

**TOWN OF SOMERSET  
PLANNING BOARD  
April 7, 2016**

Present: Jon Hotaling  
Krista Atwater  
Chris Czelusta  
Gary Few  
Norman Jansen  
Mike Norris, Counsel

Attendance: Approximately 40 people

Chairman Hotaling called the meeting to order at 7:30PM.

**PUBLIC HEARING – BARBARA EGGERT/LIGHTHOUSE WIND MET TOWER  
7469 W. SOMERSET ROAD**

On a motion of G. Few, seconded by N. Jansen, the following resolution was

ADOPTED	Ayes	4	Hotaling, Atwater, Few, Jansen
	Nays	0	
	Abstain	1	Czelusta

Resolved the Barbara Eggert/Lighthouse Wind Public Hearing reconvene from March 3, 2016.

Attorney Norris advised that Engineer Drew Reilly is on vacation but he provided a memo of items that he feels need to be examined a little more. Attorney Norris highlighted some items and received responses from APEX.

- A formal site plan has not been submitted according to Town Code: signed by a licensed engineer or architect. Attorney Norris would like to see a large map, to scale.

Taylor Quarles stated that he felt what was submitted is adequate. He said that was not a requirement on the previous permit and that site plan was almost identical and was approved.

Attorney Norris advised that we have learned more about wind since the first Special Use Permit was applied for and our code allows the Planning Board to require a formal site plan.

Dan Fitzgerald stated that this is a matter of meteorological towers, not the wind project.

- Verification that the equipment that is being placed on the tower does not generate any noise.

Taylor Quarles stated the only noise will be the wind moving past the tower

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- No new information has been provided regarding potential fencing around the tower.

Taylor stated that previously it was mentioned that the tower was a lattice tower but it is actually a monopole. You would not be able to climb it so he feels it does not need fencing. It will have high visibility sleeves and tower paint for safety.

Attorney Norris asked him to put his position in writing to the board as to why he feels fencing is not necessary.

- We conducted a coordinated SEQR review and that process is continuing. All involved agencies have until tomorrow to respond.

Taylor advised that he researched the issue and according to the DEC handbook, meteorological towers are specifically listed as Type II actions which do not require SEQR review.

- Attorney Norris asked if they have received a letter from Mercy Flight yet.

Taylor stated that we will get a letter once the tower placement is known. At the last meeting APEX agreed to adjust the tower placement to abide by our requirement to have setbacks two times the tower height.

Attorney Norris asked if they have received any communication that Mercy Flight will provide a letter.

Taylor said that he met with a pilot and a chief paramedic previously to discuss their operations and how they deal with obstacles. Once the tower locations are known, he will submit them to Mercy Flight.

- Attorney Norris advised that the Planning Board would like an analysis on the visibility impact for the Lyndaker location.

Louise Clark from Barker said that she is confused why we need two met towers. She feels we do not need any.

Don Stoll from Haight Road concurs with Louise and stated that he did his own research. He feels we are being conned and suggests going to Australia Wind to see what they have to say.

Jim Hoffman of Lake Road submitted a hand out. He said the Planning Board has the sole authority to approve or disapprove the applications. He wants the board to consider suspension of all actions until APEX is in compliance retroactively with the State Code of Conduct. He would like the applications to be rejected as they are part of the project

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that our residents have said they do not want. He said to consider the towers be redesigned to be more bird and bat friendly. He feels we may want to consider a special ordinance regarding the tower type as more applications may be put in front of us. Jim says that we should think of the towers as permanent although they have a limited nature. He said that we should abide by what Mercy Flight wants us to do for safety. He wants to know what effect the bird and bat study will have on our home and privacy, such as television, cell phones, etc.

Bob Verheyn of Somerset Drive stated that before the wind project was known, the first met tower went up without a problem because no one knew about it except this board. He suggests they provide us with new information, not what was used before.

Agnes LaPort from Coleman Road advised that Governor Cuomo is giving millions of dollars to Buffalo for the Kensington Expressway because they realize that it destroyed the character of the town. It is sixty five years later and they are saying "what were we thinking?" She said it won't take sixty five years to figure out that these turbines should not be here. They should be placed where there are no people.

