

Hamlin Zoning Board of Appeals *Minutes*
Monday, May 18, 2009
7:30pm

The regular scheduled meeting of the Hamlin Zoning Board of Appeals was held in the Hamlin Town Hall located at 1658 Lake Road, Hamlin and was called to order by Chairman Norman Baase at 7:30pm with the location of the fire exits and AED explained for those present.

Present: Norman Baase, Rocky Ellsworth, Ed Haight, Jerry Hoffman and Klaus Pohl.

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Town Board member Dave Rose, Planning Board members Tom Jensen and Mark Reeves and Conservation Board members Jeanine Klopp, Nick Kramer and Ed Evans, Engineer Dave Matt and residents Paul and Dot Lapinski, Mike and Debra Lester, Ken Schlecht, Pam and Jim Nesbitt, Ray and Lisa O'Dell and Kevin Klees.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to approve the minutes of the April 20, 2009 meeting as recorded. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to approve the minutes of the April 27, 2009 special meeting as recorded. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

The Clerk showed Proof of Publication

PUBLIC HEARING

**BRAD SMITH
11 WALKER LAKE ONTARIO RD.**

Brad Smith was present seeking relief from Town Codes 125-40A(2) for a 5' side setback variance and 125-40A(2) for constructing a pool in front of the rear foundation line of the principle structure and relief from Town Code 42-10B to install an inground pool in the Structural Hazard Area located at 11 Walker Lake Ontario Road. Mr. Smith explained that he would like to install an inground pool on the west side of his house. The pool would be 14' x 32'. Chairman Norman Baase asked where the leach field was located. Mr. Smith stated it was in the back of the house.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal. There were no replies.

Chairman Norman Baase closed the Public Hearing.

Ed Haight asked how deep the pool would be. Mr. Smith stated it would be 6' deep.

Chairman Norman Baase asked about the installation of the pool. Mr. Smith stated that the installer doesn't have any concerns with the location of the pool. It will have a concrete wall with a liner so it shouldn't pop.

A motion was made by Ed Haight, seconded by Klaus Pohl to grant relief of Town Codes 125-40A(2) for a 5' side setback variance and 125-40A(2) for constructing a pool in front of the rear foundation line of the principle structure to Brad Smith for an inground pool located at 11 Walker Lake Ontario Road. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to grant relief to Brad Smith from Town Code 42-10B for construction of an inground pool to be built in a coastal erosion hazard area and a structural hazard area located at 11 Walker Lake Ontario Road. This is a pre-existing lot. No reasonable other site is available. All reasonable means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activities design at the property owners' expense. The development will be made safe from flood and erosion damage. This is the minimum to provide relief. No formal complaints have been filed from the neighbors. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

KEN AND MARY JO SCHLECHT 7146 TUCKER LANE

Dave Matt from Schultz Associates was present representing Mr. and Mrs. Schlecht seeking relief from Town Code 42-10 for building in a Coastal Erosion Hazard Area and Structural Hazard Area and Town Code 125-34D(1)(15) for building a septic within 150' of a wetland buffer and the Town of Hamlin Conservation Overlay District to construct a single family house located at 7146 Tucker Lane. Mr. Matt explained that the owners are proposing to build a single-family house on a private drive located in the Structural Hazard Area. The septic system will be within the 150' buffer of a wetland so variances are needed. A gabion wall along the lakefront is being proposed for erosion control. A raised bed system with a treatment plant is being proposed. There will be a maintenance agreement on the treatment system.

Chairman Norman Baase asked how far the house would be from the gabions. Mr. Matt stated the house would be about 35'-40' behind the gabions.

Ed Haight asked when the lot was subdivided. Mr. Matt stated that he thought it was some time around 1977-1981.

Chairman Norman Baase questioned how far into the Conservation Overlay District the house would be. Mr. Matt stated that the 100' line goes through the middle of the house and is shown on the map.

Concerns with the road were discussed. It was determined that they were Planning Board issues and should be addressed the Planning Board. Mr. Matt stated that he met with the Fire Chief and he would like the house to have a sprinkler system and asked that some trees be trimmed back but he had no issue with getting a fire truck back to the location.

