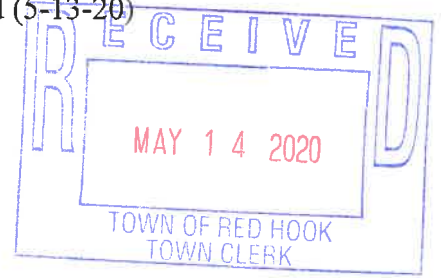


Town of Red Hook
Zoning Board of Appeals Meeting Minutes Approved (5-13-20)

February 12, 2020



CALL TO ORDER

The meeting was called to order at 7:00 pm by Chairman Nick Annas.

ROLL CALL

Members Present: Chairman Nick Annas, Kate Karakassis, Chris Carney, Chris Klose

Members Absent: Jim Hegstetter

Also Present: Patrick Logan, for ZBA Attorney, Victoria Polidoro, Drew Gamils, Attorney Representing the ZBA for the Heermance Farm-HudsonValley Wind & Solar Appeal, Bob Fennell, Town of Red Hook ZEO

PRELIMINARY BUSINESS

December 11, 2019 Meeting Minutes

At 7:02pm Chairman Annas asks for a motion to approve the December 11, 2019 meeting minutes. Chris Klose so moves, Kate Karakassis seconds, and all Board members present vote in favor of approving the December meeting minutes.

At 7:04pm Chairman Annas asks for a motion to approve the January 8, 2020 minutes. Kate Karakassis so moves and Chris Carney seconds. The Board decides to table the discussion on the minutes to the March 11, 2020 meeting.

Planning Board Minutes/Comments from the Chair

Chairman Annas states he spoke to Planning Board Chair, Sam Phelan, regarding the Kittner appeal, and noted Mr. Phelan informed him of a mostly positive review from the Design Review Committee. Chairman Annas informs the Board he asked Mr. Phelan if there were any concerns, to which Mr. Phelan had replied the Committee stipulated the exterior had to be wood, with no plastic or aluminum. Chairman Annas informed the Board there were no other concerns.

Public Hearing (continued from the 12-11-19 meeting)

Douglas Passeri of Hudson Valley Wind and Solar, LLC representing Heermance Farm, LLC, application for an area variance to install a Bergey Wind Power 10kW small wind turbine, atop a 120 foot high monopole tower, with a total height of 135 feet, with the blade in the upright position, on the subject parcel. Town of Red Hook Zoning Law Section 143-15 A (2), limits the height of such towers to 75 feet above the average, finished grade at its base. The subject parcel is located on 433 West Kerley Corners Road, in the ABD Zone, of the Town of Red Hook.

At 7:07pm Chairman Annas asks for a motion to move the Board into an attorney – client session. Chairman Annas so moves, Chris Klose seconds and all Board members vote in favor.

At 7:19pm Chairman Annas asks for a motion to come out of the attorney – client session. Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor.

At 7:19pm Chairman Annas asks for a motion to resume the public hearing, continued from the December 11, 2019 meeting.

Chairman Annas asks the applicant, Doug Passeri, to indicate the new location for the proposed wind turbine. Mr. Passeri states it is 150' closer to the barn, which Chairman Annas confirms is to the south of the former proposed location, and 524' from Kerley Corners Road. Mr. Passeri states the former proposed location was 650' from the road.

Victoria Young reads the following statement:

Chairman Annas comments Red Hook is a farm friendly community, working to preserve open spaces, a rural look, and historical integrity of the community. Chairman Annas asks Jeff Rothschild, attorney for Heermance Farm, LLC, if the property owner, Neil Bender, is aware of the community reaction to his proposal, to which Mr. Rothschild replies Mr. Bender is committed to conservation, organic farming, and green energy. Chairman Annas states any Red Hook resident can commit to renewable energy without the infrastructure, through the local solar farm. Mr. Rothschild asks the Board if it knows what the wind turbine looks like, and mentions the case law regarding the Town of Clarence ZBA, which, he states, denied a variance for a wind turbine ten feet higher than the one proposed in Red Hook, and was subject to a 305a review by the New York State Agriculture and Markets Department (hereinafter Ag. & Markets). Mr. Rothschild states the Town of Clarence sued New York State and lost, and further comments if the ZBA denies the present appeal, it will cost the taxpayers.

