

TOWN OF GREENFIELD

ZONING BOARD OF APPEALS

SEPTEMBER 5, 2006

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Taylor Conard at 7:30 p.m. On roll call the following members are present: Taylor Conard, Michelle Granger, Paul Lunde, Kevin Veitch, Stanley Weeks and Stefan Strakos, Alternate. Gerry McKenna, Zoning Administrator, is present.

JULY 5, 2006 MINUTES:

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of July 5, 2006 as submitted.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

AUGUST 1, 2006 MINUTES:

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of August 1, 2006 as submitted.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

NEW BUSINESS

TIMOTHY & KATHY MONICA – Temporary Use Variance, Case #767

North Greenfield Road

Timothy & Kathy Monica are present. M. Granger asks if there will be any additional variances needed and asks if the applicants have purchased the property. K. Monica states that they will not need other variances and that the closing should be very soon. They have bids for the engineered septic, estimate for the well and they have picked out the house plans which should be ordered by the end of next week. S. Weeks asks that the description section of the SEQRA form be completed.

RESOLUTION – T. & K. Monica, Temporary Use Variance

MOTION: K. Veitch

SECOND: P. Lunde

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RESOLVED, that the Zoning Board of Appeals accepts the application of Timothy & Kathy Monica for a Temporary Use Variance for property located at 123 North Greenfield Road, TM#124.-2-8.6 and sets a public hearing for October 3, 2006 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks
Noes: None

STEPHEN SMERO – Area Variance, Case #768

Route 9N

Stephen Smero is present. T. Conard reviews that this is a request for area variances for buffers. G. McKenna states that since there is to be a change of use of the building requiring a Special Use Permit, it requires the building to meet these buffers or get variances. G. McKenna explains that because this is a corner lot, the left side is the property line off of South Greenfield Road and the right side is the property line off of Route 9N. Discussion takes place that the property will be much better than it was.

RESOLUTION – S. Smero, Area Variances

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Stephen Smero for Area Variances for property located at 3100 Route 9N, TM#138.01-2-25 and sets a public hearing for October 3, 2006 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks
Noes: None

JAMA PEACOCK-BIRSETT, GREENFIELD COUNTRY MEDICAL – Area Variances, Case#769

Route 9N

Jama Peacock-Birsett is present and T. Conard reviews that this is a request for area variances for signage. The application is requesting a 5 square foot variance for one sign, a 2 square foot variance for a second sign and a variance to have a third sign. T. Conard asks for clarification of the location of the freestanding sign. J. Peacock-Birsett explains that it will be in the grassy area on the Route 9N side. P. Lunde explains that the ZBA is to give an applicant the least amount of variance necessary and that 2 signs are fine, but three is pushing it. J. Peacock states that the object of the 3rd sign was to be visible to people coming north on Route 9N from Saratoga and that P. Gargan had suggested that she apply for the third sign since she was applying for the other variances. She states that the signs will be done by Barney's, who did the signs for the Greenfield Town Hall, so that they will be very nice signs. G. McKenna states that the third sign is because the freestanding sign is actually facing Route 9N and will not be as visible.

RESOLUTION – J. Peacock-Birsett, Area Variances

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Jama Peacock-Birsett, Greenfield Country Medical, for Area Variances for property located at 3100 Route 9N, TM#138.01-2-25 and sets a public hearing for October 3, 2006 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks
Noes: None

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OLD BUSINESS

KEN BRIELL – Area Variance, Case #765

Forest Road

Ken Briell is present.

A public hearing is reopened at 7:41 p.m. There being no public comment, this public hearing is closed at 7:42 p.m.

T. Conard reviews that this is a request for area variances to put an addition on an existing structure. He states that under the new zoning, applicants in the Lake Desolation area will be asked to verify their septic systems. K. Briell has provided a statement from B. Bradley regarding the septic system and a water test. K. Briell states that he also owns the property next door on which there is a pre-existing cottage. M. Granger states that she did visit the property and that there will not be any adverse environmental impact or adverse impact on the surrounding neighborhood.

RESOLUTION – K. Briell, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants Area Variances to Ken Briell for property located on Forest Road, TM#135.7-6-5 as follows:

- **33.5 foot left side yard setback variance**
- **3 foot rear yard variance**

This variance is based on the following criteria:

- **No undesirable change to the neighborhood character or nearby properties**
- **No adverse physical environmental effects**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks
Noes: None

DARREN & LISA TRACY – Area Variance, Case #766

Daniels Road

Darren Tracy is present. T. Conard explains that the applicant is seeking at 65' height variance for a wind turbine.

A public hearing is reopened at 7:46 p.m. Bob Hyndman, Denton Road and President of the Putnam Brook Civic Association, states that a year ago the residents of the area opposed the proposal for Skidmore College lights on the playing fields, mainly based on the height variance required. He states that this would be the same principle here. This would be an additional 30' to 40' higher than the proposed lights. He states that it is his understanding that there is no public benefit, it is strictly private use, that it is an experiment and they are not sure it will work. It could end up a large piece of sculpture. With Airtricity looking to come into the community, some of the technology isn't so new, they had to put up a test tower and that the Town Council actually had to vote to change something to allow the test tower. It would seem to him that even if something like this were to go forward a lot more site planning needs to be done and probably a different panel would have to look at this. Maybe this isn't even the appropriate committee to be authorizing a

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variance for this. He states that he is opposed to this variance. Paul Bouchard, Denton Road, states that he and his wife had previously submitted letters in opposition and states that there are other alternative energy projects that could be put in without disrupting the community. He states that he is uncomfortable with this. T. Conard states that a letter was received from Peter and Tami Cohan in favor of the variance. There being no further public comment, this public hearing is closed at 7:50 p.m.

P. Lunde asks how tall the National Grid lines are. D. Tracy states that there are two sets, one of which is about 80'. T. Conard asks if the 100' includes the blades. D. Tracy states that the 100' is the tower and the blades are 10'. T. Conard states that this would then be for a 75' variance. S. Weeks asks if anything has been done about measuring wind speed in this area. D. Tracy states that he contacted a consultant suggested by NYSERDA and they have mapped out wind speed. S. Strakos asks if he was given anything. D. Tracy states that he has the website and communication from NYSERDA. P. Lunde asks how much the efficiency drops at less than 100'. D. Tracy states that he does not have a specific amount. He contacted the manufacturer and they suggested that the 100' is the most popular. T. Conard states that while he is in favor of weaning ourselves off oil, but his concern is the aesthetics and the height. This is going to be visible for quite a way particularly coming from Route 9 and the further away from Daniels Road you are. He states that the Board has been very strict, historically, on the Skidmore lights; Prestwick Chase's water tower was not allowed to be over 35'; and he is concerned that while he thinks it is a very nice, noble idea, we might be opening up a Pandora's Box. He states that a wind farm can supply electricity which benefit's everyone. What happens with an individual unit is that it mostly only supplies a single house and to be efficient you have to have a number of them around town in order to work. That is when the community gets the benefit. He does not know if we want such a hodge podge of development of tall towers all around town. He looks at a wind farm differently than the individual things that would affect residential neighborhoods. D. Tracy states that he respects the public's opinion, but this is different than the Skidmore lights. At night the lights would be seen, but at night this would not be seen. Airtricity is 1000 times greater scale. He states that this is not an experiment; it is a program that is developed by NYSERDA. P. Lunde asks what the lifetime usage is. D. Tracy states 30 or 40 years. P. Lunde states that he has no problem with this being the same height as the power lines that go through the applicant's property. G. McKenna states that he believes this would also need a use variance as this use is not allowed. P. Lund asks how this would be different from solar panels. G. McKenna states that the Town had to change the code to allow Airtricity to put in a data collection tower. P. Lunde asks if we need to find out the difference before acting on this. G. McKenna states that an interpretation could be done, but the ZBA would be making the decision. T. Conard states that it might be a moot point depending on how the Board acts on this application. D. Tracy states that this will function the same as solar panels. K. Veitch states that the applicant needs to ask himself if this is an alternative for him. He states that anyone who is trying to do anything to conserve energy or reduce the use, even on a personal level, is a good thing. The applicant has an alternative and he is hoping that the applicant is thinking in that way. If this doesn't work, he has an alternative with the solar panels. Regarding visual impact, you can say you have a visual impact, but he would like to see it. The applicant lives on a property pretty much surrounded by trees. How much from the road front to the location are we going to see shooting up over the trees? D. Tracy states that you would see about 20'. When you drive down Daniels, Denton, or any of those roads, you can see the power lines and the highest are 80'. M. Granger states that part of what Airtricity has to do is go through and visually document what the impact is from various locations throughout the county. She states that is a legitimate question to have asked in terms of where people are going to see it. She has a concern as well that the applicant may be opening a Pandora's Box. She is not sure that the Town has actually addressed, and the people have had an opportunity to express, where do we go from here. She agrees that you would not see this at night, but during the day you see the structures and have a visual impact. P. Lunde states that if we were to grant that the height variance be the same as the National Grid wires, it would not be opening a Pandora's Box because this piece of property has that and another may not, and we are giving something that is already there anyways. S. Weeks asks if the applicant was given a prediction on the output with a wind speed of only 10 mph. D. Tracy states 3000-kilowatt hours per year at 10 mph. S. Weeks states that does not seem right and does not believe that the applicant was given correct information. T. Conard states that he has a concern, even with an 80' tower, because once you establish such

