

Town of Watertown
Planning and Zoning Commission
Special Meeting
Public Hearing
January 16, 2008

Mr. Minnich called the public hearing to order for the continuation of public hearing Special Permit #237 for a wind turbine to be located at 60 Farm Circle, Watertown, CT

Mr. Minnich asked Mr. Karpavich if he had a further presentation.

Mr. Karpavich said that at the last public hearing there were some questions on decimal ratings and what Andy Krew's, the owner of Southwest Wind Power, wrote me a letter and I would like to read it to the Commission and submit it.

Kurt,

As you know, Sky Stream was especially designed for residential homes where neighbors would be in close proximity. Our measurements audible sound does not exceed 55 decibels measured from the base of the turbine support tower out a distance of 65 feet which is in accordance to your Town zoning regulations. I would like to clarify that the website decimal chart rating information that was measured at 35 feet at the base on the support tower and is not applicable to the Karpavich installation.

Also, at the walk through, I was asked to float a balloon on the east side of the home where my electrical service is and that was not the original application that I submitted. I contacted Ray Faroos from Solar Rights because he was going to be the contractor for the installation. He wrote me a letter which says " in preparation for the installation of Sky Stream Wind Turbine at the Karpavich residence, 60 Farm Circle, Watertown, CT., a careful site analysis was conducted. The optimum site was determined to be southwest of the house as shown in the drawings provided as I submitted on my application. Due to the gentle slope and proximity of the driveway facilitating both installation and maintenance, other sites were considered including the southeast side of the house where the balloon was floating in the second position which would be closer to the electrical service. However, the grade is steep on the side as well as lack of a driveway to provide access for heavy equipment. This would create undue problems not only for the installation but for service and maintenance". I would like to submit these for the Commission.

Mr. Minnich asked for questions/comments..... there were none.

Mr. Minnich said – I understand that the site walk.....and then saw someone in the audience raise his hand....

Mr. Robert Kolesnik, an attorney in Waterbury, with his law firm being Kolesnik and Norris and as some of you know, I represent Joseph and Kimberly Guerrera in this matter. They are the abutters to the Karpavich property on the other side of Mr. Dadonna. They are the interior lot and their house and front yard faces the exact site where I understand this is being considered, so that if you approve this which you are going to do is put a windmill, wind turbine, in their front yard where they can look at it through their front window and their foyer all day long and see it when they walk out onto their front lawn. Your wind turbine regulation, I don't think ever contemplated this. The wind turbine regulation says that it should not be in the front yard; the obvious reason for that is aesthetics. We don't want these things out in front of everybody's front yard because obviously they will destroy property values, they will make the neighborhood look tacky, etc. But here, because we have an interior lot, that directly faces the back of the Karpavich lot and in fact, as an aside, it is my understanding it was the Town who required Mr. Guerrera to face his house that way. He wanted to face it another way. But, he had to face it that way so he is looking right into the Karpavich back yard and he is going to be looking right at this wind turbine. So, we are going to make a little presentation tonight to hopefully tell you why you shouldn't approve this at all. I am going to speak for a little while and I have some exhibits for you to put into the record and then we have the privilege of having Doug Lampert here, one of our well known appraisers in the area and he is going to tell you how much this will cost Mr. Guerrera and Mrs. Guerrera by way of reduced property values. If Joe has enough courage to get up himself, he may want to speak to you personally.

Mr. Rondeau asked if he could clarify something. I would like to get a clarification on exactly what house you are representing and secondly, what location you are objecting to.

Mr. Kolcnick said he is about to hand out an informal diagram just showing you the relative position of the lot size.....

Mr. Rondeau asked if you are objecting to this being installed on

Mr. Kolcnick said anywhere, anywhere at all on the Karpavich property... I don't think you should pit Mr. Madonna if he is here and I don't know him, against Mr. Guerrera by putting it on one side or another and that is what I apparently I understand may be going on here, shuffling this thing back and forth, well, my remarks and again I have never met the Madonna's, but my remarks apply equally to them and us. This thing should not and will not go anywhere on the Karpavich property. Now, if I may hand out some things. First of all, for the record, I am handing you three documents as my first exhibit and they are the records of the Superior Court case, Madonna Vs. Watertown Zoning Board of Appeals and asked who he should hand them to.

Mr. Minnich said he would take them...

Mr. Kolcnick said they are the case print out from the judicial website showing that case is active, I think there is a pretrial coming up on it in about two weeks. On behalf of the Guerrera's, we will be intervening in that case as plaintiffs and joining the Madonna's in their fight and I can assure you, the complaint is in there and the plaintiff's brief, Mr. Madonna's attorney, did an excellent legal brief on why the variance that was granted by the Zoning Board of Appeals last year, the height variance, is totally illegal. There was absolutely no hardship, there was no legal hardship, there is nothing but a self imposed financial, economic hardship. This is a guaranteed win for the Madonna's, so there will be no height variance, I can assure you of that. Now, you are all saying, well, we don't need a height variance and I am going to tell you why you do need a height variance.

Ms. Mulcahy said the document is not legible that you handed in.

Mr. Kolesnik said the part that is illegible is irrelevant, it is the Sheriff's return and I won't claim it if you want, I'll remove it, the important part of that exhibit is the complaint in which the Madonna's allege that the variance was illegal and then the last document is the plaintiff's brief. I believe they are all legible. The second thing I would like to give you....

Ms. Mulcahy said for the record, the rest of it is not very readable either.

Mr. Kolesnik said it doesn't make good reading, I put it in the record for Appellate purposes, I don't think any of you to read it except for the brief. The brief is very enlightening as to why the variance is illegal. I want it in the record, if you choose to review it, I encourage you to review the brief and it will tell you why the variance should not have been granted and will most certainly be reversed by the court.

Mr. Minnich said thank you.

Ms. Mulcahy said, as you know, as an attorney, if you are putting this in for the record and the at some point if an appeal is issued against the Town, and we have illegal documents in our record and we submit these to the court, they are going to be looking at us to make these documents right. I just would like you to submit a better copy because there are several pages in here that are not right and it would be up to the Town....

Mr. Kolesnik said why don't you take this right now and mark it and I'll see if I can substitute it before I leave tonight and if not, I'll mail you one in.

Mr. Kolesnik said next, just to show you the adjunct position of the lots, I am going to file an original one of these and then I brought several copies you can share, I don't think I have enough, I think I have five or six copies you can circulate. I have one for the record. I have highlighted the Guerrera lot in yellow and I've labeled the other two lots as Karpavich and Madonna. You will notice the Guerrera lot is an interior lot, quite a

long driveway. The diagram is obviously not to scale but it shows you the adjunct position of the lots and the unfortunate view that the Guerrera's are going to have and shows you on behalf of the Madonna's, how close their backyard is to this proposed activity. The next thing I would like to give you is a memorandum of law and fact in opposition to the Karpavich application. I have a signed original for the record and believe it is all legible and I have seven or eight copies. I would encourage you to take these home and read them because I am sure you will not be deciding this tonight until you have had an opportunity to digest all of this information. I am going to review that in just a minute. I was only retained two or three days ago and I apologize if I am not totally up to speed but I did my best to do my research yesterday and today. One of the things I was able to get today through Carol in the office and apparently your recorder who was able to type up this afternoon the minutes of the last public hearing on December 19, 2008 and I have a copy of those and I read them so I could try and get a feel for this thing so I would know what happened last time and to see where this thing was going. After I read the 16 pages, and part of it did not print because one of the tapes malfunctioned so there is a part that is not in here the end of it but we can get a sense of what happened and I am sure you will all be reviewing all of this before you make a decision and again I encourage you not to rush to make a decision tonight. I encourage you not to vote on this tonight until you can read and think about everything. Some of you may have already thought about it and I am going to talk about that in a second. In my review of these minutes is that it was an excellent public hearing and everything that had to be said about this project probably was said by one person or another. The thing that just leaped out at me was that Mr. Madonna said something like – what is all of this about – a machine that produces enough electricity, barely to run a hairdryer. I don't know if that is accurate or not. I have not reviewed the specs and I am not an engineer. It may or may not be true but I've read that elsewhere in the research and literature here and there is some criticism about what are we really doing here. We are getting a whole neighborhood, you have a petition with twenty people, all of whom are screaming at you about this. Talk about harmony, one of the criteria for the special permit is that it has to be harmonious with the neighborhood. Everybody else in the neighborhood except Mr. Karpavich does not think it is harmonious. It is not up to you to substitute your judgment for theirs. You need to listen to these citizens. They are crying their hearts out to you. They have signed a document telling you this thing should not go there; we don't want it, it is not harmonious with the neighborhood, its going to reduce our property values and on and on. So, almost everything that was said, that could be said in the minutes. Overwhelming opposition, except for Mr. Karpavich and possibly one other person, I don't remember anyone speaking in favor of this. I got the impression that Watertown is being bullied by the New York Times which is the impression I got from reading the minutes and I did not see the article but everyone is saying you made the New York Times and I am hoping that we are not on an ego trip here to have the first wind turbine regulation in the State and so I am hoping that is not the case but again that is the impression I got from reading the minutes. One thing that disturbed me very much about the minutes is that two of you and possibly more who may not have voiced your opinion, two of you, Ms. Wick and Mr. Mancini made comments and I am going to read them to the effect that you did not think you could deny this application because it was a special permit and it was an approved use and you need to research that because that is the

furthest thing from the truth. You absolutely can deny it, you absolutely should deny it merely because it is “a permitted use as an accessory structure” pursuant to that very defective regulation that you passed back in December. Just because it is a permitted use, doesn’t mean you have to grant the application. Because you made it a use that can be granted only by special permit or special exception, that is what your application says, special exception – I’ll let that one sink in – it is an exception all right. Only because you made it an accessory structure – there are a lot of other regulations that you have got to follow outside of the wind turbine regulation – none of which are satisfied by this application. So, not only do you have the right to deny it, I think you must deny it and hopefully I will convince you of that by the time I am finished. What concerns me is if any of you share the belief that Ms. Wick and Mr. Mancini voiced at the end of this hearing, that you have got to grant this because it is a permitted use then I think you ought to excuse yourselves from the vote because that would be pre-judging this application half way through the public hearing. These opinions were voiced on December 19th, you hadn’t even heard from me yet. You have not seen these citations and you had not walked the property but at least two of you are saying and I think you are going to change your mind that we can’t deny this and that is not true. Let me read and maybe that is not what you meant and I know that when we are speaking publicly, things sometimes don’t always come out but in Mrs. Wick’s comments, you say “I don’t think the public should think that we can just say no we don’t want it and you can’t put it in, because our regulations at this point allows it as opposed to if we had not had a regulation – take that for what it is worth. The other thing that just popped right out at me when I did the research on this was that it appears to an outsider that looking at this whole scenario – Mr. Karpavich starts with a variance last year because you don’t have an ordinance and gets an illegal variance which is appealed and then what happens next? You pass a wind turbine regulation for – and there is only person out there apparently – one application – it appears as though the regulation was passed to accommodate Mr. Karpavich – maybe that is not true – but that is me looking at this thing as an outsider looking into the Watertown bubble and saying, why did they rush to pass a very deficient, very ambiguous, very inconsistent regulation so quickly with very few people at the public hearing and then it became apparent - because Mr. Karpavich is in a hurry to put up his windmill and here we are. So, now we have the wind turbine regulation and there is some talk that people don’t think he needs a variance any more – I’m not sure if you share that belief or you don’t share that belief but that is not true – he still very vitally needs the variance and he will not get the variance. Let’s go now and I don’t want to leave Mr. Mancini out and I think you are going to change your mind at the end of this. Mr. Mancini remarked “I don’t think we can deny this wind turbine to Kurt” which is on the last page of the minutes but seeing that it is a special permit like Judy said, we can ask that it be moved around to be more neighbor friendly – I don’t agree with that by the way but that is OK – that is where I am at right now – I don’t want a wind mill, Mr. Mancini says, but the regulations are what they are and he meets the regulations – that is a dream – he has not even shown you how he meets the regulations, you don’t have an environmental impact statement, you don’t have anything – you don’t even have a certified plot plan – you have his scribbling on his old as built – that is all you have here – and one dimension – 70 Ft from the Madonna property – you don’t have elevations, you don’t have other side yards, you don’t have grades, you don’t have comparable

heights, there is about four pages in your own regulations that he did not put in his application that he has to put in – that’s reversible error – if you approve such a deficient application and I am telling you, you have one piece of paper there, at least one of the words is illegible, and you have got one old plot plan and that is what he gives you for a special permit application or special exception application as it is styled here and a site plan application and that is what he has filed. You all know better – you know you cannot and have not and should not grant such a deficient application, so just on the technicality don’t even waste your time. If, where you say he meets the regulations Mr. Mancini, I hate to say it, he meets the regulations that this Commission set up, that you fought to your credit Mr. Mancini. But, he meets the regulations, but seeing that it is a special permit and then you go on about how you want to go up and see the area which of course is laudable but the crux of your remarks are that you feel as though if he meets your regulations, you have to grant it and that is absolutely not true. So many of the requirements for the special permit with an accessory structure, and that is what this is, this is not a house, it is an accessory structure. So many of them are things that are discretionary with you such as – how is it going to affect property values. Doug Lampert is going to tell you and he is going to give you an appraisal who is a certified appraiser and there is no one here to rebut him that this will cost my clients \$100,000 in equity loss in their home – that is fact – especially in this market, not that they are going to sell, when we need every advantage and when we don’t need a whaling blade 55 Ft high right in the front lawn where the kids play. Just imagine, and it is really not appropriate, for me to do this, if I were arguing to a jury and I said ladies and gentlemen of the jury, imagine if it were in your front yard – the other lawyer would jump up and object and say that is not proper and so but I am going to do it here because there are no such rules here. Imagine if it were in your front yard and did any of you think about that when you voted hastily, in my humble opinion, for this regulation which ought to be revoked immediately. I would hope that if any of you have prejudged this by thinking that it is the law that because it is a permitted use, you must grant it, that is not true and it is not the law. You have to cover about 4 pages in your zoning regulations before you get to the end of this, before you could even think about granting it or else you must deny it. So, let’s go the memorandum – I’ll try to not take more than another 10 minutes, that is why I put this in writing for you and I would hope that you vote on this and I am certain it is not going to be tonight, you are going to have this in front of you, you are going to take your courtesy copies home with you and you are going to read it and think about it and ask yourself – does this zoning commission really want to venture out onto this diving board for this individual who never even gave you what he should. Do you want to do him a favor and approve an application that does not have an environmental impact statement that does not have site plan, do you want to do that, I don’t understand why you should. But I don’t understand why you passed the regulation for him either. So, to our memorandum, the first thing I mention on the first page, article I, section 7.2.5, your wind turbine regulation says it is permitted by special permit as an accessory structure, those are the most important words you are going to hear tonight – accessory structure – a lot of rules go along with accessory structure. A lot of rules go along with special permits – your application does not even call it a permit, your application calls it a special exception. That speaks volumes, doesn’t it? It is an exception and it sure is an exception. So, let’s go on, article 5, section 52.1, 52.2, we are going to the special permit regulation

now – and it says – I’ve pulled out of the regulation just the nuggets for you – I’m sure you have the body of the regulations. It says that you can grant a special permit so long as it is subject to the satisfaction of the requirements and standards set forth herein, that is in your zoning regulations in addition to all other requirements of these regulations. Can it be clearer? One of you might be tempted to say – well, we put in a couple of standards in the wind turbine regulation, no more than 65 feet and at least a 65 ft side yard – yes you did do that – but that does not mean it is mandated – that means each one of these has to be taken on an individual basis and it has to be fit into the regulations and standards of the zone it is going into – that is what the language means and the courts have said that and at the end of this memorandum, I’ve given you a citation on that. What you are bound to do here is take those two little regulations from the wind turbine regulation and then combine them with all the other ones that I have put in here. You have to make sure they are all satisfied and what am I talking about – well first of all, I go on to say down below, the application submission shall cover all off site and on site impacts – that is a joke – he has not covered any impact here – there is nothing in your file about off site or on site impacts – building locations, aesthetic considerations, sufficient information and enough detail to address the major impacts listed above, shall, not may, but shall, Mr. Russ, be provided by the applicant. You don’t have to do it, I don’t have to do it, he has to come in here with the package and he did not do it and he is asking you to go out on a limb and do him a favor and you know what is going to happen if you do that and the application is deficient, you know there is going to be an appeal and you know the court is going to reverse it because you can’t approve it based upon what he has given you even if you wanted to. It says shall give you these things, not may. Next, R-70 residential district, and we have not gotten to the good stuff yet, allows accessory structures, and remember way back in the spring when he went for the variance of the 35 foot height – made a mistake, that was not the right regulation to vary – that is the building height regulation, guess what the height regulation is for an accessory structure in an R-70 is, 20 feet, so he did not ask the ZBA to vary the 20 ft accessory regulation, he asked the ZBA to vary the 35 foot regulation which was a total mistake. Clearly the R-70 residential district requirement is that an accessory use, and this is an accessory use, cannot be higher than 20 feet, certainly not 55 feet, and that regulation has got to be followed in conjunction with your wind turbine regulation. The wind turbine regulation says it can be up to 65 feet, this is true, it says that, that does not mean in any particular zone district however, that it can be up to 65 feet because the regulation says in at least five different places that you have got to follow all of those other regulations in each and every district. He has not dealt with that yet and you are bound by that 20 foot height regulation. At the bottom of page one, the use allowed by the special permit shall conform to all requirements of the zoning district in which it is proposed to be located shall, not may – you have no discretion, you have to apply the 20 feet and wait until we get to the side yard, you have to apply that too. Next page, the Commission may grant a special permit after considering safety – anybody talk about the ice falling off these blades in the winter and hitting the kids on the head when they are sliding down the driveway; location type, size and height of buildings and other structures – the character of the neighborhood, the existing character of the neighborhood. You never go to a zoning hearing as a lawyer without looking at the site first and I was only retained two or three days ago. I went up this afternoon and drove through that neighborhood and I came in from the north on

Wheeler Road and went down and took a left on Farm Circle and I saw some of the most beautiful homes I have ever seen in my life and this Commission ought to be proud of that neighborhood because that is what your restrictive regulations and that is what good zoning ordinances produce in this lovely suburban community of which you are the guardians. You are not the paratroopers coming in here with windmills. You are the guardians of everybody in this room in addition to Mr. Karpavich and that is the nicest, classiest, neatest neighborhood I've seen in one long time – beautiful architecture, beautiful lawns, stone walls, wrought iron railings – gorgeous styling. If you have been up there you know what I am talking about – it is breathtaking and you are going to stick a windmill in the middle of it. Shame, shame on the regulation that allows that. Your regulation didn't allow the developer to put electric poles up, all of the utilities are underground, why? – you made that developer go through the expense of putting in all underground utilities. That is excellent, that is why people move to Watertown and spend \$600,000, \$700,000 and \$800,000 on these mansions – certainly not to have a windmill stuck in their backyard or in their front yard. I was shocked when I saw the neighborhood that you are allowing this to go into and I know you won't. The petition that you have from the neighbors ought to tell you enough about that. You don't have to strain to think about whether this monstrosity is in harmony with this neighborhood or not, you don't even have to think about it. You don't have to think about it for more than one minute because the inhabitants of the neighborhood have told you it is not. They are the most qualified to do that and you can't pass this application unless you find that it is in harmony with the neighborhood which is just one of the things. I submit that if you exercise your good faith and you do not abuse your discretion and you do not show favoritism to this applicant that it is impossible to find that this use is harmonious with this gorgeous neighborhood. Just one example is that he was supposed to give you that impact statement and he didn't so he is letting you guess about it. He shall include an environmental impact statement – I am not going to belabor it – there is no environmental impact statement in there – you know what that is – I know what that is – it is reversible error for you to pass this application without that. You ought to deny it on the spot – you should not have accepted this application and sent it for a public hearing on such a controversial issue based upon that shameful one page application that he has filed. You should have never even done it – you should have turned it back and said your application is not complete – I'm sure you have done that hundreds of times – why you didn't do it here. Why have we gotten this far and my clients and everybody else has to spend thousands of dollars on lawyers – that is why we have you – you are the guardians of these people, not me. I shouldn't have to come here and tell you your own regulations. Why did you accept an incomplete, deficient application on such a controversial matter? Why did you rush to judgment? New York Times maybe, publicity maybe – I don't think so, I think there is more good faith in this Commission than that but you can ask yourselves why you did it. Let's have some fun now----- the environmental impact statement says by the way that he has to address and he hasn't, harmony with surrounding development and effect on property values. There is not a person in this room that thinks that this windmill, and I like to call it a windmill because that is what it is, that this windmill is going to increase anybody's property value – maybe Mr. Karpavich's if he can find somebody else who wants one, maybe – but I'll tell you it sure isn't going to increase anybody's property in that neighborhood as you well know and there is not

doubt about that.....and don't think for one minute that it will and he has not shown you that it will and you are going to have a certified appraiser standing up here in a moment telling you it is going to cost the Guerrera's \$100,000 to watch this whirly bird operate in their front yard. Additional setbacks, Article 1, Section 7.24, bottom of page 2, are you ready for this one.....any structure that exceeds 35 feet in height shall be set back from any street line, property line, etc by two additional feet for each foot or fraction thereof, by which such portion exceeds 35 feet in height. Now, we have a 55 foot monster out here –that is 20 feet over 35 feet. You can take your pick – if you think your new side yard in the wind turbine regulation of 65 feet is the appropriate measure, and I don't know that it is because it conflicts with the 50 foot side yard in the zoning regulation – whoever drafted this thing could have made that clear, but they didn't and the ambiguity will be construed against the drafter. Let's assume it is the 65 foot side yard, giving you all the benefit of the doubt that the wind turbine regulation is the one that applies here and it says, 65 foot side yard but, again remember, two or three times already I've shown you that the language says that you have got to satisfy them and you have this other little thing and there is a reason for this, obviously, you put a high accessory use structure like this anywhere over 35 feet in your infinite wisdom, who ever drafted this one years ago, the higher it is, the further away from the property line they want it, that is why they put this in here – make sense doesn't it, so we don't want a chicken coup, although I understand that is gone, we don't want a chicken coup on the boundary line, do we? No, because we don't want to live next to those kinds of things, so this very, very thoughtful regulation says you must add 40 feet to the side yard and if we have a 65 foot side yard in your regulation and we add 40 feet to it because that is what this says, you have 105 foot side yard. I should not say side yard, setback that means 105 feet from each of the neighbor's boundaries, the Guerrera line, the Daddona line and the back boundaries. I don't think he can put it in there if you put all those side yards together – I looked at the map and I think it leaves him about six inches right behind his house, if that but we don't know that do we, because he has not given you a sight plan with those dimensions on it. He is asking you guess and he is asking you to have me come up here, he is making you listen to a lawyer, he is making you take a risk here that you shouldn't have to take because he hasn't addressed these things – shame on the applicant and shame on whoever accepted the application without requiring these things because you have put a lot of people through a lot of trouble and a lot of heartache – my client says he has lost eight pounds in the last week over the anxiety of having this in his front yard – do you know what that means – and it should have never come up like this. Ok, so you have got it, you can take it home and put it under your pillow tonight, 20 feet over the 35 feet is 40 feet we add to every set back and he can't comply with that. I understand that you have been out there and you are speculating about putting it elsewhere – maybe a little bit closer to Guerrera than Daddona – shame on everybody pitting neighbor against neighbor – don't approve it and you won't have that decision to make – it is going to hurt both of these people – both of these families. This is the American dream – drive up there tomorrow or Sunday morning – drive up into that beautiful neighborhood – these are young kids with little babies and their sweat is in those beautiful homes and it is your job to guard their property values – it is not your job to make it easy for Mr. Karpavich to run a hair dryer.