Chris Klose states there are several legal issues, none of which have anything to do with the question Chairman Annas posed. Kate Karakassis asks Mr. Rothschild why no balloon test was conducted, even though the applicant agreed to it. Mr. Rothschild states the request for a balloon test was unreasonable, and beyond the scope of what the Board can request. Ken Migliorelli, a neighbor, states he is not opposed to looking down at the proposed turbine from his house, and comments it would have been nice to have a balloon test. Chairman Annas states his opposition is not to alternative energy, but specifically to the proposed wind turbine.

Chairman Annas further comments he visited the wind turbine in the Town of Milan twice, and noted the structure was most obvious in the wintertime, when there are no leaves on the trees. Chairman Annas further comments the turbine in Milan is difficult to find, and further states it is visible above the tree tops from some vantage points, but not from others. Chairman Annas informs the Board he could not detect a noise over the sound of the wind through the trees, and also states there could be safety issues from a blade falling off, or the tower falling over. Chairman Annas states the applicant has stated the proposed turbine will supply 20% of the farm's energy needs, and asks the applicant what is planned for the other 80%. Chairman Annas also asks the applicant to describe a 10kW solar array, to which Mr. Passeri replies it would require 40-50 panels, each 3' x 5'. Chairman Annas notes the structure would only be six to eight feet in the air, and further comments the turbine only occupies 36SF, but is 135' in the air.

Carol Wagner of 411 West Kerley Corners Road states she is not objecting to alternative energy, but to the impacts to the area's viewshed, and historic value. She also states she agrees with the statements of Victoria Young. Ms. Wagner asks what Winnakee Land Trust, the conservation easement holder of the property has to say about the proposed wind turbine. Drew Gamil, attorney representing the ZBA in the appeal, states Winnakee Land Trust has made no comment. Jeff Rothschild, attorney for Heermance Farm, LLC, states he has a letter from Winnakee Land Trust stating it has no jurisdiction in the matter. Mr. Rothschild states in the farm area of the conservation easement there is only the requirement that any structure not exceed two percent of the total farm area, without prior approval from Winnakee Land Trust.

Carol Wagner asks the Board why the proposed wind turbine cannot be located closer to the barns, so as to form a cluster of structures. Douglas Passeri states the wire runs too long if located too far from the barns, but the location selected is not too far, and in an unused area. Mr. Passeri states the property owner chose the location. Drew Gamil states the alternate sites for the proposed turbine, indicated by Victoria Young, are within Federal Wetlands. Chris Klose asks the applicant if the site for the proposed wind turbine can be moved directly adjacent to the barns, to more approximate the look of a silo. Mr. Klose also notes a location right next to the barns would save the applicant money in not having to tunnel wires from the barns to the proposed wind turbine site, requested by the applicant.

The applicant states he does not disagree with this point. Chris Klose asks the applicant if the wind is still good if the proposed wind turbine were to be sited right next to the barns, to which Mr. Passeri replies it is. Mr. Passeri indicates on the plan a potential site to the left of the barns. Victoria Young states the best location is in the middle of the barns, since the land to the right of the barns is a slope.

Chairman Annas notes in period photography and artwork of historic farms structures of a similar height to the proposed wind turbine is largely absent, and wonders if it were conceivable for someone of the time when the farm was built to look on the proposed wind turbine with admiration. Mr. Rothschild states he loves windmills. Chairman Annas states he spent a career in the electrical utility industry, noting that single pole towers create a lesser visual impact compared to lattice towers. Carol Wagner states the viewshed from her home is of the Catskill Mountains, and further comments she does not want to see a large pole in the middle of a large open space.

Chris Klose asks Mr. Rothschild to ask Mr. Bender, the property owner, to consider moving the site of the proposed windmill closer to the barns, as this location would be kinder to the community, would not diminish the energy output, and would result in less soil disturbance and expense. Chairman Annas asks the applicant who decides the location. Mr. Passeri replies he makes a suggestion based on a site assessment. Chairman Annas asks Mr. Passeri and Mr. Rothschild if Neil Bender, the property owner, would come to a ZBA meeting to hear from his neighbors, and answer questions from the ZBA. Victoria Young states in accordance with good neighbor policy, Mr. Bender could have written his neighbors a letter, or spoken to them.

Chris Karpinski of 390 West Kerley Corners Road asks the Board what would stop more wind turbines from going up on unused land, also asking if there is a law that limits the number of wind turbines on a parcel. Chairman Annas states for small units, up to 55kW of generation, there is a limit of five total per parcel.

Chairman Annas states the Board has two options. It can either put the variance request to a vote, or it can extend the public hearing, and ask Mr. Bender to consider an alternate location for the proposed wind turbine, next to the barns. Mr. Passeri states that a location closer to the barns is doable, but that Mr. Bender is adamant about the proposed location he has already chosen.

