (MTH) of the turbine from the nearest property line, and private or public way.*

William Roth asked about taking out c) and adding it to a).

Wayne Hayward said that the State is suggesting these setbacks.

Rene Fleurent, Jr. believed that it’s repetitive; saying that ‘c’ is redundant with ‘a’.

Wayne Hayward asked how the Board felt about the 1.5 times.

Jeffrey Lucas said he'd recommend 1.1 for a)

A discussion ensued around what fall zones should be, either 1.1 or 1.5 times?

Wayne Hayward said that a) covers ice flings; and a), b), c) covers ALL.

Rene Fleurent, Jr. said they were discussing "fall zones."

More discussion ensued on the fall zones.

William Roth then brought up b) *a distance equal to three (3.0) times the (MTH) of the turbine from the nearest existing residential or commercial structure.*

William Roth said that 'b' is not on the parcel; it's existing residential – protecting "the neighbors".

Wayne Hayward said before you limit "x the height"; remember what are you trying to protect. That number is flexible, he said. 'When we look at b) we are thinking "people's quality of life", sound etc.'

Wayne Hayward explained waiver setbacks.

Rene Fleurent, Jr. voiced his concerns around sound being a problem. He said, 'if it's a short tower, say 200', is 3x's setback going to alleviate the sound?'

Wayne Hayward said the applicant needs to comply with ALL of the By-Laws, not just one.

More discussion on the Setbacks a) b) and c).

Jeffrey Lucas recommended keeping a) & c) separate because they may get changed down the line.

Wayne Hayward again said it was State recommended language.

William Roth made a point that if they have different numbers in a) & c), they have to take private or public ways out of one.

Jeffrey Lucas explained what he felt the fall zone is, from where he read it from. "A clear fall zone is the area or radius surrounding the turbine that if it were to fall, would remain confined within the property or parcel where the turbine is located."

Wayne Hayward said that everyone is just pulling from each other's by-laws to make a by-law. He explained that "fall zone" is a generalized term.

Discussion ensued around ice throw and where does it fall in the bylaws.

Jeffrey Lucas believes under b) in Setbacks.

Rene Fleurent, Jr. believes possibly under "K"- Safety & Environmental Standards.

Jeffrey Lucas said he believed a) seems to refer to the 'fall zone'; so he doesn't think protection for ice flings, flicker, blades cover under b).

Rene Fleurent, Jr. said he believed it would be under "K".

Again more discussion ensued.

Wayne Hayward said that b) is overkill for ice throw (3 times). "We are talking about wind turbines that are designed not to throw ice.", he said.

William Roth said between a) & b)-would protect an off-site user; and a) would protect an on-site property owner.

Wayne Hayward believes that a) refers to danger – hazards; b) to protect fro sound, flicker, etc. and c) property line issue; he believes that's what the State had in mind; and doesn't think they touch those numbers because they are "State" recommended.

Francis Budryk asked, 'Are we at a point to make a motion on the numbers?'

Wayne Hayward said, 'No.'

Rene Fleurent, Jr. asked, "how about a consensus of the Board."

Continued discussion on what the numbers should be.

Wayne Hayward said he was trying to understand their concept. He reminded the Board that they still have to hold Public Hearings for the By-Laws and those numbers may change again.

Rene Fleurent, Jr. said he feels it should be 4x's.

Gary Staffon said he feels 1.5 and 3x's.

William Roth said he was comfortable with 4x's.

Wayne Hayward said that number is easily adjusted.

William Roth referred back to #2 (pg. 4) in asking if that should be 660kw; not 600, as industry standard. He said, "talking about on-site".

Wayne Hayward said that the industry standard is 100kw.

Wayne Hayward said, 'on-site means existing parcels, put Wind Turbines on-site; this is a "business" for arguments sake.

William Roth said it's on a smaller site, smaller class. No minimum size, no minimum acreage like other.

Wayne Hayward said the first one is 50 tons, these are smaller; still tons, but not 50.

William Roth said the setback for these is 1.2x's.

Gary Staffon asked if they would require a sound study for this kind?

William Roth referred him to page 7. d) "has to comply with noise." (K5 ONLY Noise)

Gary Staffon said no setbacks address shadow flicker.

William Roth noted you could say K4 & 5 – ability to look at flicker and noise.

Gary Staffon said, 'that's what I thought.'

A discussion ensued around property lines; and definition of "lots" vs "parcels". William Roth thinks it's one of the same. He doesn't look at 5 lots together = 1 parcel; He thinks the word is 'interchangeable.' Wayne Hayward thinks that 5 individual lots is 1 parcel.

William Roth suggests to get rid of parcel(s) to lot. Lot is individual.

Francis Budryk made a motion to adjourn.

Wayne Hayward said that Mr. Budryk is allowed to go home if he needs to; there is still a quorum if he leaves. He said, "We have to get through this, and cannot adjourn."

Jeffrey Lucas felt he couldn't make his point without Wayne Hayward interrupting and answering before he could finish. Wayne Hayward did apologize and asked Jeffrey Lucas to share his feelings.

More discussion on Setbacks, page 6. 2 a) *A distance no closer than 1.2 times the MTH, from the nearest property line, provided that no setback shall be required from building or buildings which are on the same parcel(s) and which are served by the Wind Facility.*

Wayne Hayward the concept re: clear title.

Rene Fleurent, Jr. asked if they could put that waiver in there.

William Roth said the waiver is in number (3).

Jeffrey Lucas said, 'in the situation you're discussing waiver, buildings under different ownership would it apply? And using that Wind Turbine to service different buildings/different owners, ok?

Wayne Hayward said they are not allowed to sell off-site.

Discussion around waiver of resident/abutters, using Nye Lubricants property as an example.

Wayne Hayward said it wasn't their call. "The utility controls the electricity." 'They can only service what they currently our servicing.'

William Roth agreed to change the word 'parcel(s)' to Lot.

Wayne Hayward said, 'Let's let Town Counsel solve that for us, whether or not to use 'parcel' or 'lot'.

William Roth asked if they want to add K4 & K5 to pg. 7 (d) or just reference K, which would be inclusive of everything.

Gary Staffon said he would agree.

William Roth said he would add an "e", something to the effect reference when applicable Section K. (which gives you the ability to look at anything in K)

Wayne Hayward referred to 'under setbacks and height', Planning Board can adjust, minor adjustments and they may want to introduce flexibility variable.

William Roth said he would add the language and the Board members could look at it for review, and they could discuss.

William Roth moved on to discuss page 7 (I) – Commercial. He asked why they would want Zoning Board of Appeals to handle Special Permit to the height.

Wayne Hayward said up to 75' is permitted. Above that a "Special Permit, that would go to ZBA."

Discussion around Building Integrated – "J"

Gary Staffon made a motion to adjourn at 9:40; and it was seconded by Peter Nopper. The motion passed unanimously.

Rene Fleurent, Jr. asked that the changes be red lined on the next revision.

William Roth said the next meeting would be November 13<sup>th</sup> at 6:30 p.m.

Respectively submitted,

Patricia A Pacella  
Recording Secretary