Mr. Rondeau asked the Chairman if he could have the applicant stick to the facts and move this along instead of....

Mr. Kolesnik said to Mr. Rondeau, may I respectfully reply that I am sticking to the facts and I have a right to be heard and I am almost finished and I am being very respectful of the Commission, but I can't help...

Mr. Rondeau said he was addressing the Chairman if he wants to address this or not.....

Mr. Kolesnik said he can't help being emotional about this because anybody is emotional about this and everyone I have talked to is emotional about this and no one can understand the logic of it. I've already talked to you about the variance, that is out, there is no legal hardship. The ZBA, and I've got the record and I've read the record, I did a lot of reading in the last two days, I've read the public hearing, there was not a mention of a legal hardship and you know what they means – they just gave it to him – don't ask me – I never will understand sometimes the decisions of Zoning boards – and there were a lot of people objecting at the public hearing, there must have been 40 or 50 people and they passed it. Now, here is where you are going to take umbrich, if you haven't already – your wind turbine regulation passed in hast, drafted in hast without any forethought, full of ambiguities, full of inconsistencies says, and I know this has been discussed, that it must go on a residential lot of no less than two acres and it doesn't, in contrary to what you may hope it says, it does not say if you look at the commas and you look at the structure of the sentence – residential lots not in R-30, R-70 and R-90, it doesn't say that, it says all lots, lots in R-30, lots in R-70 and lots in R-90 and any other residential lot - in order to put this turbine there, it has got to have a two acre area, that is what it says, if you think it is ambiguous, it will be construed against you because you are the drafters of it, it clearly says that. My client ran it by ten or fifteen people – read this what do you think it say, every single one of them agrees with us, it says every residential lot has to have two acres no matter where it is. Now, how many acres does Mr. Karpavich have – well at least there is an A-2 survey in there, his as-built is an A-2 survey and it shows 1.50 acres – he does not have the requisite two acres and if you are going to take the untenable position that you didn't mean that in the regulation that he could have it on one and one-half acres in that zone but everybody else needs two acres – is totally unfair – how is that fair to any body. The more logical interpretation of that sentence is you have to have two acres no matter where it is, read it, it pops out at you – maybe it was an error in drafting if that was not your intention, but that is what it says and the courts will interpret it as plain language, they won't torture it to construe what you think you hope it says, they will construe it as the plain language, read the commas and the and's where they are – it is an inescapable conclusion – that alone should have made you deny this application. You have to satisfy all of the requirements and standards of your zoning ordinance, not only the two in the wind turbine regulation but all the other ones that I've read to you and put in this memorandum – if there is any doubt about that – I have referred you to at least one case – special exceptions, although expressly permitted, and this is on the last page, one-third of the way down, although expressly permitted by local regulation, yes, you have permitted it with the wind turbine regulation, you have God Bless, the case goes on to say – and it is a Supreme Court case of Connecticut – says it

must satisfy certain conditions and standards set forth in the Zoning Regulations themselves as well as the conditions necessary to protect the public health, safety and convenience and property values. Let there be no doubt in your mind that you have to satisfy all the criteria – the 20 foot height, the additional 40 foot side yard – all of it in this recipe – it is in there believe me and the cases have said it is in there – maybe you want to ask Mr. Pilicy about that, he will tell you. So I conclude by saying this tower will significantly reduce the value of the Guerrero property by at least \$100,000. It does not comply with any of the special permit accessory structure requirements, it does not even come close to complying and if you approve it, the approval will almost certainly be reversed by the courts and if you do approve it, part of the appeal will be the regulation itself, that will necessarily be tested because no one heretofore could have tested that regulation when you passed it, I think in December. You might say well, why didn't you appeal it then, why didn't you appeal the regulation, I know there were comments in here about that, why didn't everybody come to the meeting and tell us that this is wrong, well you shouldn't have to have that but, you should know it yourself – this is the real world, we all have families and jobs and illnesses and bills and things like that and we don't all always go to public hearings about something like this, so we don't – you know that – you know how the public is – it is up to you, you signed on to this Commission, you wanted to be here, you took an oath, it is up to you to look at this thing carefully and when you passed it, no one could have taken an appeal to the courts, no one because that is not allowed because no one has standing yet, you can't appeal a Town regulation in the courts, I've tried it, I know, until there is an application filed under that regulation which affects you thereby giving you standing and this is the first one and I can tell you that wind turbine regulation sure affects the Daddona's and the Guerrero's and I can guarantee you that if this appealed, the wind turbine regulation is going to Hartford with the rest of it and it will be tested, it's inconsistencies will be tested, the fact that it does not consider Mr. Guerrero being an interior lot and you stick it in his front yard because you didn't even think about that – it can't go in anyone else's front yard – aesthetics were a consideration, I know they were, a legitimate consideration but you forgot about this. How long did it take you to draft this thing, a month, two months after the court appeal was filed, all scurrying around – well we have to do something – we have to fix this – let's pass a regulation that will make it easy? Thank you so much for your patience with me. I apologize for my exuberance and I am going to turn the microphone over to Doug Lampert who will tell you about property values. I am going to ask you not to vote on this tonight until you have had an adequate opportunity to read everything and digest it and then don't waste any time in denying it.