Kevin Ferry states the elevation of the land is higher near the barns, which could enhance the output of the proposed wind turbine.

Don Kimmelman, of 356 West Kerley Corners Road states he supports what Carol Wagner and Victoria Young have stated, and asks the Board why the applicant's attorney is saying the Town's 75 foot height limit and the historic significance of the property, and impacts to the local viewshed do not matter in this case. Kate Karakassis replies Mr. Rothschild is a lawyer and is presenting his best case. Drew Gamils states that the New York State Agriculture and Markets Department may intervene and challenge the Board's decision, if it finds the decision unreasonably restricts farm operations. Doug Passeri states he has just spoken with Mr. Bender on the phone, and informs the Board Mr. Bender is firm on the location he originally chose. Chairman Annas asks Mr. Passeri if Mr. Bender is also pretty firm on not wanting to hear public discussion.

Kate Karakassis comments the burden is on the applicant to prove that not obtaining the requested variance would unreasonably restrict farm operations. Ms. Karakassis further notes the documents the applicant submitted state a 2491 kW hour gain as the difference between a wind turbine 80 feet in height, and a wind turbine 135 feet in height. Ms. Karakassis further states the documents submitted by the applicant state an average annual electrical use of the farm operation as 54,822 kW hours, and Ms. Karakassis calculates the additional proposed energy production, resulting from the proposed wind turbine, to be approximately 4.6% of the total annual energy use of the farm operation. Ms. Karakassis states the applicant submitted no data regarding the economic benefit of the the proposed wind turbine to the farm operation. Ms. Karakassis notes the majority of neighbors seem to be opposed to the project, and further notes community consensus has been expressed in terms of a local law limiting the height of wind turbines to 75 feet.

Chris Klose states he is not opposed to alternative energy, and further notes he is in favor of consensus, community cohesiveness and good will. Christine Pizzuti states she did not realize they were surrounded by neighbors who do not see them as good neighbors, to which Chris Klose replies she should not take it personally, and further notes the Board is trying to effect a compromise. Chairman Annas states ZBA variance requests can pit neighbor against neighbor. Chris Karpinsky asks the Board to explain the potential for additional litigation, noting he does not find it neighborly of the property owner to be adamant regarding his chosen location for the proposed wind turbine.

Drew Gamils states the New York States Agriculture and Markets Department can find the Board's decision unreasonably restricts the farm operation, as it considers the proposed wind turbine a piece of farm equipment, and require the ZBA to grant the requested variance. Ms. Gamils further states the Town can file a suit against the New York State Agriculture and Markets Department, if it disagrees with this finding. Mr. Rothschild states it does not matter how much of the farm's energy is generated from the proposed wind turbine, and further states New York State only requires the output not exceed 110% of the total energy use. Kate Karakassis states the Board needs to know what it would be restricting by not granting the requested variance, and further states the Board would only be restricting what amounts to less than 5% of the annual kW hours consumed. Ms. Karakassis further states the Board has been given no information on the economic benefit to the applicant if it were to grant the requested variance.

At 8:32pm Chairman Annas asks for a motion to close the public hearing. Kate Karakassis so moves, Chris Carney seconds, and all Board members present vote in favor. Drew Gamils recommends the Board review the five factors of the balancing test. Chairman Annas reads each and the Board members present state their reactions.

