

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
August 21, 2008

PRESENT: Chairman Hoover Mr. Ebersol
 Mr. Johnson Mrs. Fake
 Mr. Schilbe Mr. Blaker

EXCUSED: Mrs. Fake

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Schilbe made a motion to approve the minutes of the July 24, 2008 meeting. Mr. Ebersol seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #08-171, Northeast Renewable Energy Resources, representing John Fuller owner of property at 4545 Hall Road, requests an area variance to build a Wind Energy Conversion System. Proposed Wind Energy Conversion System exceeds the height and does not meet the setbacks from the property line and does not meet the setback from the dwelling.

Application was required to go to the Ontario County Planning Board. Determined to be a Type II action, which does not require further review under SEQR.

The variances requested are a height variance of 33.5 feet and setback variances of 2.25 feet and a setback variance from the dwelling of 61.15 feet.

The public hearing was opened and the notice as it appeared in the official newspaper of the Town was read.

The Ontario County Planning Board made no recommendations on the application.

John Fuller, owner and Mike Parks, from Northeast Renewable Energy Resources were present and presented the application to the board.

Mr. Parks asked if it would be possible for them to put the pad for the tower two feet below grade so that the tower base is two feet below grade to give them the distance needed from the lot lines.

This was discussed by the board and it was decided that if the tower was two feet below grade the tower height would be 131.5 feet above grade, which would eliminate all the setback variances to the property lines.

The performance models were reviewed and discussed. The performance model being proposed is a 37 meter tower which has an average wind speed of 4.48 meters per second. Mr. Fuller uses 9000 kilowatt hours a year, and they try to get the right size tower to utilize his electric to get rid of his electric bill. The start up speed of the tower is 7mph that is why the tower must be at the height where the wind is 10mph. The 37 meter tower is needed to make it a feasible project. A shorter tower could be put up, but it would not be as efficient and he would not get the grant money from NYSERTA. NYSERTA is not going to put the money into a project that is not feasible.

Mr. Schilbe asked Mr. Fuller if he would be willing to go to his lawyer and have a paper drawn up that the Town of Gorham and the Town Zoning Board of Appeals would not be held responsible in anyway, shape or manner if the tower was to fall and hit the applicant's house.

Mr. Fuller stated that he certainly would gladly have his lawyer write up something along those lines.

Mr. Fuller stated that Jack Beery his neighbor to the east is extremely in favor of the tower.

Chairman Hoover asked if there were any comments from the public.

Mike Pilarski, neighbor to the west, expressed that he is ok with the whole concept of alternative energy, but was concerned that Mr. Fuller does not have the best location, property wise for the situation. "I think that in a better place and different location he could stay within the code, if he could stay within the traditional methods of solar power, I think it would be a whole lot better situation. I have some questions for the Town. In the towns opinion is this considered a permanent structure to the property and if so is it considered to add value to the property or does it have a negative effect on the assessment on property and properties in the neighborhood?"

Chairman Hoover stated that that would be a question that he would want to talk with the Town Assessor about.

Mr. Pilarski - Questioned lightning strikes and damage firing back through the electrical grid of neighboring homes with the height of the tower. He also questioned if lighting would be required for the top of the tower for small aircraft. The lifetime of the product was questioned. What happens if the

generator fails and the product is unusable? How is the removal of the product enforced?

Mr. Parks explained that the towers are all engineered and grounded for protection of a lightning strike. The product has a 5 year warranty.

Chairman Hoover stated that the lighting is FAA regulated and believes that if it is less than 200 feet it does not require FAA lighting.

Gene Hermenet - commented that this is a relatively new law, and to his knowledge there has only been two applications, this being the second one. They are already requesting considerable variances to build these systems. If we are going to run into this maybe we better go back and address the Town Board to look at how the law was put into place and maybe have another public hearing on it.

Chairman Hoover asked if there were any more comments from the public. Hearing none, the public hearing was closed.

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Mr. Johnson made a motion to grant a variance of 59.15 feet for a setback of 139.80 feet as the B location as shown on the survey map dated July 17,2008, to the owners dwelling, the maximum height to the pinnacle of the propellers 131.5 feet. If the tower is not used and out of service for a one year period it shall be removed. The owner shall provide a statement of to hold harmless to the Town of Gorham for the variance to the owners dwelling. If the structure is not installed within a year the variances become null and void. Mr. Schilbe seconded the motion. Roll Call was read with Johnson, Schilbe, Hoover, Craugh & Blaker voting yea and Ebersol voting nay. (5-1)

Mr. Johnson made a motion to adjourn the meeting at 8:54 PM. Mr. Schilbe seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary