

TOWN OF LOCKPORT
PLANNING BOARD
August 16, 2016

PRESENT: Morris Wingard
Marie Bindeman
Robert Langdon
Thomas Grzebinski
Adam Tyson
Richard Forsey, Chairman
Tyler Ray, Appointed Alternate

ABSENT: Rodney Conrad

ALSO PRESENT: Brian Belson, Senior Building Inspector
Robert Klavoon, Town Planner
Jane Trombley, Secretary
Michael Norris, Town Attorney

The August 16, 2016 Town of Lockport Planning Board meeting was called to order at 7:00 by Chairman Forsey, who then led the Pledge of Allegiance.

Chairman Forsey appointed Alternate Ray a full voting member due to the absence of Member Conrad.

MOTION made by Member Langdon, seconded by Member Bindeman to approve the July 19, 2016 minutes. 7 Ayes, 0 Nays, Carried.

CASE #1 7120 Akron Road – SBL#124.03-2-77 – James Williams – Owner. Proposing a wind turbine. Special Use Permit required. Tyler Palmer of Unted Wind presenting. Mr. Palmer stated there will be a 153' tower, turbine and the wire will run underground, producing power only for the owner.

Chairman Forsey opened the Public Hearing.

Kenneth Horvath of 6484 Bartz Road stated he is here to support the wind turbine, as this is only the second one in the Town and the first one was built around 2015. Mr. Horvath stated he also has green energy (solar) and feels the owners will learn a lot about the sun, wind, etc. as he has. Mr. Horvath believes he has met the owner of the property and he is a gentleman around his own age that is doing it as he did, for the grandchildren, using clean energy. Mr. Horvath stated the neighbors might even enjoy seeing how fast the wind is blowing and the direction the wind is coming from.

Hearing no further comments, Chairman Forsey closed the Public Hearing.

Senior Building Inspector Belson stated he had received a letter from Mercy Flight asking that a red light be put on top of the tower, as it will be in their flight pattern. Letter received as "Exhibit A".

Attorney Norris reviewed Part II of SEQRA, all with no or small impact. Part III of SEQRA was also reviewed and will not result in any adverse impact.

MOTION made by Member Langdon, seconded by Member Wingard to approve the following SEQRA resolution and issue a negative SEQRA resolution for 7120 Akron Road. 7 Ayes, 0 Nays, Carried.

James Williams
7120 Akron Road, Town of Lockport

SEQR Resolution

Whereas, the applicant have submitted complete applications for a Special Use Permit and Site Plan approval for the construction and placement of a noncommercial wind energy conversion system at 7120 Akron Road, Town of Lockport; and

Whereas, the Lockport Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed Noncommercial Wind Energy Conversion project, an unlisted action, will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations, based on information provided by the applicant, and completion of Parts 1, 2 and 3 of the EAF;

Now, Therefore, Be It Resolved, that the Lockport Planning Board hereby determines that the said proposed noncommercial wind energy conversion system is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and the Planning Board chairman is authorized to sign the EAF.

7 Ayes, 0 Nays, Carried.

Attorney Norris reviewed the Special Use Permit and Member Grzebinski asked if the Town has the legal right to remove the tower if it is in disrepair, and what if the owner wanted to replace it. Attorney Norris stated the owner would be given written notice and be entitled to a hearing. Member Grzebinski asked what happens after the 20 year contract. Mr. Perry stated the company does maintenance and upkeep with the 20 year contract and after the 20 years, they offer continued service.

Member Bindeman asked if the neighbors are aware. Senior Building Inspector Belson stated the notice was in the paper.

Member Wingard asked what maintenance includes. Mr. Palmer stated inspections that are spaced out, changing a fuse, bolts, that type of thing.

MOTION made by Member Grzebinski, seconded by Member Bindeman to adopt the Findings below and grant the Special Use Permit with the following conditions:

STATE OF NEW YORK TOWN OF LOCKPORT
COUNTY OF NIAGARA PLANNING BOARD

In the Matter of the Application of
JAMES WILLIAMS

DECISION

For a **Special Use Permit** to construct and operate a noncommercial wind conversion system

Location of Property: 7120 Akron Road
Lockport, NY 14094
County of Niagara
State of New York
SBL: 124.03-2-77

Applicant has made an application for a Special Use Permit to construct a noncommercial wind conversion system.

A Public Hearing having been held on August 16, 2016, after hearing from the Applicant, and after considering the comments of all persons who wished to be heard;

NOW, the Findings attached hereto are hereby **ADOPTED** by this Board; and

FURTHER, this Special Use Permit is hereby **GRANTED**, contingent upon the following conditions:

1. The placement and construction of the Wind Energy Conversion System must follow the specifications and engineering plans submitted as part of this application. Any modifications to the specifications and plans will require approval of this Board.
2. No advertising sign or logo shall be placed or painted on the turbine, except the small manufacturer logo.
3. Proper safety shutdowns with both manual and automatic shutdown disconnect switches shall be provided and clearly marked on the turbine structure.
4. Exterior lighting on said structure said not be permitted except as is specifically required by the Federal Aviation Administration or as required or suggested by Mercy Flight's email dated August 11, 2016 (and made part of this record of proceeding).
5. The wind turbine shall be painted a nonobtrusive color (light environmental color such as white, gray or beige)
6. Grounding of structure shall be in compliance with the applicable electrical code.
7. Appropriate warning signage shall be placed on wind turbine and electrical equipment. Signage shall also include one twenty four hour emergency contact number of the owner of the wind turbine as well as signage warning of electrical shock or high voltage and harm from revolving machinery.
8. The Wind turbine shall not be climbable up to 15 feet above ground level.

