

**TOWN OF SOMERSET
PLANNING BOARD
September 4, 2014**

Present: Jon Hotaling
Brian Carmer
Chris Czelusta
Gary Few
Norman Jansen
Michael J. Norris, Counsel

Attended by: Councilman Alt, Code Enforcement Officer Remington, Dan Fitzgerald and Taylor of Niagara Renewables, and 10 residents

Notice of said meeting sent to the Lockport Union-Sun & Journal on August 19, 2014 with same notice being posted at the Town Hall on August 21, 2014.

LARRY G. NELLIST/NIAGARA RENEWABLES, LLC PUBLIC HEARING

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

Clerk Carmer read the Notice of Hearing and confirmed that all neighboring parties were notified.

Larry Nellist stated that he would like to have a meteorological tower erected on his property by Niagara Renewables, LLC.

Dan Fitzgerald of Niagara Renewables, LLC informed the board that it would be a 60m meteorological tower located in the Southeast corner of the Nellist property. It is a temporary tower in place from 4 – 10 years. The setback is greater than the tower height.

Norm Jansen asked if the tower will be removed when it's done.

Dan Fitzgerald stated yes.

Chris Czelusta is abstaining from this matter because he has had conversations about potential lease(s) with Mr. Fitzgerald's company.

Brian Carmer asked how the base is mounted.

Dan Fitzgerald stated the base is mounted to a small concrete foundation with two pins, and it has three guide wires.

Brian asked if there is a light on the tower.

Dan stated that there is not because it's below the threshold where a light is needed.

Attorney Norris asked what the threshold is.

Dan stated he is unsure.

Attorney Norris asked Mr. Fitzgerald to provide a letter from the FAA that a light is not needed and the Board would require this be a condition of the permit, if approved.

Chairman Hotaling asked if at the time of removal, will the concrete be removed and property returned to its original condition.

Dan stated yes.

Jim Hoffman inquired about the Short Environmental Assessment Form items #4 and #9.

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Dan Fitzgerald stated on question #4, that after the application was submitted it was determined that the property is directly across from a state park so that needs to be added to the application.

Jim asked on question #9, are there energy code requirements for this?

Dan stated he doesn't believe so.

Jim stated that he is not against the tower. He would like to know what guarantee the town has that the tower will be dismantled after the project is over.

Dan stated that he would be willing to obtain a bond if needed.

Attorney Norris stated that the Board would require this be condition of the permit, if approved.

Jim Atwater stated that he has no problems with it and would like them to hurry up with the project.

Chairman Hotaling stated that because it is within 500' of a state park it has to be referred to the County Planning Board first.

Attorney Norris announced that it is scheduled to be heard by the County Planning Board on September 15, 2014 at 2:00PM. Following County Planning Board review, our Planning Board could then act on it at our next meeting.

Attorney Norris asked if there are ATVs or snowmobiles that go through the property on a routine basis.

Larry Nellist stated not on that corner.

Attorney Norris asked if there will be any effect on drainage.

Dan stated that it shouldn't and is not in a flood plain.

Attorney Norris asked about visibility and if there will be some type of covering for people traveling through.

Dan advised that they mark the wires with marker balls. They will maintain it to make sure the marker balls remain there, and can do more if they discover that it is needed. On prior projects they have erected snow fence if cattle wander the area and could do that on this project if necessary.

Attorney Norris asked if the tower is climbable.

Dan stated that it's a pole structure so the only way to climb it is to shimmy up it.

Attorney Norris stated that he wanted to make sure that there isn't any lattice someone could climb.

Attorney Norris asked if there is access via a roadway or pathway.

Larry Nellist stated yes.

Dan Fitzgerald explained they will be using a pickup truck to get back there so they don't need to build a road.

Attorney Norris stated that the plans show the tower is about 250' from the property line. According to Town code, it should be placed with a setback 1.5 times the total height which would be 294'. However, if there are fellow participants on the bordering property lines, it's ok to have a lesser distance.

Dan stated that the tower can be moved to accommodate the setback in the Town code.

Attorney Norris asked if there will be any warning signs.

Dan advised that it's on Mr. Nellist's property and his family is aware of it and there will be warning marker balls on the wires.

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Attorney Norris asked if Mr. Fitzgerald could provide a visual assessment of how it would look from the road.

Dan stated that for a project of this magnitude, that would be a costly endeavor.

Attorney Norris recommends then that a visual assessment should not be required at this time by the Board as it is cost prohibitive and the Town is familiar with met towers as they have been present in the Town before.

Chairman Hotaling asked for a new site plan with the tower moved.

Dan stated that he will email the revised site plan to Attorney Norris and Clerk Carmer. With no one else desiring to be heard, Chairman Hotaling closed the hearing at 7:47PM.

