

TOWN OF NORTH HARMONY ZONING BOARD OF APPEALS

Wednesday, 2/26/2025, 7: 00 P.M.

ZBA MEMBERS PRESENT: GREG MICHALAK WILLIAM ORTMAN
 DAN THOMAS SHEILA KYSER
 ROGER VAILLANCOURT LEAH STOW

Julie Conklin, Zoning Board Clerk
Bradley Lawson, CEO

OTHERS PRESENT: Attached Sign in Sheet

Mr. Michalak clearly stated before the start of the meeting the Special Use Application for the MET tower was that only, it is not for Wind Turbines and that they will not be discuss. He also reassured the audience that if the MET Tower was approved this evening, that it is not a precursor to allowing Wind Turbines, it is a whole different process and application. He let them know that the Zoning Board of Appeals does not make the laws, and the Town Board does the best that they can, and that some of these laws are regulated by the county and state.

Mr. Michalak brought the hearing to order at 7:11 PM.

Mr. Michalak motioned to adopt the minutes of the 01/22/25 Zoning Board of Appeals Hearing as submitted by the Zoning Clerk. Mr. Thomas seconded. Motion carried.

Announcement for record by zoning clerk

- Legal Notice for Post Journal – 2/15/25
- Notice to Neighboring Properties – 2/14/25

Mrs. Conklin swore in all who expressed intent to speak.

Mr. Michalak explained, each application will be given the opportunity to speak on their project and then the floor will be opened for comments, brief 3 minutes, then the public hearing will be closed and the committee will make a decision.

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- Nicholas Conde requesting an Area Variance to construct an enclosed porch closer to canal side setbacks than allowed according to Town of North Harmony Zoning Law Article IV, Section 403, located at 103 Goose Creek Rd, Ashville, NY, specifically SBL 367.15-1-57

Mr. Michalak moved to open the public hearing.

Mr. Conde spoke about his project.

Mr. Michalak noted for the minutes that they had received a letter of opposition from Mr. & Mrs. Zelaski.

Mr. Michalak moved to close the public hearing.

Mr. Thomas read into the record Zoning Ordinance SECTION 904-USE and AREA VARIANCE, C. Area Variances.

ZBA-Area Variance Findings & Decision- **Attached to minutes.**

Mr. Lawson asked Mr. Conde to explain what the exact request would be.

Mr. Conde verified that he was asking for 16" closer to canal side on each corner than that stated on the site plan. Also that the porch will be shifted 1'.

Mr. Michalak made a motion to approve the Variance Application for Nicholas Conde as submitted. Ms. Stow seconded. Yes (6): Vaillancourt, Thomas, Michalak, Ortman, Kyser, Stow.

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- Mike and Terri Gleason requesting a Special Use Permit to sell sheds & other products as a home occupation in accordance with Town of North Harmony Zoning Law Article VI, Section 606, located at 6524 Eiden Rd, Mayville, NY, specifically SBL 365.00-1-34.1

Mr. Michalak moved to open the public hearing.

Mrs. Gleason spoke about their project and the type of pieces that will be on display for sale.

Mr. Lawson walked the committee through home occupancy and what was allowed from Section 606 in the zoning ordinance.

Mrs. Gleason explained they may have about ten to twelve pieces at a time, and they would be open during daylight hours.

Mr. Michalak moved to close the public hearing.

Mr. Michalak made a motion to approve the Special Use Application for Mike and Terri Gleason as submitted. Mr. Ortman seconded. Yes (6): Vaillancourt, Thomas, Michalak, Ortman, Kyser, Stow.

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- Buttercup Wind, LLC requesting a Special Use Permit to construct a monopole, tubular temporary meteorological tower in accordance with Town of North Harmony Zoning Law Article VI, Section 690.18 & 690.19, located at 6226 Baker Rd, Ashville, NY, specifically SBL 365.00-1-34.1

Mr. Michalak moved to open the public hearing.

Buttercup representatives from Bedrock Renewables spoke on behalf of the project. They reviewed the following:

- Explained about their company, the employees and how the company was started
- Explained the MET tower and its purpose
- Explained that this is the first step in the process of finding out if there is enough wind and that installation of wind project will be a completely different permitting and testing.
- Depending on the factors they feel that the tower would need to be up for about two to three years.
- Explained that when the tower testing has been completed it will be torn down and put into storage for a future project.
- The footprint of the project with the guidewires is approximately a little over 2 acres.
- The trees will need to be cut down and laid out only to extend the guidewires down to the ground. The area in and around the guidewires can still be used.
- Explained that they have completed a SEQR to show that they have avoided wetlands.
- Explained what the tower looks like and how it works.
- Explained that there are four main components:
 - Environmental
 - Wind
 - Grid Study
 - Communication with Chautauqua County large, they have spoken with over a 1,000 people so far
- It will take about five or six years to get to the point of a wind project would even start, if it was feasible, 1st step is the wind speed is consistent, high and the right direction.
- They stated that they have business cards to give to everyone at the meeting and would like to have the opportunity to speak with everyone that has questions or concerns.

Mr. Michalak reviewed the application and spoke on the Chautauqua County Planning Board referral that was requested but not mandatory.

- The County Planning Board commended the town for their zoning considerations for wind projects.
- The County Planning Board stated that the town should urge the applicant to submit an Agricultural Data Statement.