9. The Town can deem the turbine inoperable if it has not generated power within the preceding six months or is in serious disrepair and if deemed inoperable, then the Town may tear the turbine down with written notice to the property owner and the cost of tearing said turbine down shall be borne by the property owner and levied against their taxes.
10. Compliance with procedures as established by the Federal Regulatory Commission, NYS Public Service Commission and Federal Aviation Administration, as applicable.
11. All certifications as required by Town Code Section 200-193(R) must be submitted.
12. Final Inspection conducted by the Code Enforcement Officer in conjunction with the Town Engineer to insure compliance with all manufacturers' specifications, the New York State Uniform Construction Code and erosion control standards.
13. This Special Use Permit is subject to the applicant receiving an area variance from the Town of Lockport Zoning Board of Appeals regarding its placement nears the owner's barns.

TOWN OF Lockport planning board Special Use permit FINDINGS

TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK

Pursuant to Article XIX, Special Use Permits, §200-137, Findings required in the Town of Lockport Zoning Law, the Town of Lockport Planning Board has issued the following findings in regards to the special use permit for the below referenced project.

Date of Approval:

August 16, 2016

Name of Action:

Williams Non-commercial WECS Project

Description of Action:

The applicant wishes to construct a 153 foot tall non-commercial wind turbine on his agricultural/residential property.

Location:

The subject property is located at 7120 Akron Road.

Agency Jurisdiction:

The Planning Board has jurisdiction over the special use permit and site plan approvals for non-commercial wind turbines.

Applicability:

The following represents the findings required for the issuance of a special use permit in accordance with §200-137 of Chapter 200, "Zoning and Land Use Law" of the Town of Lockport. These Findings

are based on the information submitted by the applicant (including draft findings- attached), input from the Town staff and consultant, and a thorough review by the Planning Board:

- A. **Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.**

Findings:

The Planning Board and applicant have worked together to achieve a site plan that best works for this site and adjoining uses. Based on the final site plan created by Fisher Associates, and the Planning Board's discussion of these issues, the Planning Board has found that the proposal complies (except as noted) with the provisions and requirements of this and other local laws and regulations and is in harmony with the purposes of the AR Zoning district.

- B. **Will not be detrimental to adjacent uses.**

Findings:

proposed project is suitable for the property on which it is proposed, as the site is suitably sized for the project and is compatible with the existing agricultural nature of the area.

- C. **Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition and will have appropriate parking and be accessible to fire, police, and other emergency vehicles.**

Findings:

The proposed project is not expected to cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads. No new driveways are proposed. The overall site will be accessible to fire, police, and other emergency vehicles through the existing driveway.

- D. **Will not overload any public water, drainage, sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.**

Findings:

The proposed project will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem. The project will not connect into existing water and sewer systems.

- E. **Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads, and its existing and proposed use.**

Findings:

The proposed project is suitable for the property on which it is proposed, as the site is suitably sized for the project and is compatible with the existing agricultural nature of the area.

- F. **Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and will satisfy the general land use performance standards of this Law.**

Findings:

The project will not result in excessive noise, dust, odors, solid waste, or glare and will satisfy the general land use performance standards of the Zoning Law.

- G. **Will not adversely affect the aesthetics of the premises and adjacent properties and the neighborhoods.**

Findings:

The project will not adversely affect the aesthetics of the site or adjacent properties and neighborhoods. The site currently has existing agricultural uses and the wind turbine will be located towards the back of the site away from other residential uses.

- H. **Will not cause the site to be unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians.**

Findings:

The project will not result in the site being unduly congested, unattractive to visitors, or unfriendly to pedestrians (it should be noted that pedestrians will not be accommodated on the site).

Summary of Findings:

The Town of Lockport finds that the applicant has submitted substantial evidence to support the issuance of a special use permit for the Williams non-commercial WECS project. After thorough review of the documentation provided by the applicant, the Planning Board feels they have sufficient information to make an informed determination regarding the issuance of the special use permit.

It is the Findings of this Board that the Williams non-commercial WECS project does not pose any significant adverse impact to the general public health, safety, and welfare. As such, the Board has determined that the special use permit shall be granted.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Bindeman, seconded by Member Ray to approve the following site plan resolution:

James Williams
7120 Akron Road, Town of Lockport

SITE PLAN REVIEW RESOLUTION
Planning Board

August 16, 2016

Page 7

Whereas, the Planning Board and its consultant have reviewed the Noncommercial Wind Energy Conversion system project against the Town's Site Plan requirements found in Article XVIII and 200-192(C) of Article XXVII, and found the project in accordance with these requirements, and based on this review have not noted any potential public health and safety issues, and

Whereas, in accordance with the State Environmental Quality Review Act, the Planning Board has issued a Negative Declaration, and

Resolved, that the Town of Lockport Planning Board approves the Site Plan, in accordance with Article XVIII and 200-192(C) of Article XXVII of the Code of the Town of Lockport, for the Williams Noncommercial Wind Energy Conversion System project at the proposed location with the following conditions:

1. All conditions of the Special Use Permit shall be adhered to; and
2. Site plan is also subject to the applicant receiving an area variance from the Town of Lockport Zoning Board of Appeals regarding its placement nears the owner's barns.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Langdon, seconded by Member Wingard to adjourn. 7 Ayes, 0 Nays, Carried.