1. **The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.** Kate Karakassis states she finds the requested variance will be a detriment to the neighborhood, and have a negative impact on the neighbors' viewshed, and potentially their property values as well. Chris Carney states he agrees, and further comments the public perception of the proposed wind turbine is that it is a detriment to the neighborhood. Chris Klose states the proposed wind turbine will represent an undesirable change on several different levels. Mr. Klose states the proposed wind turbine does not fit historically, or visually, and further comments he finds it is little to no gain in terms of energy production. Chairman Annas states he agrees the proposed wind turbine will produce an undesirable change to the neighborhood, further commenting a modern structure such as the proposed wind turbine does not fit aesthetically with a two hundred year old farm.
2. **The needs of the applicant cannot be achieved by other than an area variance.** Chris Klose finds the needs of the applicant can be achieved by other than the requested area variance, if the applicant were to install solar panels, and by joining the Red Hook Common Renewable Energy program, which provides electrical energy from renewable sources to any Red Hook resident. Chairman Annas states he had previously asked the applicant what the equivalent energy production to the proposed wind turbine would look like in solar panels, and states he disagrees with the assertion the needs of the applicant can only be achieved by the requested area variance, since there are other options for renewable energy, either through the recently adopted Town program wherein all electricity comes from renewable sources, unless a user chooses to opt out, or by signing up with one of the local solar farms, or by installing solar panels. Chris Carney states he agrees with both Chris Klose and Chairman Annas. Kate Karakassis states she agrees with all of the above and further states the applicant could also achieve his needs by installing two wind turbines at the permitted height.
3. **The requested variance is not substantial.** Kate Karakassis states the requested variance is substantial, since it goes from the permitted height of 75' to 135' in height. Chris Carney states the requested variance is substantial, since it represents an 80% increase over the permitted height. Chris Klose agrees the variance is substantial. Chairman Annas states he agrees the requested variance is substantial.
4. **The requested variance will not adversely affect the physical or environmental conditions in the neighborhood.** Chris Klose disagrees stating it will disturb the land, and further comments we do not know what kind of biota exists on the farm, and on the grasses that are there on the surface and in the soil, down to a depth of 18" to create the tunnel for the wires. Chairman Annas states the physical impact will be minimal, and further comments the major impacts have to do with aesthetics. Chris Carney states he finds the physical impact is negligible. Kate Karakassis states the impact is minimal.

5. **The hardship for which the variance is sought to rectify is self-created.** Kate Karakassis states the hardship is self-created. Chris Carney states the hardship is self-created. Chris Klose and Chairman Annas both state the hardship is self-created.
6. **The variance being granted is the minimum variance to meet the needs of the applicant.** Chris Klose asks to defer. Chairman Annas states he disagrees with the assertion the requested variance is the minimum variance to meet the applicant's needs, since the applicant can install two wind turbines at the permitted height, install solar panels, or join a solar farm, or choose not to opt out of the Town program. Chris Carney states he agrees with the assertion since it is what the applicant is asking for. Kate Karakassis states what the applicant is requesting is a height variance, but the actual request amounts to is a certain amount of energy production. Ms. Karakassis states the applicant has never stated how much energy they want to produce with the proposed wind turbine, but has only stated an amount they expect to produce with the proposed wind turbine at 135' in height. Ms. Karakassis states she agrees with Mr. Carney that it is the minimum, since this is what the applicant is asking for.

Drew Gamils recommends drafting a resolution which includes all of the comments regarding point number six, and further states she does not find they are mutually exclusive.

Chairman Annas states "All testimony has been carefully considered, and the following pertinent facts noted:

1. Chairman Annas states the proposed wind turbine is not necessary, since there are other means which will achieve the end of using renewable energy on the farm.
2. Kate Karakassis states the amount of energy which would be produced if the variance were granted is 5% of the annual kW hours consumed. Chris Klose clarifies by adding the additional 60 feet above the permitted height of 75 feet, the applicant would gain about 4.6% of his average annual kW hour consumption.

Chairman Annas asks the applicant to state how much energy production would be lost by dropping the height of the proposed wind turbine from the requested 135' to the permitted 75'. The applicant's attorney instructs the applicant to not answer the question. Drew Gamils informs the Board community opposition is not considered a fact, and further notes the Board can pull information from the specific concerns raised by community members.

3. Kate Karakassis states the viewshed is impacted because the proposed wind turbine blocks views of the Catskill mountains.

Chris Klose raises the point discussed during the public hearing regarding the precedent which would be set by granting the requested variance. Drew Gamils recommends the Board not consider this as a pertinent fact, since it is not directly connected to the requested variance, and further comments every application presents new facts and circumstances.

4. Drew Gamils states the subject parcel's presence on the National Historic Register is a fact.

At 8:33 pm Chairman Annas asks the Board for a motion to grant variance request for the proposed wind turbine, in the proposed location, at the proposed height of 135'. Chairman Annas so moves and Kate Karakassis seconds. All Board members present vote NO to granting the requested variance. [See attached Variance Resolution].

At 8:35pm Chairman Annas asks for a motion to grant attorney Drew Gamils permission to draft a resolution based on the discussion above. Chairman Annas so moves, and Chris Klose seconds. All Board members present vote YES to granting Drew Gamils this permission.