Public concerns and comments:

- We do not want wind farms now or in the future.
- Why are we allowing this tower if we know the end game is Wind farms
- Buttercup is the middleman, they secure the land, get the contracts, the legal work to complete the package and then the package is sold to a huge electrical conglomerate.
- Who will maintain these projects
- What is the percentage of test towers that go up and turn into wind projects? **(Buttercup remarked it really depends on a lot of things, maybe 20% to 30%; 50%?)**
- We have a room full of people voicing their concerns, do we have a voice on whether the committee approves or denies the special use permit? Concerns about health, property values, wildlife and a variety of things. **(Committee remarked that by right they are allowed to put up the tower)**

- Buttercup was asked if they meant it when they stated they were here to engage with the committee and that they take pride in that ...The community is here, and we do not want this here.
- Mr. & Mrs. Waygood started the petition to see how many people wanted this, they collected almost 200 signatures and just started Thursday night. There is a lot of opposition...what is the purpose of building it if you know that most people here do not want it, it is going to be in our back yard.

The committee explained the following

- The ZBA is not a rulemaking board, and they are there to review applications submitted against the current zoning law.
- These concerns need to be brought to the town board.
- Asked the public to review the laws, this application related to section 690.18 and 690.19 only for wind measurement towers

Mr. Michalak moved to close the public hearing.

Mr. Michalak made a motion to table the Special Use application at this time, due to a permitting issue on the property with the current landowner. Mr. Thomas seconded. Yes (6): Vaillancourt, Thomas, Michalak, Ortman, Kyser, Stow.

Future Meeting Dates:

- Wednesday, March 26, 2025

By a motion made by Mr. Michalak, Mr. Ortman seconded and with none being opposed the hearing was adjourned at 8:17 PM

Julie Conklin
Zoning Board Clerk

ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS & DECISION

Town of North Harmony - Zoning Board of Appeals

5350 Stow Rd
Ashville, NY 14710
Office (716) 789-3445
Fax: (716) 789-9308



1. **APPLICANT:** Nicholas Conde

2. **LOCATION:**
Property identification # (Tax Map #) 367.15-1-57 Zoning District: C-1
Property Address: 103 Goose Creek, Ashville

3. Requirement for which Variance is requested: Canal Setback of 34.83'
+ Side Setback of 7'

4. Applicable Section(s) of Zoning Code: Section 403

5. **CONSIDERATION:** No Area Variance will be granted without a consideration by the board of the following factors: (Please check yes / no - must list reason for answer)
 1. Yes No Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties?
Reason: NO CHANGE to CHARACTER of Neighborhood
OR NEAR by property

 2. Yes No Whether benefit sought by applicant can be achieved by a feasible alternative to the variance?
Reason: Sub STANDARD Lot
VARIANCE REQUIRED

 3. Yes No Whether the requested variance substantial?
Reason: SET BACK ENCROACHMENT - ALTHOUGH MINIMZ
APPRX 32 sq-ft

 4. Yes No Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?
Reason: NO IMPACT

 5. Yes No Whether the alleged difficulty was self-created?
Reason: VARIANCE REQUIRED for Remodel

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS (following page):
The ZBA, after taking into consideration the above five factors, finds that:

the Benefit to the Applicant DOES NOT outweigh the detriment to the neighborhood or community and therefore the variance request is denied.

the Benefit to the Applicant DOES outweigh the detriment to the neighborhood or community.

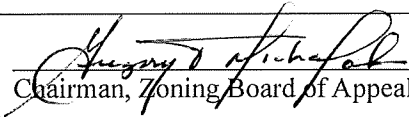
Reasons: _____

The ZBA further finds that a variance of _____ from Section _____ of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because:

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: _____
 Adverse impact to be minimized:

Condition No. 2: _____
 Adverse impact to be minimized:



 Chairman, Zoning Board of Appeals 2/26/25
 Date

RECORD OF VOTE MOTION & ROLL CALL

Motion by GREG MICHALAK and seconded by Leah Stow to approve variance _____.

Committee Members	Aye	Nay	Absent
Acting Chair Mr. Greg Michalak	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Mr. William Ortman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Mr. Dan Thomas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Mr. Vaillancourt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Ms. Leah Stow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Mrs. Sheila Kyser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Mr. David Ensminger	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Name (Printed)	
1	James Dryden
2	Bren Moore
3	Bethy Swanson
4	Lanny Swanson
5	Robin L Miller
6	Kauike Orman
7	Michelle Abers
8	Daniel Abers
9	Zack Leonard
10	Michael Swanson
11	LARRY NOYD
12	Gene Dross
13	Steve Dross
14	Steve Spitzgruber
15	Loretta Spitzgruber
16	Jule Reynolds
17	Tanice Loomis
18	Tim Loomis
19	Sevin Coops
20	Christie Coops

Name (Printed)	
1	Mark Benson
2	William Ball
3	Dorothy Scotton
4	Roberta Haverbeck
5	Susan Swanson
6	Heather Wangood
7	Baker Andersen
8	Walter Andersen
9	Judy Huchman
10	John Huchman
11	Brian Juchman
12	Donald Schar
13	Mike Ludwig
14	Richard Bluss
15	Jane P. Bluss
16	Dan Johnson
17	Emilee Johnson
18	Nora Ludwig
19	Barthly
20	Paulson S. Foster

Name (Printed)	
1	Mary Foster
2	Sami Triscari
3	Bill Jorgensen
4	KATHIE JORGENSEN
5	Doris Jorgensen
6	Sean Strong
7	Cindy Strong
8	Bob Rehan
9	KATHY ROTH
10	Josh Rooder
11	Ernie Rooder
12	Debra Condr
13	Nicholas Condr
14	Quinn Condr
15	Jerry Teutman
16	Antwone
17	Kerry Johnson
18	Trine Blakeslee
19	Richard SONT
20	Carol SONT

Name (Printed)	
1	Ann Carlson
2	DAVID CARLSON
3	Finn Blakeslee
4	Negan Blakeslee
5	Michelle Tran
6	Levi Tran
7	Brian Tran
8	
9	
10	
11	

Name (Printed)	
1	Matt Swanson
2	
3	
4	

