

**POLK COUNTY BOARD OF ADJUSTMENT  
NOTICE OF PUBLIC HEARING AND MEETING  
Tuesday, October 26, 2010, 8:30am  
Polk County Government Center  
100 Polk County Plaza; Balsam Lake, WI 54810**

Notice is hereby given to the press and public that a meeting of the Polk County Board of Adjustment will be held at the above listed date, time, and location to transact business indicated on the agenda below. A quorum of the Board of Adjustment will be present. (Agenda not necessarily presented in this order)

**AGENDA**

Call to order and roll call

Approve agenda

Approve minutes from 10/19/2010

Recess at 8:45am to view site

Reconvene at 10:15am

- JACK WIES requests a Special Exception from Section 5B of the Polk County Small Wind Energy Systems Ordinance to build a small wind energy turbine. Property affected is: 2362 190<sup>th</sup> St, SW ¼, NW ¼, Sec 1/T35N/R18W, town of Eureka, pond (class 3).
  - Findings of Fact
  - Conclusions of Law

Adjourn

**BOARD OF ADJUSTMENT**

**POLK COUNTY, WISCONSIN**

**OCTOBER 26, 2010**

**The Chair, Eugene Sollman, called to order a duly noticed meeting of the Polk County Board of Adjustment at 8:30 a.m. on Tuesday, October 26, 2010.**

**Present were Mr. Sollman, Curtis Schmidt, Vice Chair, members Marilyn Nehring, and Art Gillitzer, and 2<sup>nd</sup> Alternate Tim Laux. Mr. Laux was directed to act in the capacity of secretary of the meeting.**

**On motion by Schmidt and second by Nehring, the board unanimously approved the proposed agenda which consisted of one matter regarding an application by a Mr. Jack Wies for a special exception pursuant to the small wind energy systems ordinance, Sec. 5.B.**

**On motion by Nehring and second by Gillitzer, the board approved the minutes of the October 19, 2010 meeting with the addition of a reference to the Sara McCurdy and Gary Spanel presentation at that meeting regarding BOA procedures.**

**Thereupon the Chair, for the benefit of Mr. Gillitzer who was absent from the October 19 meeting, spoke in regard to the McCurdy presentation and a citizen complaint letter related to that presentation.**

**Thereafter the board recessed to conduct a site visit at the location indicated on the Wies application at 8:45 a.m.**

**The board arrived at the Wies site at 9:05 a.m., and departed the same after site visit at 9:15 a.m. The board was in recess until such time as it was scheduled to reconvene.**

**The board reconvened and the meeting was called back to order at 10:24 a.m. in the Polk County Board Room.**

**In addition to the members previously noted, the following were in attendance upon the board's reconvening: Lori Bodenner, Gary Spanel, Jack Wies, Dee Wies, Jeff Peterson, David Eid on behalf of Mr. Wies, and Kim O'Connell.**

**After general housekeeping matters and introductions the Chair read the Zoning Department Staff Report on the Wies application into the record. The staff report was marked as exhibit one (1) in the record.**

Thereafter Gary Spanel made a presentation regarding the height limitation provision contained in the small wind energy systems ordinance. An email by assistant corporation counsel Malone was marked as exhibit two (2) in the record and referred to by Mr. Spanel during his commentary. Mr. Spanel commented that each application regarding the height provision in the ordinance should be considered from this time forward on its own merits regarding safety, setbacks and related height limitation issues.

Thereafter Mr. Wies, together with Mr. Eid, testified regarding the application. The Chair took the applicant and the manufacturer's representative through all the criteria contained on the application form. Either none of the criteria applied to the Wies wind energy system application, or all local factors were favorable.

Mr. Wies and Mr. Eid testified that the system plan included \$1M in liability coverage; that the project cost was approximately \$200K; that the parties contemplated a 10-year maintenance agreement; that they anticipated potential energy savings; and that the system was rated to have a 20-year life expectancy.

Thereafter Jeff Peterson testified regarding the ordinance. Mr. Peterson stated that he was involved in drafting the ordinance. He said he was familiar with the drafters' intentions and that he was comfortable in testifying regarding its interpretation. He stated that the Wies project needed no special exception because it was not covered by the ordinance because it did not fall within the definition of systems subject to regulation because it was greater than 170' in height.

Thereafter Mr. Spanel was recalled for further testimony. Mr. Spanel stated that he was not aware of any other ordinance in effect in the county that would regulate the Wies project. He stated that the shoreland protection zoning ordinance did not specifically regulate wind energy systems. He opined that Ms. Malone's opinion [See Exhibit 2] meant that the height limitation in Section 4, 8(c), the definition of small wind energy system, was to be struck, and that all wind energy systems were nevertheless still regulated whenever such systems met the criteria of 8(a) and 8(b) of the definition.

The Chair closed the testimony at 11:17 a.m.

Thereafter, the board deliberated the matter making the following findings of fact:

The Wies system is intended to generate electricity. (Nehring)

The Wies system has a rated capacity of less than 100 Kilowatts. (Sollman)

The Wies system will be 185' in height. (Laux)

Jeff Peterson was allowed to make an additional comment regarding whether the ordinance set a limit on wind energy system height in the county. He opined that it does not.

Thereafter, the board resumed deliberations and added the following finding of fact:

The Wies system would be a structure under the definitions found in the Shoreland Protection Zoning Ordinance. (Gillitzer)

Thereafter on Motion by Laux and second by Nehring, to dismiss the application, discussion was had.

Upon discussion and leave, on motion by Laux and second by Nehring, the board voted 3-2 by roll call vote, to dismiss the Wies application for lack of jurisdiction because the proposed structure exceeds 170' as required by the definition of small wind energy system in the ordinance.

Vote: Aye: Nehring, Laux, Schmidt

NO: Gillitzer, Sollman

The meeting adjourned at 11:33 a.m.

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Timothy J Laux, Acting Secretary