Review

Cary Kittner amended application for an area variance to construct a detached, 672 SF garage on the subject parcel, which would result in a 6% Building Coverage, and to move an existing 12' x 18' outbuilding to a location within 15' of her rear lot line. Town of Red Hook Zoning Law Section 143-12, The District Schedule of Area and Bulk Regulations, limits maximum building coverage in the Barrytown Hamlet Zoning District to 5%, and requires a minimum 15' rear lot line setback for outbuildings greater than 192 SF, and greater than 11' in height, measured from mid-gable to final grade. The subject parcel is located on 1 Wildey Road, in the Barrytown Hamlet Zone, of the Town of Red Hook.

Chris Klose asks the applicant to state the height of the larger of her two existing outbuildings, which she states is 14' high. Chairman Annas states the applicant's proposed garage/studio would put her at about 6% coverage and asks Ms. Kittner to state the coverage for her house, to which Ms. Kittner replies it is approximately 4.2%, and further notes with the proposed garage, and outbuildings, the coverage increases to about 5.9%. ZEO Bob Fennell calculates the applicant's two-story house, of 2292 SF, and enclosed porch of 65 SF, result in 1146 SF of coverage, which is the footprint of the house.

Chairman Annas asks if any Board members have yet visited the subject parcel, and further comments there are pros and cons to bundling two or more variance requests. Chairman Annas further clarifies if there is an objection to one of the variance requests, the entire project can fail. Chairman Annas notes the proposed structure appeared relatively substantial, at first glance, from the initial review meeting, and further comments the prospect from Wildey Road, there is a structure to the right of the subject parcel, with a detached garage, and a parcel to the left of the which contains a two car garage with a studio. Chairman Annas further notes to the west of the subject parcel there are also two-car detached units. Chairman Annas also indicates on the parcel map, displayed on the smart screen, the parcels along Station Hill Road which appear to have a much greater than 6% lot coverage. Kate Karakassis states she made a site visit, and notes there is a lot of building going on in that neighborhood.

Chairman Annas asks for a motion to set the public hearing for ZBA 19-13 Kittner,

At 9:25 pm Chairman Annas asks for a motion to adjourn the meeting. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present are in favor. Kate Karakassis so moves, Chrils Carney seconds, all Board members present vote in favor of setting the public hearing.

At 9:26pm, at Patrick Logan's recommendation, and at the Town Board's and Planning Board's request, Chairman Annas asks for a motion for the Board to cede Lead Agency status to the Town of Red Hook Planning Board, under SEQR, for the Rokeby Farm Heliport project (ZBA 19-07

Bennett-Replansky), Chris Klose so moves, Kate Karakassis seconds, and all Board members present vote in favor.

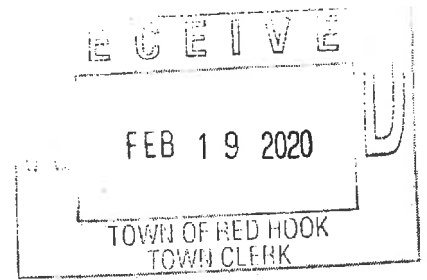
At 9:31pm Chairman Annas asks for a motion to send a letter, as drafted, to the Planning Board, informing it the ZBA has ceded Lead Agency status under SEQR for the Rokeby Farm Heliport project.

At 9:32 pm, there being no other business, Chairman Annas asks for a motion to adjourn the meeting. Chris Klose so moves, Kate Karakassis seconds, and all Board members present vote in favor.

The next regularly scheduled ZBA meeting will be held on Wednesday, March 11, 2020 at 7:00pm, in Town Hall. The submission deadline for this meeting is **noon, Tuesday March 3, 2020.**

TOWN OF RED HOOK
Zoning Board of Appeals

VARIANCE RESOLUTION



WHEREAS, an application has been made to the Town of Red Hook Zoning Board of Appeals by **Douglas Passeri of Hudson Valley Wind and Solar, and Clifford MacDonough, on behalf of Heermance Farm, LLC** (the “Applicant”) for a height variance of 60 feet where the maximum permitted height for windmills is 75 feet pursuant to the Town of Red Hook Zoning Law Section 143-15.A(2), in connection with the installation of a Bergey Wind Power 10kW small wind turbine, atop a 120 foot high monopole tower, with a total height of 135 feet, with the blade in the upright position, on property located at 433 West Kerley Corners Rd, in the Agricultural Business District. Said premises being known and designated on the Tax Map as **Parcel #6274-00-662640** (the “Property”); and

WHEREAS, a duly advertised public hearing on the area variance application was held on December 11, 2020, and continued to February 12, 2020, at which time all those wishing to be heard on the application were given such opportunity; and

WHEREAS, the Board closed the public hearing on the area variance application on February 12, 2020; and