Conservation Board member Jeanine Klopp asked how far from the leach field the wetlands would be. Mr. Matt stated about 30'-40' from the wetland. Jeanine questioned the 150' variance. It was explained that there is a 150' buffer zone and the variance would be for having the septic system within that 150' buffer zone. Jeanine asked what type of septic system was being proposed. Mr. Matt stated it would be a home treatment plant. A multi flow system would be used. It was explained that the treatment plant would replace the septic tank. The system treats about 500 gallons a day.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal. There were no replies.

At this time Chairman Norman Baase closed the Public Hearing.

Chairman Baase stated that these variances are typical for ones issued along the lakeshore.

Ed Haight questioned moving the house to the south. Mr. Matt stated that it would be even closer to the wetland and the elevation drops the farther back on the lot you go.

The size of the house was questioned. Mr. Matt stated a 1500 sq. ft. house is being proposed.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to grant relief from Town Code 125-34D(1)(15) for building a septic system within 150' of a wetland for Mr. and Mrs. Schlecht to construct a single family house located at 7146 Tucker Lane. This is a Type II SEQR determination. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to grant relief to Mr. and Mrs. Schlecht from Town Code 42-10B for construction of a dwelling to be built in a coastal erosion hazard area and a structural hazard area located at 7146 Tucker Lane. This is a pre-existing lot. No reasonable other site is available. All reasonable means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activities design at the property owners' expense. The development will be made safe from flood and erosion damage. This is the minimum to provide relief. No formal complaints have been filed from the neighbors. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

RAY AND LISA O'DELL 140 WESTPHAL DRIVE

Ray and Lisa O'Dell were present seeking relief from Town Code 125-45A(3) for a 30' height variance to construct an 80' wind tower on his property located at 140 Westphal Drive. Mr. O'Dell explained that he is a Certified Energy Manager and he has worked with the utilities and the DEC. They have done extensive research on wind towers. They selected a smaller certified unit with 12' blades for their personal residential use. The tower is custom designed. They investigated the negative results for this model and found little or no concern with bird kill, sound, shadow flicker, property values or with operation issues with this unit. They found this unit to economically meet their criteria plus it has no negative effects. Mr. O'Dell stated that they have spent a lot of time and energy researching this model. The height of the tower will be 70'. With the blades it will be about 76'. This is a rapid movement turbine produced by Sky Stream Turbine. Mr. O'Dell stated that you wouldn't even see the blades moving.

Attorney Welch questioned if the results from all of the studies had been provided in his packet. Mr. O'Dell stated yes that they were all in the packet.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone to speak for or against this proposal.

Jim Nesbitt of 3952 Brick Schoolhouse Road asked if the Site Plan was going to the Planning Board for approval. Attorney Welch stated that per the code Site Plan approval is not required. Mr. Nesbitt questioned the distance the tower would be from the lot line. Mr. O'Dell stated that the code requires 1 ½ the height of the tower however he will be in further than that from his lot line. Mr. O'Dell stated that his property has been recently surveyed and they are well aware of the code requirements. Mr. O'Dell stated that his lot is 5.3 acres.

Kevin Klees of 7310 Sandy Shore Drive asked to look at a map to see the location of the tower. He questioned if granting this variance would set a new standard for wind tower height. Attorney Welch stated that each application is based on individual circumstances. Mr. Klees stated that he is formally opposed to the tower. He travels the parkway and it will be visible from the parkway. He also questioned the economic benefits. Mr. O'Dell stated that he has several mature trees on his lot so the tower won't be visible and the tower paired with the heat pump is very economically beneficial.

Paul Lapinski of 417 Redman Road questioned what role the DEC plays in this. Mr. O'Dell stated that the tower is not located in a wildlife area or wetland area. This tower is made for residential applications.

Mike Lester of 4308 Roosevelt Highway stated that he is neighbor of Mike Cardillo the second tower and he is located next to Sandy Creek. Mr. O'Dell explained that both properties are located near Sandy Creek but are outside of the protected area. Mr. Lester stated that he is concerned with property values decreasing due to the tower and his main concern was for his family's safety. Mr. O'Dell stated that he has done a lot of research and he is considerate of his neighbors and the studies show that the tower will not have an impact on property values. Mr. Lester stated that he has never even seen anything on the tower until he received the notice in the mail a week ago. The Board asked that since his concerns were with the tower located at 4332 Roosevelt Highway that he waits until that Public Hearing to comment.

Mrs. O'Dell stated that the power produced is going to be available online for everyone to see. She stated that the grants won't be available forever and without them the towers wouldn't be feasible. They would be too expensive to install.

Paul Lapinski of 417 Redman Road questioned if the flicker research was for the tower Mr. O'Dell was proposing. Mr. O'Dell stated yes they are included in the packet along with general studies for residential towers. Mrs. O'Dell stated that there are no flicker effects with the smaller towers.

Anthony Callari of 676 Cook Road questioned why an 80' tower. Mr. O'Dell explained that it would not be economically beneficial to install a smaller tower. The optimum height is 70' for the tower. Mr. Callari had some concerns with property values. Mr. O'Dell stated that the last page of his packet has a study on property values and there was no impact due to towers. Mr. Callari stated that in his opinion the towers decrease the marketability of homes. It may take them longer to sell.

Mark Reeves of 3640 Brick Schoolhouse Road stated that he downloaded off the Internet a report on acceptable wind towers and an 80' tower is listed. Mr. O'Dell stated that NYS doesn't have data on towers less than 80'. He explained that he is using kilowatts not height. Mr. Reeves questioned the chart information. Mr. O'Dell stated that the chart is using height not kilowatts. Mr. Reeves questioned if the installer was putting in the

applications. Mr. O'Dell stated yes and they interviewed 7 different installers before they found a knowledgeable installer. Mr. Reeves questioned whether the tower would be a tilt or guide tower. Mr. O'Dell stated neither. It is a mono tower. A bucket truck would be used to get to the top of the tower if needed.

Art Mc Farlane of 1873 Redman Road stated that he could provide the Board with a copy of a nation wide study done in areas where wind towers have been installed that shows 9 out of 10 property values have increased. The 10th study had other issues that caused the decrease and it wasn't due to the towers.

At this time Chairman Norman Baase closed the Public Hearing.

Ed Haight questioned how the tower would be serviced. Mr. O'Dell stated it is a monopole design so a bucket truck would be used.

Klaus Pohl questioned if the design was per code. Mr. O'Dell stated yes per State codes.

Chairman Norman Baase stated that the farm silos in town are about 65' tall. So that would give some perspective to the height of the tower. Mr. O'Dell stated that this is a residential tower and it isn't over bearing.

The width of the blades was questioned. Mr. O'Dell stated that he didn't have the blade width information with him.

A motion was made by Klaus Pohl, seconded by Ed Haight to grant relief to Mr. and Mrs. O'Dell from Town Code 125-45A(3) for a 30' height variance to construct an 80' wind tower located at 140 Westphal Drive. This is a Type II Negative Declaration SEQR determination. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

MICHAEL CARDILLO 4332 ROOSEVELT HIGHWAY

Michael Cardillo was present seeking relief from Town Code 125-45A(3) for a 30' height variance to construct an 80' wind tower on his property located at 4332 Roosevelt Highway. Mr. Cardillo stated that he was requesting a 30' height variance to put up an 80' wind tower on his property. Attorney Welch questioned if the tower would be the same construction as Mr. O'Dell's tower. Mr. Cardillo stated yes everything is the same. The location of the tower was questioned. Mr. Cardillo stated that the tower would not

be located in the trees. It would be about 60' ahead of the trees. It would be about 191' back from the road. Mr. Cardillo stated that his lot size is 2.87 acres.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone to speak for or against this proposal.

Ray O'Dell of 140 Westphal Drive stated that he supports Mr. Cardillo's wind tower. It is in a nice location. He explained that NYSERTA would inspect both locations prior to installation and if it doesn't pass then they won't install the towers.

Mike Lester of 4308 Roosevelt Highway stated that they were unsure of the blade size. He has had headaches in the past and he doesn't like them. The tower is going to be very close to his property and he is concerned if the tower should fall over or if something comes off of the tower it will cause a lot of damage. Increased traffic to look at the tower is also a concern. He also hunts on his property and is concerned that the tower will scare away all of the deer.

Rocky Ellsworth questioned the location of Mr. Lester's house. Mr. Lester showed his house on the map. Rocky stated that the tower would be about 250' from the lot line and that there are a lot of trees along the lot line. Mr. Lester stated that Mr. Cardillo would be topping those trees so there won't be any protection from the tower if something goes wrong. Increased traffic is another issue. There are several accidents there now. The noise caused from the motor is also an issue. Rocky stated that cows lay under the towers and aren't bothered by the noise.

Ed Evans of 979 Hamlin Center Road stated that he has done a lot of research on wind towers and recently he encountered several deer under wind towers in the Southern Tier. They don't scare away the deer.

Paul Lapinski of 417 Redman Road stated that there are studies that wind towers do effect the deer population and there are studies that wind towers affect property values. You can find studies for and against towers. Many studies are done by the Wind Tower manufacturers themselves. He is concerned about the setbacks of the towers and the health and safety of the residents.

Mrs. Lapinski of 417 Redman Road questioned how close to the curve on Rt. 18 this property was. Mr. Cardillo stated that the curve and the accidents are to the east of his property. She was concerned about the effects on the traffic and the deer also. She questioned if the towers are working all the time. Mr. O'Dell stated that the towers only operate when there is wind. If there is no wind then they aren't working. Mrs. Lapinski stated that maybe the towers weren't working when the deer were under them. She asked what happens when they aren't working. They are still going to get a bill. Mr. O'Dell explained that they couldn't disconnect from the grid. The meter will run backwards when the power is being produced and run forward when no power is being produced.

Mr. Callari of 676 Cook Road stated that the difference in applications is that the property on Westphal is 5 acres with no houses behind it. The Roosevelt Highway property has houses to the rear of him and the neighbors are closer. The lot on Roosevelt Highway is too small. Mr. Cardillo stated that you wouldn't be able to see the tower from the road because there are trees on both sides.

Jim Nesbitt of 3952 Brick Schoolhouse Road stated that in the Wind Tower code there was a 5-acre minimum requirement. Attorney Welch stated that the current code doesn't have a lot size requirement and the setbacks are determined by the Building Inspector. The current code applies to all properties.

Mark Reeves stated that the code states that the setback is determined by the height of the tower. Attorney Welch stated that then it goes on to say that the setbacks are determined by the Building Inspector. Mark Reeves stated yes you are right.

Mr. Lester stated that Mr. Cardillo wasn't being truthful that the tower would be seen from the road and he recently added 2.5 acres to his property. Mr. Lester asked the cost of the tower. Chairman Norman Baase stated that cost wasn't relevant for the variance. Mr. O'Dell stated that the towers would cost about \$19,000. Mr. Lester questioned if that was feasible for the effects the towers would cause.

At this time Chairman Norman Baase closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief to Mike Cardillo from Town Code 125-45A(3) for a 30' height variance to construct an 80' wind tower on his property located at 4332 Roosevelt Highway. This is a Type II Negative Declaration SEQR determination. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Chairman Norman Baase thanked everyone for coming to the Public Hearing.

TOPSOIL PERMIT HAMLIN MEADOWS

Jim Beehler was present to request a permit to sell topsoil from the Hamlin Meadows Subdivision located on Roosevelt Highway for 6 months.

A motion was made by Ed Haight, seconded by Jerry Hoffman to issue a Top Soil Permit to Jim Beehler for his Hamlin Meadows Subdivision located on Roosevelt Highway for 6 months effective May 19, 2009. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

DISCUSSION

Town Board Liaison Mike Marchetti stated that the next Zoning Workshop is Thursday at 7:00pm.

ADJOURNMENT

A motion was made by Ed Haight, seconded by Klaus Pohl to adjourn tonight's meeting barring no further business. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, meeting adjourned.

Minutes respectively submitted by:

Heather Norman
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Zoning Board of Appeals will be held on Monday, June 15, 2009 at 7:30pm. Deadline for all fees is Monday, June 1, 2009 at 12:00.