Cathi Orr of Johnson Creek Road does not think we should be putting up the met towers and feels the company is not reputable. She wonders why APEX wants to put transmission lines on Quaker Road near Townline Road. She will keep researching and provide more information.

Don Stoll said that this is more important to him than the election of town officials. He said they went on record being opposed to the project and he wants to know where are their anti-wind signs.

Chris Kraft from Yates stated the Niagara County Department of Health wants more input on how to make things healthier for the county. He is hopeful that this will not go on for years and we can go on living in our community in a healthy fashion.

Pam Atwater from Carmen Road said the American Bird Conservancy reported that this project is one of the ten worst projects either existing or proposed in the country. She stated that over one hundred people showed up to an event about raptors. She is against the project.

Herb Linderman of Somerset Drive asked what objections APEX has to the Code of Conduct.

Chairman Hotaling advised that APEX has signed the Code of Conduct.

Dan Fitzgerald of APEX advised that the revisions made to the code included correcting an address, the corporate entity, and a mistake in a sentence that would have made anyone signing it in violation before they finished signing it. He stated that they

executed it and are carrying out the compliance measures. Anyone who wants to ask questions can stop by the office in Barker.

Kate Kramer of Yates provided a copy of the Code of Conduct to the board. It states that prior to coming before any municipal board they should comply and lists some disclosures. She asked the board hold them accountable to that.

Sue Davis from Lower Lake Road said that APEX is giving us the run around and she is against the met towers and the project.

On a motion of N. Jansen, seconded by G. Few, the following resolution was

ADOPTED	Ayes	4	Hotaling, Atwater, Few, Jansen
	Nays	0	
	Abstain	1	Czelusta

Resolved the public hearing remain open.

**PUBLIC HEARING – CHARLES LYNDAKER/LIGHTHOUSE WIND MET TOWER  
8746 LAKE ROAD**

On a motion of N. Jansen, seconded by G. Few, the following resolution was

ADOPTED	Ayes	4	Hotaling, Atwater, Few, Jansen
	Nays	0	
	Abstain	1	Czelusta

Resolved the Charles Lyndaker/Lighthouse Wind Public Hearing reconvene from March 3, 2016.

Taylor Quarles advised that APEX adjusted the tower location to be at least two times the height of the tower to the property line. He said the site plans have additional detail such as topographical information and all structures are labeled. He believes they are fully compliant with the site plan requirements. He stated that they provided the instructions for installation. He said the data is transmitted over cellular modem once per day. They agreed to a permit time limit of three years. They discussed aerial visibility including seven alternating bands of orange and white, and they have marker balls on the outermost guy wires. They included more detail on the guy wire sleeves. They also agreed to light the tower with night vision goggle compatible lighting although it is not required by the FAA. They will provide the locations to both the FAA and Mercy Flight prior to construction. They also included in their letter an agricultural data statement.

N. Jansen asked what night vision lights are.

Taylor said they are lights that are compatible with Mercy Flight. He is not sure what color they are or if they are flashing, but assumes they will flash. He said that not all lights are compatible with the goggles.

J. Hotaling asked if the lights meet FAA approval.

Taylor stated that the lights are not a requirement of the FAA because of the tower height, but the board asked them to install them.

K. Atwater asked why so many towers so close together. She said it is only three miles from the Nellist property tower to the Lyndaker property tower. She understands the Eggert property because it is a distance away. She asked what is on the Lyndaker property currently.

Taylor stated it is a radar unit that measures 24 hour bird activity.

K. Atwater said she is still unclear why three miles matters.

Taylor stated that each location was chosen by a meteorologist as the wind conditions are site specific. Differences such as the topography, distance from the lake, ground cover, etc. can have a big impact.

K. Atwater asked what stops them from asking for ten more and why not another tower in Yates?

Taylor said there are no plans for more beyond the two they are requesting.

K. Atwater asked if their intention was to install more when they brought the first one to the board.

Dan Fitzgerald said that the initial installation was necessary because they did not have any ground data. Once they got that data and determined that it was good, they need to install more towers to pinpoint more accurately where to site the turbines.

K. Atwater asked if they will want more in another year since they are spreading the area as far as Hall Road.

Dan said he thinks they will have accurate data but will know better as they gather more data.

J. Hotaling asked if APEX could access the data that AES obtained when they had meteorological towers installed.

Dan said they tried but it could not be found.

N. Jansen asked why they are only using one bird radar.

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Taylor stated that they are undertaking multiple years of avian and wildlife studies, but the matter before the board is the meteorological towers. They would be happy to discuss as much detail as possible in their office, on the phone, etc.

Clerk Carmer noted that at last month's meeting she read a letter that Supervisor Engert submitted. It was recorded in the minutes for the Eggert property but he would like it on the record for the Lyndaker property also.

Attorney Norris advised that the board would like a visual impact analysis on the cemetery next to the Lyndaker property as discussed earlier.

Louise Clark feels that APEX does not show the board respect. She also observed that they are not experts in lighting or meteorologists, but they have made a verbal statement that they will not need any more meteorological towers in the future. She thinks the Planning Board should draw up a legal document for APEX to sign.

Cathi Orr stated that there is a wind map of the states with New York rated 15<sup>th</sup>, being a low to medium wind area so she is surprised that they are even here.

Steve Royce from Appleton spoke regarding Chapter 205 Zoning. It gives a definition of what is expected of a site plan in section F and he asks the board to make sure that section is reviewed. He noted the towers being painted orange and white, and pointed out that all accessory structure and towers should be painted a matte finish according to our code.

Don Stoll asked if the Town Board is taking APEX for face value or if we will hire our own meteorologist.

Bob Verheyen said the board should reject the applications and have them start over. He stated that he does not trust them and there are unanswered questions.

Kate Kramer stated that APEX keeps the information they have collected private. They will provide a report but not the data. She feels this is an imposition on our community and if we had the data we could have eliminated this. If APEX leaves, another company could come in and we would have to go through this again.

Jim Hoffman spoke of the sight issue. He said the ordinance was drafted so that we would not see the towers, but now with the bird issue and Mercy Flight they want to see them. Regarding the wind studies performed by AES, he asks why they studied two locations for three years and then never did anything. He also is concerned that the project is moving closer to the Village and wants them to stay away from populated areas.

Agnes LaPort said the only reason for more meteorological towers is for the project to move forward, but we don't want the project.

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Kate Kramer said the earlier project was done with shorter towers so they were not able to get as much wind. She feels this project keeps getting taller towers because they can get the wind.

On a motion of N. Jansen, seconded by G. Few, the following resolution was

ADOPTED	Ayes	4	Hotaling, Atwater, Few, Jansen
	Nays	0	
	Abstain	1	Czelusta

Resolved the public hearing remain open.

**APPROVAL OF MINUTES**

On a motion of N. Jansen, seconded by G. Few, the following resolution was

ADOPTED	Ayes	5	Hotaling, Atwater, Czelusta, Few, Jansen
	Nays	0	

Resolved the minutes of the March 3, 2016 meeting are approved as submitted.

**COMMUNICATIONS**

Chairman Hotaling stated that Code Enforcement Officer Remington inspected the tower on the Nellist property as requested at our previous meeting and he found no issues.

**SPECIAL USE PERMIT RENEWALS**

Clerk Carmer stated that she received a response NYSEG and they stated they would like another extension while they try to obtain funding. She stated that she received the Special Use Permit renewal from Joseph LaForest, but he did not respond to the letter requesting that he tell us his plans for cleaning up his property. Larry Perry did not return his permit but he is in conversation with the Assessor trying to determine what his property is zoned as he may not need a permit.

J. Hotaling requested to have Code Enforcement Officer Remington inspect the LaForest property and send him a letter.

J. Hotaling spoke with Lester Bontrager regarding a sign. Lester said that he does not need a sign.

On a motion of G. Few, seconded by C. Czelusta, the following resolution was

ADOPTED	Ayes	5	Hotaling, Atwater, Czelusta, Few, Jansen
	Nays	0	

Resolved the following Special Use Permits are renewed as per the terms of their permits:

1. DONOVAN ORCHARDS LLC – Cidery
2. MILLER, Johnny R. - J & Sons Woodcraft
3. NYSEG – Communications Tower

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There being no further business, N. Jansen moved to adjourn the meeting at 8:30PM, seconded by G. Few. Carried unanimously.

Respectfully submitted,

Tracy L. Carmer, RMC  
Town Clerk/Secretary