

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
SEPTEMBER 29, 2009
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, September 29, 2009 at 7:00 p.m. in Conference Room A.

Present were: Chairman- Andrew Howe, Vice Chairman-Scott Davis, and Regular Member(s): Robert Dion, Ellen Mulligan, and Alternate Mark Corry.

Absent: Regular Member(s): Charles Boucher and Alternate: Connie Grant.

Also present were: David Andrade, Code Enforcement Officer/Building Inspector and Stephanie Verdile Philibotte, Technical Assistant.

Chairman Howe led the Pledge of Allegiance. A. Howe appointed M. Corry to replace absent regular member C. Boucher. M. Corry explained he knows the abutters but said he does not think that will affect how he reviews the case. A. Howe asked the applicant and their attorney if they opposed to M. Corry hearing the case. Attorney Regina Nadeau said they do not object to M. Corry hearing the application.

A. Howe introduced the application.

Lorraine Lavalliere, Trust of the Revocable Lorraine Lavalliere Revocable Trust of 1996

Applicant requests a Variance from Article 20, Small Wind Energy Systems, Section 20. 4. Standards, Section 20.4.1, Setbacks, of the Gilford Zoning Ordinance to permit the construction of a of fifty-two (52) foot high wind turbine, where a height of thirty-eight feet, seven inches (38.7) is allowed, on Gilford Tax Map & Lot #242-207.400 located at 62 Belknap Point Road in the Single Family Residential Zone.
Case #Z09-10.

Regina Nadeau, attorney representing the application, gave a brief presentation to the Board. She explained the location of the property and reviewed the regulations the Town of Gilford and the State of New Hampshire have implemented regarding Small Wind Energy Systems. She explained they are able to locate the wind turbine tower along the shorefront frontage of the property because they would meet the setbacks. And that is due to the fact the town's regulations require a 1.5 foot setback versus the state's 1.1 setback. They do not want to locate the turbine along the shorefront for aesthetic reasons they want to locate the turbine tower in the back of the property so it is not located along the Lake. Since the proposed location of the turbine is closer to the road they do not meet the setback requirements so they are required to apply for a variance.

She reviewed the criteria for an area variance as outlined in the application. She explained the abutter, Mr. Hickock, would be able to see the turbine from his garage.

R. Dion asked about the need for the wind turbine. R. Nadeau said the report they received from their expert said that the 37' height is not productive enough for wind generating ability unless it is located along the ocean.

A. Howe reviewed the variance criteria and spoke about the impact of the sound the turbine will make. R. Nadeau explained their residential turbine will not produce the noise the commercial turbines do and referred to a chart submitted by their expert within the application. She said at maximum the noise levels will be at 65dB.

A. Howe spoke about the hardship criteria and asked RN to clarify the hardship. She said she spoke to John Ayer when she first came in she said J. Ayer said he was concerned about regional impacts and they would have to notify all the towns that could be able to see it. D. Andrade agreed that they discussed with the applicant they would have to notify regionally. RN said she took that as to mean they should apply for a variance to locate the turbine in the rear of the property instead of locating the turbine along the shorefront and requiring them to do a regional notification.

A. Howe wants to know what the hardship is to the landowner not the region. RN said it is a hardship to the property because it would negatively impact the owner and abutter's that would see the turbine.

S. Davis asked where R. Nadeau got the 1.1 setback amount since he is reading the state law and cannot find the requirements within the law. She

S. Davis asked R. Nadeau to clarify that the CSPA would allow the applicant to build a turbine within the protected shoreline. She explained the area where they would be able to locate the turbine but they do not want to due to aesthetic reasons.

A. Howe said the applicant has full use of the property as a residence and they are not encumbered in any way to use their property without the

Dean Clark, explained the calculation for proposed height of the turbine tower.

A. Howe said the ordinance requires the db levels to be monitored and they have no information clarifying that.

A. Howe said part of the public interest for that area is for the safety and aesthetics of the area and he does not believe this application can meet that variance criterion.

A. Howe opened up the hearing for public input.

Richard Hickock, abutter, he said he would recommend the higher tower. He said that turbine

will be visible from his house on a daily basis. He said there are safety issues with ice forming on the turbine blades that have yet to be determined. He said his property values will be reduced due to the location of the wind turbine and he said two realtors explained how his property values would be reduced. He said the payback of this turbine will be a long time. He said the noise will definitely bother him and there is data lacking on that.

A. Howe asked if there are any similar turbines in the area and the applicant said there is one in Hill, NH.

Alexandra Reed, abutter, said she wants to know what the turbine will look like and she knows that the applicant goes to Florida in the winter and she is concerned about what will happen while the applicants are in Florida. She also wants to know what the maintenance will be in the winter. The applicant said there is a 20 year maintenance free agreement that comes with the turbine.

RN suggested that the application be tabled so they can have their consultant answer the questions the Board has.

A Howe said he does not see the hardship with this application.

R. Nadeau said the hardship is related to the letter from Steve Moore, from Energy Products, that the wind comes from the north and west and that the location of the turbine is located on the highest point on the property as that is the greatest source of energy generated.

R. Dion said there should be tests done to compare the locations of the turbine.

S. Davis said he does not see a hardship with this application. He wants to know what the restriction with the property that is preventing the owner from using his property. He said the applicant already has a tennis court on site and has reasonable uses of the property.

R. Nadeau said the hardship is the use is allowed in the zone but the use of the turbine would not be as efficient if located in the area where it is allowed by the ordinance.

With no other public input, A. Howe closed the public hearing.

The Board discussed the application

The Board wants more technical information and E. Mulligan would like to visit the site. The Board wants an engineer to provide more information.

A. Howe said the applicant can locate the turbine anywhere else on the property without needing a variance.

E. Mulligan said locating the turbine in the back of the property may be better aesthetically. A. Howe said that is not part of the hardship criteria and said the applicant cannot meet all the five criteria of a variance, especially hardship and substantial justice and does not see how the Board

can approve this variance application.

R. Dion suggested the Board obtain the readings of locating the turbine in the 2 different locations on site.

Motion made by R. Dion, seconded by E. Mulligan, to continue the application until October 27, 2009, of the **Lorraine Lavalliere, Trust of the Revocable Lorraine Lavalliere Revocable Trust of 1996**, in order to have the applicant do the following:

- 1 Hire an independent, licensed engineer to obtain information for noise levels and energy production of the site, including a location where the turbine is allowed by the ordinance.

S. Verdile Philibotte polled the members.

M. Corry-Yes

R. Dion-Yes

E. Mulligan-Yes

S. Davis-Yes

A. Howe-abstained

Motion carried with all in favor the application for a variance **is tabled.**

OTHER BUSINESS

MINUTES

Motion made by S. Davis, seconded by M. Corry, to approve the minutes of August 25, 2009 as amended. Motion carried with all in favor.

ADJOURNMENT

Motion made by S. Davis, seconded by E. Mulligan, to adjourn the September 29, 2009 Zoning Board of Adjustment meeting at 8:30 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Technical Assistant