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a change in height for such a use, whether it is near power lines or not, you are opening up the chance that two others are going to want one too. S. Weeks asks if the Code Enforcement Officer's opinion is that this requires a Use Variance, how does the Board deal with that? T. Conard suggests that the Board vote on the Area Variance first, if that passes then the Board can look into the Use Variance problem, if it doesn't it is a moot point. G. McKenna states that the Use Variance question would be as an interpretation request. T. Conard explains the process. K. Veitch asks if we really should vote on this if we are going to look into the other? T. Conard reiterates his point is that if the area variance is not going to pass, are we going to put the applicant through the time and expense? K. Veitch explains to the applicant that if this is denied, he cannot reapply for 1 year and that the study of the wind farm could take a couple of years to determine whether or not they are going to even want to put something up there and then apply. The applicant could have a better argument after that. D. Tracy asks if he is denied for the 100', does that mean that he cannot come back and ask for 80'. G. McKenna explains that the code states that something would have to substantially change. D. Tracy states that he is not opposed to changing his request to 80'. S. Weeks asks how the trees will affect this. D. Tracy states that he can live with that. P. Lunde states that a stipulation could be made in the resolution that this is granted because of the power lines. M. Granger asks if he has looked into other alternatives. D. Tracy states that he will also be installing solar panels. M. Granger asks if with the solar panels the applicant could not meet the need. K. Veitch states that there could be a lot of impacts and could be a change to the character of the neighborhood. M. Granger states that she believes it is a substantial variance and that the benefit can be achieved by other means. S. Weeks states that he is uneasy with the Town not having taken any position on this type of device, and if this type of technology is something we would like to encourage. K. Veitch states that he does not like to compare this with Skidmore as there were other issues of traffic, the activities going on, etc. This is totally different, other than the visual impacts. M. Granger states that if this is a use variance, and the Town is looking at making changes to the zoning, then there are certain procedures that need to be followed and a public hearing would need to be held, etc. She is concerned that although we are looking at this within the context of an area variance, that we are facing a larger decision for the Town of Greenfield as a whole because of the uniqueness of this. She states that she does feel that this is substantial, there are other means available to the applicant and she thinks it can have an undesirable change in the character of the surrounding neighborhood.

RESOLUTION – Darren Tracy, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals denies the request for a 100' Area Variance for a wind turbine to Darren Tracy for property located at 235 Daniels Road, TM#152.-1-12.2.

Discussion takes place to send a request to the Town Board to either put a committee together or somehow look into this subject. S. Weeks suggests that the applicant could also approach them. If the municipality makes a recommendation as to how this is to be approached within our community, M. Granger states that she would recognize that as a substantial change. K. Veitch states that direction from the Town Attorney would be helpful in determining what 'substantial' is for both the Board and the applicant. If the applicant wants to come back with a lesser proposal, he needs some direction on what is considered 'substantial'.

VOTE: Ayes: Conard, Granger, Veitch, Weeks

Noes: Lunde

T. Conard states that we should send a note to the Town Board asking for an interpretation, policy or direction that the community would like to take in regard to such things as wind towers. D. Tracy states that would be helpful since you have a big State agency like NYSERDA who is willing to pay for half of this. K. Veitch states that when dealing with NYSERDA, it would be helpful to hear how municipalities where these things have been approved have dealt with this. Did they have to make policy changes, administrative changes, etc. D. Tracy states that the website states that interested parties need to check with their individual towns to see what the policies are. G. McKenna suggests that the applicant check with other towns would

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also be helpful. K. Veitch suggests that the applicant might want to speak with the Town Supervisor and he could get information from other Supervisor's. P. Bouchard addresses the Board and states that while he appreciates the Board's stance, the people who wrote letters and spoke at the public hearing opposing this were doing so based on the application. After the Board closes the public hearing, then the proposal changes and the public does not have the chance to comment on the new proposal. T. Conard states that the Board did not change the proposal. What they do is try to give the minimum amount of variance, so if 80' had been acceptable to the Board, the Board actually talked the applicant down. This is done all the time. We are not changing the proposal, we are reducing the variance. He uses other examples for area variances. P. Bouchard states that 80' height for the communities good and 90' for the private good seems like apples and oranges. T. Conard states that the application was denied, the Board talks to the individuals and determines whether the variance can be reduced and makes a decision after negotiating. He states that the Town should make a policy on this because it is something that will come up more frequently. B. Hyndman suggests that it might be worth adding to the letter to the Town Board for them to consider how to deal with other forms of energy generation such as wood furnaces. The Town needs to look at adopting regs for all of these things. T. Conard states that there are currently no regs for wood furnaces and that the State is looking at this. G. McKenna states that the Town may adopt the States regs. P. Lunde states that this is similar to what was done with cell towers – the Town cannot stop a cell tower's construction, but can limit locations. D. Tracy states that even though the project is for the individual, in the bigger picture it is for everyone.

Meeting adjourned 8:27 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary