

Randolph zoning board denies special use permit for Atlantic Wind

By Deb Everts

Press Reporter

RANDOLPH — The Town of Randolph Zoning Board of Appeals unanimously denied a special use permit for Atlantic Wind LLC to install a 196-foot meteorological tower in the town.

The tower was to be constructed at 3018 Sample Hill Road for the purpose of testing wind resource.

Atlantic Wind LLC, a wholly-owned subsidiary of Iberdrola Renewables LLC, was seeking the permit to build a temporary tower to gather wind production data and determine if it would be feasible to build a permanent tower.

Prior to the public hearing, the company had already approached several landowners in the area regarding leasing their land.

Members of the zoning board had many questions about meteorological towers, also known as met towers, that could potentially lead to wind farms, so in January they postponed a decision on the permit until they could visit the town of Bliss, where a large wind farm has been in production for several years. During a visit in February, the board spoke with Bliss town officials and homeowners to find out what the local consensus was about the wind farm in the area.

Chairman Gary Barton said after studying industrial wind development and visiting sites in Wyoming County, the Zoning Board of Appeals had concerns about the project meeting the requirements of Randolph's zoning ordinance.

Six points affected the board's decision. They were outlined by board member Paul Steward, who said there are several clauses in the Atlantic Wind contract that take away landowner rights and are in conflict with the "intent and purpose" of the Town of Randolph code.

"Most concerning are the easement and waiver of nuisance sections that waive any right landowners may have to object to — audio, visual, view, light, flicker, noise, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to any project or the operations of any project; and an exclusive easement to permit the rotors of wind power facilities located on adjacent properties to overhang the property."

Steward said other clauses that adversely relate to the code's intent and purpose include additional standalone easements for no consider-

ation, questionable taxing, inadequate crop and timber damage remuneration, acquisition of interests without landowner's consent and the gag order placed on the property owner. He said a study needs to be done on each of these waived nuisances as to the effects on adjacent property owners before granting any industrial wind development.

Referring to "Criteria for Granting Special Use Permits," Steward said more research is needed to address each of these criteria as the project is suggesting larger turbines than those currently used in surrounding areas. He said a clearer picture of concerns and effects on the total Randolph community needs to be evaluated.

Another concern was the future utility scale wind development, which is primarily supported by federal and state funds, and sometimes local tax breaks. Steward said the concern is what will happen as the physical structures that get taxpayers' support stop and the project is no longer profitable, and if the current means of security funds for disposal are favorable to the Town of Randolph.

"There's an uncertainty as to the outcome of the many lawsuits and petitions in surrounding areas related to industrial wind development," he said. "Our town needs to evaluate the surrounding area's situation to avoid future litigation."

Steward said the board also needs time to bring the code up-to-date concerning large-scale industrial wind development that has increased the size and the output of generation systems. They also need to address the concerns of affected residents in proximity of the wind turbines and determine how far away individuals are affected. He said a study needs to be made on the effect of property values in the areas that have had industrial wind development.

"We feel it is in the best interest of the Town of Randolph and the project proposer that the listed concerns be addressed before any development is allowed," Barton said as he opened the floor for discussion.

A lengthy debate ensued between the board; James A. Muscato II, an attorney representing Atlantic Wind LLC interests; and Jeff Reinkemeyer, a representative from Iberdrola-Atlantic Wind LLC. Community member Linda Inkley had a couple of questions for the company relating to not registering leases.

Barton addressed Muscato saying when a business has physical presence in Randolph it needs to have a business permit, which Atlantic Wind has not applied for. In looking at that permit, the board would want to consider what is going to happen with that business.

"In our case, your permit for this tower leads to an industrial wind development," he said. "We want to be very sure we have everything in our community set to the benefit of our community before we make any proceeding that goes toward this wind tower industrial development."

Barton said the zoning board is going to take the time to be sure the Randolph code is going to protect the property owners around the wind towers, as well as the people who have them on their land.

"What we are doing is denying this particular met tower, which is a precursor to the development, to hold it off long enough so we have time to get our 'ducks in a row,' so to speak, to take care of it," he said.

The second purpose of the meeting was for the removal of a temporary meteorological testing tower at tax property 87.002-1-22.1, located in the southwest corner of the Town of Randolph, which the board unanimously agreed upon.

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