NORMAN JANSEN AND ROBIN JANSEN SEQR REVIEW AND LAND DIVISION PUBLIC HEARING

Chairman Hotaling called the Public Hearing to order at 7:47PM.

Norman Jansen recused himself.

Clerk Carmer confirmed that all neighboring parties were notified.

Andrew Maier announced himself as the attorney for Mr. Atwater, the purchaser of part of the Jansen land. He stated that they are seeking subdivision approval to purchase the rear portion of the land for farming. The property would be divided from 93.1 acres to two parcels (one parcel of 2.98 acres with 295.78 frontage and 90.12 acres for agricultural purposes.) Both parcels would be in compliance with all zoning, and with a 30' right of way for the agricultural parcel which would then not be landlocked.

With no one else desiring to be heard, Chairman Hotaling closed the hearing at 7:52PM. Attorney Norris read Part II of the SEQR for the record.

REGUAR MEETING

Chairman Hotaling called the Regular meeting to order at 7:54PM.

ACTION ON SEQR REVIEW JANSEN PROPERTY

On a motion of G. Few, seconded by B. Carmer, the following resolution was

ADOPTED Ayes 4 Hotaling, Carmer, Czelusta, Few

Nays 0

Abstain 1 C. Czelusta

Resolved the Chairman is authorized to sign the SEQR EAF with the determination that this proposed action will not result in any adverse environmental impacts.

APPROVAL OF MINUTES

On a motion of B. Carmer, seconded by N. Jansen, the following resolution was

ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen

Nays 0

Resolved the minutes of the August 7, 2014 meeting are approved as submitted.

ACTION ON JANSEN PROPERTY SITE PLAN

On a motion of C. Czelusta, seconded by B. Carmer, the following resolution was

ADOPTED Ayes 4 Hotaling, Carmer, Czelusta, Few

Nays 0

Abstain 1 Jansen

Resolved the site plan for the Jansen property located at 1872 Johnson Creek Road (Tax map no. 18.00-1-41.11) is approved as submitted.

COMMUNICATION

Code Enforcement Officer monthly report for August received and filed.

ACTION ON METEOROLOGICAL TOWER AT NELLIST PROPERTY

On a motion of N. Jansen, seconded by B. Carmer, the following resolution was

ADOPTED Ayes 4 Hotaling, Carmer, Few, Jansen

Nays 0

Abstain 1 Czelusta

Resolved the Special Use Permit is tabled to allow the Niagara County Planning Board to review.

Attorney Norris read recommended conditions for the Special Use Permit that will be reviewed at the next meeting.

UPDATE ON SPECIAL USE PERMIT FOR A GREENHOUSE ON LOWER LAKE ROAD

Chairman Hotaling asked Code Enforcement Officer Remington to follow up on the greenhouse on Lower Lake Road. The Special Use Permit was not renewed this year and the homeowner was supposed to dismantle the greenhouse. The greenhouse has not been taken down yet.

LAKESHORE RESIDENTIAL ACCESSORY BUILDING REVIEW

The board reviewed a spreadsheet that was prepared listing all of the properties on the south side of the road in the lakeshore district that shows their lot sizes.

Attorney Norris distributed a revised proposed amendment. He stated that the changes he made were to remove the requirement for a concrete pad and to change the setback from the road to 100' from 75'.

Chairman Hotaling stated that Chris Czelusta's concern regarding the lots not being able to have a residence on them should be covered with the setback allowing for future building of a residence on the property.

Chairman Hotaling asked Brian Carmer if it changes his mind. Brian said no, he's still against it.

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Chairman Hotaling said that he has wrestled with this and he doesn't want the Town telling people they can't build on a piece of property.
Brian stated that there are restrictions around Town, like you can't have a trailer on a piece of property.

Chairman Hotaling also disagrees with the stipulation that the lot has to be sold with the property that has the principal residence.
Attorney Norris stated that there would be no one in the area to oversee the lot with the accessory building if the owner moves.

Norm Jansen outlined a scenario to confirm that you would have to tear down the accessory building if you sell.
Attorney Norris stated that he could modify the language so that if one were to sell the south land there could be a condition that a house would have to be built. Attorney Norris will further review and report back.

Chris Czelusta and Brian Carmer said that sounds reasonable but they are still against it.

PRIVILEGE OF THE FLOOR

Jim Ferington asked how many vacant properties are on the south side of the road in the lakeshore district.

Attorney Norris stated there are 31 vacant properties.

Jim Ferington asked if the sizes vary.

Chairman Hotaling said that most are similar sizes.

Attorney Norris stated that the lowest depth is 191.6' on vacant property. The width varies from 40' – 400'.

Discussion was held regarding which roads are considered Lakeshore Drive or Somerset Drive.

There being no further business, N. Jansen moved to adjourn the meeting at 8:15PM, seconded by G. Few. Carried unanimously.

Respectfully submitted,

Tracy L. Carmer, RMC
Town Clerk/Secretary