

Town of Allegany Planning Board

Meeting Minutes

September 10, 2012 at 7:00 PM
Senior Center, Birch Run Rd.

Present:

Frank DeFiore, Chairman
Peter Hellier
Rick Kavanagh
Helen Larson
John Sayegh

APPROVED October 15, 2012

Also Present:

John Hare, Town Supervisor; David Koebelin, Ed Allen, David O'Dell, Jim Hitchcock, Town Board members; Charles Malcomb, Esq.; Kate Day-Sager, Times Herald; Ben Brazell, EDR; Doug Ward, Esq., Young/Sommer LLC; Kevin Sheen, Everpower; David Britten, CRA; Carol Horowitz, Town Planner; Lynette Semsel, Secretary; Townspeople

Chairman DeFiore opened the meeting with the Pledge to the Flag at 7:05 PM and welcomed everyone for coming to the meeting. He then asked if there were any corrections or changes to the minutes of August 13, 2012.

Mr. Hellier made a motion to approve the minutes of the August 13, 2012 meeting. 2nd by Mrs. Larson. Ayes all. Carried.

Mr. DeFiore informed the board that they will take no action tonight on the Everpower request for change in turbine model as they have just received the documents from Everpower. He also stressed the fact that applicants wishing to address the Planning Board must request to be added to the agenda a minimum of two weeks prior to the meeting date.

Old Business

Allegany Wind, LLC – Request for change in turbine model

Mr. Sheen stated that, per the Board's request and per some refinements Everpower made, they have brought a packet that narrows the choices that were originally presented to two real choices. One would be a mixture of Nordex machines, the N100 that was approved and the N117 in certain instances and the other would be a Siemens turbine. They have dropped the third scenario from consideration.

Mr. Brazell stated there are two scenarios: Scenario 1 proposes a mixture of eleven N100 and eighteen N117 turbines for a total of 29 turbines. Scenario 2 proposes use of 26 Siemens S113 turbines which have a higher power rated capacity; therefore they would reduce the number of turbines by three. He said it is not uncommon for market availability to dictate the use of alternate turbines and this was anticipated in Section 2.1 of the DEIS allowing for alternate turbines of similar technology, size, appearance, operating characteristics and generating capacity. He then briefly gave a summary of the letter and the attachments in the packets that were presented to the board.

Mr. Ward said these changes were anticipated in the DEIS and the aim in this is to not only come out with the latest in technology but to choose those turbines that were similar in characteristics that would not create additional adverse impact. He feels that the impacts of both scenarios are either

less or the same as those approved. He further stated that if the impacts are the same or similar to those approved, then the Board does not have to look at this change under SEQR. He also stated that the change does not warrant any additional impact under the Board's existing permits, so it does not require any Board action except to note the change. He would like to go forward with making this change and requested to be placed on the agenda for the next Planning Board meeting.

Mr. DeFiore informed Everpower that the Planning Board will wait for CRA to review the information and present their findings before a meeting can be scheduled for the Board to ask any questions they might have.

Mr. Malcomb addressed Mr. Sheen and Mr. Ward stating the previous extension the Planning Board granted was for 90 days after the conclusion of the litigation. He asked them if their opinion was that the litigation was over since the Town of Allegany received an order back from the Fourth Department on September 8 that deemed the appeal has been dismissed. Mr. Ward stated he had not seen the document. Mr. Malcomb gave him a copy but Mr. Ward stated he is not prepared to give an opinion at this time.

Mr. Hellier asked if either Nordex or Siemens are American made. Mr. Sheen stated Nordex has a factory in Arkansas; he was unfamiliar with where the Siemens are manufactured.

Mr. Hare asked which three turbines are eliminated in the Siemens scenario. Mr. Sheen answered 1E, 8W and 9W.

Mr. Sayegh asked Mr. Sheen if they had installed the N117 in any other community. He said no; however, they have N100s up and running. Nordex has some N117s going up right now in Michigan.

Mr. Sayegh asked on what the comparison study of the N100 and the N117 was based. Mr. Brazell explained that all the analyses in the documents are based the manufacturer's guarantee of the numbers and then on actual data from the Allegany site.

Mrs. Horowitz told the assembly there will be a copy of EverPower's submittal available at the Town Clerk's office. Mr. DeFiore also stated the document will be posted on the Town's website within the next week.

Other Business

Status Updates: Bonaventure Square Final Plat

Mrs. Horowitz informed the Board that Kinley produced the final plat that met all the conditions of the Board's conditional approval, so the Chair was able to sign off on it. The final plat was signed and filed in Cattaraugus County. We have received the necessary copies. All the property is under St. Bonaventure. If they want to subdivide eventually, that would be a separate issue that would require Planning Board approval.

Status Updates: Walmart Plaza Automobile Sales Issue

Mrs. Horowitz, Mr. Hare, Mr. DeFiore and the Building and Zoning Inspector, Jerry Dzurhoff, recently met with Wendy Tuttle, the Town attorney on ways to handle the outside automobile sales in the Walmart/BJ's parking lot. One of the terms in allowing the Walmart expansion was the fact that, due to the limited number of parking spaces, no tent sales would be allowed in their parking lot. No such restriction was ever put on the parking area around BJ's. However, the automobile sales are not related to the businesses in the Wal-Mart plaza, so they are a separate use that requires a special use permit. For DDR to allow automobile or other sales in the Walmart parking lot, they have to apply for a special use permit before the Planning Board. It would then be up to the Planning Board to

decide whether or not it would be appropriate. This would allow the Town the ability to either approve or deny or approve with some sort of conditions that could set limitations on time of year, how long, etc. It would also mean the property owner would be getting the special use permit and not an outside company just getting a hawking and peddling permit. This would allow for some accountability.

Change of next meeting date: Due to the Columbus Day holiday, the next meeting was moved to the first Monday; however, Mr. DeFiore will be out of the state. The decision was made to schedule the next regular Board meeting for October 15, 2012.

Zoning Ordinance Update

The Planning Board continued working on Schedule A of the Zoning Ordinance. The decision was made to have extra meetings in the next few months to work on the ordinance. Meetings were scheduled for October 24 and November 14 at 7:00 P.M. in the Town Hall.

Mr. Hellier made a motion to adjourn. 2nd by Mr. Kavanagh. Ayes all. Carried.

The meeting was adjourned at 9: 05 PM

Respectfully submitted,



Lynette Semsel
Secretary