

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
PORTLAND TOWN HALL
AUGUST 26, 2015 – 7:00 P.M.

BOARD MEMBERS PRESENT:

| | |
|-----------------|------------|
| Daniel Schrantz | Supervisor |
| Jerry Boltz | Councilman |
| Gary Miller | Councilman |
| Al Valentin | Councilman |
| Rick Manzella | Councilman |

OTHERS PRESENT:

| | |
|-----------------------|----------------------|
| Thom Fleckenstein | Niagara Wind & Solar |
| Padma Kasthurirangan | Niagara Wind & Solar |
| Marvin & Joyce Zirkle | |
| Joel Seachrist | Attorney |
| Roxane Sobecki | Town Clerk |

Supervisor Schrantz opened the Public Hearing at 7:00 with the pledge to the flag.

Supervisor Schrantz stated the Affidavit of Publication for the Public Hearing was posted in the Observer on August 18, 2015.

Supervisor Schrantz stated the purpose of this Public Hearing is to consider the application of Marvin Zirkle to erect two ten kilowatt wind energy conversion systems (WECS), each 140; in height, on property located at 9417 Lake Avenue, Brocton, New York, and designated as Section 144.00, Block 2, Lots 15 and 17.

Pursuant to Section 647A of the Town of Portland Zoning Law, the applicant has requested the following waivers:

WECS #1:

- Section W.A.7: Utility Notification. Waive the requirement of notifying the utility since under current PSC regulations the net meter application cannot be made until the building permit is issued.
- Section X.Y.A: Setback. Waive the 1.5 times tower height setback from property lines requirement as the project meets these requirements when the two affected parcels are combined.

WECS #2:

- Section W.A.7: Utility Notification. Waive the requirement of notifying the utility since under current PSC regulations the net meter application cannot be made until the building permit is issued.
- Section X.Y.A: Setback. Waive the 1.5 times tower height setback from property lines

TOWN OF PORTLAND SPECIAL MEETING
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requirement as the project meets these requirements when the two affected parcels are combined.

Representatives from Niagara Wind & Solar explained to the Board the process of erecting the wind energy conversion systems.

There were no negative comments from the Board or Public.

NEGATIVE DECLARATION-LOT 17

08-73-15

On a motion of Councilman Miller, seconded by Councilman Boltz the following resolution was ADOPTED Ayes 5 Schrantz, Miller, Boltz, Valentin, Manzella

Nays 0

WHEREAS, Niagara Wind & Solar, Inc. (hereinafter, the “Applicant”) has submitted an application to construct and operate a ten kilowatt Wind Energy Conversion System at 9387 Lake Avenue, Brocton, New York, on a parcel owned by Marvin Zirkle and designated on the Chautauqua County tax map as Section 144.00, Block 2, Lot 17, and

WHEREAS, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a long Environmental Assessment Form, and

WHEREAS, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

WHEREAS, the Board has determined that the proposed use will not have a significant environmental impact,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby approves Parts II and III of the Environmental Assessment Form, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to complete and sign the Environmental Assessment Form accordingly.

NEGATIVE DECLARATION –LOT 15

08-74-15

On a motion of Councilman Valentin, seconded by Councilman Boltz the following resolution was ADOPTED Ayes 5 Schrantz, Valentin, Boltz, Miller, Manzella

Nays 0

WHEREAS, Niagara Wind & Solar, Inc. (hereinafter, the “Applicant”) has submitted an application to

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
PORTLAND TOWN HALL
AUGUST 26, 2015 – 7:00 P.M.

construct and operate a ten kilowatt Wind Energy Conversion System at 9387 Lake Avenue, Brocton, New York, on a parcel owned by Marvin Zirkle and designated on the Chautauqua County tax map as Section 144.00, Block 2, Lot 15, and

WHEREAS, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a long Environmental Assessment Form, and

WHEREAS, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

WHEREAS, the Board has determined that the proposed use will not have a significant environmental impact,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby approves Parts II and III of the Environmental Assessment Form, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to complete and sign the Environmental Assessment Form accordingly.

SPECIAL USE PERMIT #2015-1

ZIRKLE #1

08-75-15

On a motion of Councilman Manzella, seconded by Councilman Boltz the following resolution was ADOPTED Ayes 5 Schrantz, Manzella, Boltz, Miller, Valentin

Nays 0

WHEREAS, Niagara Wind & Solar, Inc. (hereinafter, the “Applicant”) has requested the issuance of a Special Use Permit authorizing it to construct and operate a ten kilowatt Wind Energy Conversion System on a 140’ tower on property belonging to Marvin Zirkle at 9387 Lake Avenue, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-m of the General Municipal Law and the Department advised by letter dated August 10, 2015 that the matter was of local concern, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held August 26, 2015 and finds justification to approve the application subject to the qualifications hereinafter set out,

, THEREFORE, BE IT RESOLVED, that the application to construct and operate a small Wind Energy Conversion System at 9387 Lake Avenue, be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
PORTLAND TOWN HALL
AUGUST 26, 2015 – 7:00 P.M.

1. The Applicant shall undertake the Use in accordance with the plans, maps and application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit.
2. The following waivers to Section 647A of the Town of Portland Zoning Law are granted:
 - (a) **Section W.A.7:** The requirement that the Applicant notify the utility is hereby waived because under current Public Service Commission regulations the net meter application cannot be made until a building permit is issued.
 - (b) **Section X.Y.A:** The requirement that the tower be set back from property lines a distance of at least 1.5 times its height is hereby waived with regard to the interior boundaries of the two Zirkle parcels, designated as Section 144.00, Block 2, Lots 15 and 17.
3. The terms, conditions, and requirements of this permit bind and obligate the Applicant, his successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town, except as otherwise herein noted.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
5. This Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the granting of this Special Use Permit.

Dated: August 26, 2015

The Applicant, Niagara Wind & Solar, Inc., and property owner, Marvin Zirkle, agree to abide by all the terms of this Special Use Permit.

SPECIAL USE PERMIT #2015-2

ZIRKLE #2

08-76-15

On a motion of Councilman Valentin, seconded by Councilman Miller the following resolution was ADOPTED Ayes 5 Schrantz, Valentin, Miller, Manzella, Boltz

Nays 0

WHEREAS, Niagara Wind & Solar, Inc. (hereinafter, the “Applicant”) has requested the issuance of a

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
PORTLAND TOWN HALL
AUGUST 26, 2015 – 7:00 P.M.

Special Use Permit authorizing it to construct and operate a ten kilowatt Wind Energy Conversion System on a 140' tower on property belonging to Marvin Zirkle at 9387 Lake Avenue, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-m of the General Municipal Law and the Department advised by letter dated August 10, 2015 that the matter was of local concern, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held August 26, 2015 and finds justification to approve the application subject to the qualifications hereinafter set out,

, **THEREFORE, BE IT RESOLVED**, that the application to construct and operate a small Wind Energy Conversion System at 9387 Lake Avenue, be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the Use in accordance with the plans, maps and application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit.
2. The following waivers to Section 647A of the Town of Portland Zoning Law are granted:
 - (a) **Section W.A.7:** The requirement that the Applicant notify the utility is hereby waived because under current Public Service Commission regulations the net meter application cannot be made until a building permit is issued.
 - (b) **Section X.Y.A:** The requirement that the tower be set back from property lines a distance of at least 1.5 times its height is hereby waived with regard to the interior boundaries of the two Zirkle parcels, designated as Section 144.00, Block 2, Lots 15 and 17.
3. The terms, conditions, and requirements of this permit bind and obligate the Applicant, his successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town, except as otherwise herein noted.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
5. This Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
PORTLAND TOWN HALL
AUGUST 26, 2015 – 7:00 P.M.

granting of this Special Use Permit.

Dated: August 26, 2015

The Applicant, Niagara Wind & Solar, Inc., and property owner, Marvin Zirkle, agree to abide by all the terms of this Special Use Permit.

PEERLESS STREET BRIDGE:

Attorney Seachrist stated the Town does not have to put this out for formal bidding; the Town is renting the equipment and operator. The Board reviewed the budget and procurement policy.

08-77-15

On a motion of Councilman Manzella, seconded by Councilman Boltz the following resolution was ADOPTED Ayes 5 Schrantz, Manzella, Boltz, Valentin, Boltz

Nays 0

RESOLVED the Portland Town Board authorizes Highway Superintendent Delcamp to move forward with the Peerless Street Bridge Project, and to lease equipment as needed for Oakgrove Construction, Inc.

BROCTON/PORTLAND FESTIVAL

08-78-15

On a motion of Councilman Miller, seconded by Councilman Valentin the following resolution was ADOPTED Ayes 5 Schrantz, Miller, Valentin, Boltz, Manzella

Nays 0

RESOLVED the Portland Town Board agrees to donate \$200.00 to the Brocton/Portland Festival Committee.

The Board reviewed the Water Tower, billing Pomfret for water usage and drafting a water contract between Portland and Pomfret.

Supervisor Schrantz told the Board he has meant with Jim Fincher (rails-to-trails) regarding the trial by Woleben Road.

With no further business, on a motion of Councilman Manzella, seconded by Councilman Miller the meeting adjourned at 7:55 p.m. Carried unanimously.

Respectfully Submitted by,

Roxane Sobecki-Town Clerk

TOWN OF PORTLAND SPECIAL MEETING
PUBLIC HEARING-WIND TOWER
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AUGUST 26, 2015 – 7:00 P.M.

Roxane Sobecki
Town Clerk