WHEREAS, the proposed action is a Type II Action pursuant to the New York State Environmental Quality Review Act, and accordingly, no further environmental review is required; and

Whereas, all testimony has been carefully considered and the following pertinent facts noted by the Board:

- [1] There are other alternatives available in the Town of Red Hook to achieve the applicant’s goal to use renewal energy sources to lessen the farm’s carbon footprint, including contracting with existing local solar farms.
- [2] The amount of annual energy output (kWh) at a proposed tower height of 80 feet is approximately 6,382.6 kWh, while the amount of annual energy output at a proposed

tower height of 120 feet is 8,874.5 kWh as set forth in the Bergey WindCad Performance & Economics Evaluation Tool Worksheets received December 4, 2019. This difference represents less than 5% of the average annual energy use of the farm.

- [3] Construction of the wind turbine will disturb existing farmland as 470 feet of trenching is required. The area around the wind turbine will no longer be available open farmland.
- [4] Construction of the wind turbine will impair mountain views, and other valuable viewsheds.
- [5] The property is located on the National Register of Historic Places. Installation of the turbine will negatively impact the historic character of the property.
- [6] There is nothing along the road remotely as tall as the proposed wind turbine in this community which consists of open farm land.

WHEREAS, pursuant to the Town of Red Hook Zoning Law Section 143-135.C(2), when deciding a request for an area variance:

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such a determination, the board shall also consider:

- [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- [3] Whether the requested area variance is substantial;
- [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district; and
- [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance; and

WHEREAS, the Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

NOW, THEREFORE BE IT RESOLVED, that based upon the Record before it and after viewing the premises and neighborhood concerned and upon considering each of the

factors set forth in the Town of Red Hook Zoning Law Section 143-135.C(2), the Zoning Board of Appeals finds with respect to the requested height variance that:

- 1. The variance requested will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.**

The proposed height variance will negatively impact important viewsheds in the community. The proposed wind turbine is placed in direct line of sight of the neighboring residences. Furthermore, the proposed wind turbine does not fit within the historical character of the property. The property contains a 200-year-old farm; the modern design of the wind turbine is aesthetically undesirable for this property and the community as a whole. The wind turbine is located within the middle of an open field not near any trees or other structures. The Board asked the Applicant to consider locating the wind turbine closer to the greenhouses and other existing structures so as to preserve the open field, minimize the trenching required and reduce the impact to the neighborhood. The Board believed that clustering the turbine near existing structures would significantly minimize the overall impacts of the wind turbine. However, the Applicant refused to consider relocating the wind turbine to this area.

The amount of annual energy output (kWh) at a proposed tower height of 80 feet is approximately 6,382.6 kWh, while the amount of annual energy output at a proposed tower height of 120 feet is 8,874.5 kWh as set forth in the Bergey WindCad Performance & Economics Evaluation Tool Worksheets received December 4, 2019. This difference represents less than 5% of the average annual energy use of the farm. The proposed 120 foot wind turbine would result in a de minimis increase in annual energy production for the farm compared to the annual energy produced from an 80 foot wind turbine.

For these reasons, in addition to the reasons discussed above, the height variance will produce an undesirable change in the character of the neighborhood.

- 2. The benefit sought by the Applicant can be achieved by some method feasible for the Applicant to pursue, other than the requested area variance.**

The benefit sought by the Applicant is to create a renewable energy source to provide power

The Applicant was aware of the Town's 75 foot height restriction when it purchased the property and now seeks a variance to obtain relief from such restriction.

6. The variance request is not the minimum variance necessary to meet the needs of the Applicant.

The Applicant's goal to utilize renewable energy to power Heermance Farm can be achieved without the need for a variance. The Applicant can construct a 75 foot wind turbine, as of right, in compliance with the provisions of the Town of Red Hook Zoning Law. There are also other renewable energy sources the Applicant may use to reduce its carbon footprint. However, the requested height variance is the minimum variance necessary to produce 8,874.5 kWh of annual energy output with one wind turbine.

BE IT FURTHER RESOLVED, that the Board of Appeals, finds that the application for a height variance of 60 feet where the maximum permitted height for windmills is 75 feet pursuant to the Town of Red Hook Zoning Law Section 143-15.A(2), in connection with the installation of a Bergey Wind Power 10kW small wind turbine, atop a 120 foot high monopole tower, with a total height of 135 feet, with the blade in the upright position, on property located at 433 West Kerley Corners Rd is hereby DENIED.

Dated: February 12, 2020



Mr. Nick Annas, Chairman