Doug Lampert of 1339 Litchfield Road, Watertown spoke and said he would be brief. I am going to talk about briefly is the effect of this wind turbine placement on the property at 60 Farm Circle and it's effect economically dollar wise on 68 Farm Circle which is the interior lot which is Mr. Guerrero. I don't know who walked the site when you went there to fly the balloons, I don't know if you really took into consideration of Mr. Guerrero being an interior lot. If you pull into Mr. Guerrero's driveway, you turn left and you look at the wind mill. If you go to his front door of his house you are looking at the wind turbine. You go to his second foyer on this second story house – you look out the bedroom window you are looking at the wind turbine. I don't know how you picked that

particular site. What this boils down to in appraisal terms – there is a definition of this called economic obsolescence. Economic obsolescence is just something is another form of depreciation due to outside forces not controlled by the individual himself that owns the property – it is outside the property lines. In this case, we when we are talking economics, it could be zoning regulations, deterioration of properties, lack of good neighborhood planning as an architectural style or price range, unreasonable high real estate taxes, presence of nuisance or hazards in the neighborhood or anything else outside the property lines that would give this subject property less appeal than to other properties. The scope of my work that I did was that I was engaged to go out into the open market picking the number of houses similar in market value to the same square footage, same lot sizes at the subject and we are talking in the \$500,000-\$600,000 range up there. If all those houses were placed on the market at the present time, this subject property having wind turbine in it's front yard would certainly affect that property by a minimum of \$100,000 off the market, right then and there in damages. The whole thought of it just being placed where it is being placed, I can't understand your reasoning and I can't believe you are really walked it and that is where you picked without looking and other than that, that is all I have to say. If anyone has any questions I would be happy to answer them. My qualifications which my resume is attached to the brief that I gave you but if you have a question – you look like you have a question.

Mr. Minnich said he was waiting for him to finish.

Mr. Minnich said his process is to get comments from the public before we ask questions.

John Blayzis of 35 Sperry Road spoke and said he was at the meeting a month ago about the turbine. I am glad to say I live in Watertown and so far you all are making all the right decisions in my 61 years. I give you all credit for standing up for your own rights. What your decisions are, hold them and don't let anybody take them away like this guy is trying to threaten you, put you down – I don't like that stuff – he says he does not know much about the wind turbines from my understanding, he is right, he does not know anything about them. One man mentioned they make just enough for a hair dryer. Well, that means every month my hair dryer is costing me \$400 to run. That is a big hair dryer. So, that will take away my whole electricity bill if my hair dryer cost me \$400 it will take away my electricity bill. There are different type of wind turbines, some there is no noise at all and they put them right on top of the house, there are the round ones, many people see them, they take heat out of the attics and they just go around, no noise what so ever. These people over here mentioned what 20 out of the people in Watertown, I know a lot of them who want to start going green, even Jodi Rell is on the band wagon. I believe you people are starting to think going green and I give you credit, you make the rules and they are saying 55 feet – if you are on the ground looking that way, how are you going to see it, I can't. I am not even 6 foot tall, I have to go like this to look up, everyone would get a stiff neck. I am in favor of what you guys did and what you guys should do to keep it going. Let's make an example for this and say we are going to go green, we are going to help the people – if they want to go green, save the earth and I just give all you guys credit and don't back down and be threatened.

Joseph Guerrero of 68 Farm Circle, Watertown spoke. I am the interior lot owner next to the Karpavich's. It is difficult for me to get up here and speak to each and every one of you because my wife and I are related to them – it is my wife's aunt and uncle. The impact that this is causing in my house, my family – I trusted you all would make the right decision to do the right thing that you were going to set regulations – you have let everybody down, everybody. You look at any pictures of any of these wind turbines on the internet – they are all in areas where homes are far away from there. You are going to devalue my home – I worked my entire life to build that and I did most of the work myself, my wife put her time in it – I spent time away from my two children while I was up there for eight months building that house and to have it devalued like that breaks my heart. That is my equity in my home, that is my borrowing power if I have to borrow money if I am in trouble somewhere down the road – you guys are stripping that from me – that is unfair. You set up regulations you never even took into consideration, an interior lot, not one bit, what about the front property line of an interior lot – it may be his side line, but that is my front yard – nobody took an interest in us what so ever – we feel as though we have been discriminated against. To come up with these regulations they way you did is ridiculous – I am for seeing things going green – I agree with what you guys are trying to do – I have no problems with it – but the lot sizes – you need to have bigger lot sizes to do this – you need to have the proper environment – if you do the research on this and look at what they tell you for wind speeds and everything else up there, he needs to have at least twelve miles an hour to run this thing efficient – according to their paperwork and it is on their web site and they measured the height – it is almost 94 feet to obtain that amount of speed for the wind – he is at half of that – you guys needed to do the right thing and you didn't do it. The only thing that I can say is that you did right up here was have a chance to try and form something to put in some kind of regulations – but you needed to take everybody into consideration for it – how you set this up – the way you read the regulations is two acres is OK for somebody but it is not for everybody else – that is not fair – you are going to discriminate against people in Oakville – you might have a bunch of smaller lots in Oakville and someone who has an acre and three-quarters which is bigger than some of the lots in my development – they can't put one up – why is that – probably because it is going to be too close to all the other homes – it is just the way it is in our neighborhood – we are going to have some of the homes are pretty close up there and some are a lot further apart – that is why this needs to be done on a case by case study – you have it set up under special accessory structures and it has to be done by special permit. These regulations should be all pulled back and amend them and do them right. You have to be fair to everybody – I have no problems with seeing a wind mill up some place but if it is in my front yard and it is going to devalue my home – you are ruining my equity in my home – I have a big problem with it – I spent a lifetime trying to get where I am over here and to have you guys come up with decisions to take that away from me is not right and I won't back off on this one bit for anybody. I had to jump through hoops when I built my house because the way they set the plot plans and everything was approved – being an interior lot – they had my setback at 50 feet. I spoke with Moosa and he said an interior lot states you have to be 50 feet back from the front property line plus an extra 50 percent – I had to move my whole house back another 25 feet – actually 27.6 feet to be exact – now doing that – that moved all my septic – I had to redo everything – after this was an approved plot plan

by the Town – I had to go and do – it cost me \$53,000 to have all that done – that was an over run when I built my house – now to have this slapped on top of me by the Commission is not right – not at all – and I understand what Mr. Karpavich is doing – when it comes to these types of things, he is a very smart individual, he does a good job, he is into solar and wind turbine which are a big hobby for this man – I won't take any credit away from the thoughts or anything that man has done but you have to look at the situation, you have neighbors that you have to live with – you can't go and hurt somebody like that whether he does it intentionally or not – that is what you are here for to protect that. If you want wind mill regulations, you really need to amend these and get them straightened out because by far anybody that has an interior lot is going to be in the same situation as me. I just can't understand how you could do this so quickly without putting any research into it. Could someone please tell me why I was neglected? Is it because I wasn't up here screaming like everyone else?

Mr. Minnich said we are not going to get into that kind of arbitrary.....

Mr. Guerrero said he just wanted an answer and who could he go to get an answer...

Mr. Minnich said the process for this hearing at this point and in accordance with our rules is to listen to the public and we are not at this stage of the public hearing by our rules getting involved in questions and answers – that will come later and we take note of your comment and someone will make a comment about it.

Mr. Guerrero said he would appreciate that but I wish you would look in amending these rules to set this up so that sort of situation can't happen to anybody again. Thank you for your time.

Jacqueline Daddona of 48 Farm Circle – I know you are aware of this as a board members but these were issues before the attorney brought it up and Mr. Guerrero brought it up that we had brought it up to you and we had mentioned these things such as the acreage and my husband specifically mentioned that having an interior lot was going to be affected and you completely ignored this and here we are with this fiasco that has lasted for almost a year now. All of this could have been avoided if things were done correctly. I wanted to give my opinion and say that I am for Mr. Guerrero and I understand his sentiments on it and I feel this really needs to be addressed because I think it was not done properly from the beginning.

Eric Lauer, 360 Straits Turnpike, Watertown – I myself came to these meetings many times and I watched this committee do their best effort to address the windmill issue and at this time we all know in California they have rolling blackout and I would like to give you a little demonstration of what would happen if we stop energy from being produced at a local residential level. If you look at Europe, they produce most of their electricity with a windmill, Holland, Germany to mention some of them; however, at this point what we really need is beyond the Town ordinance and working on a State wide wind mill ordinance so therefore small towns like us don't have the hassle we have here. I want to mention this gentlemen when he said the wind turbine turns the blade and ice could fall

on little children, are we supposed to cut every wind mill so no ice falls on them. I can only say drama queen – I can say no other words – Thank you.

Edwin Durgy of 21 Warwick Road, Watertown – I would like to briefly address the argument of the gentlemen behind me – I found that the core of the argument was based primarily on a single technicality and the bulk of the 45 minutes or attempts to quantify which I found pathetic such as the laughable eight pounds lost due to anxiety – I would like to see that substantiated and the appeals I found similar. I found many of his remarks to be subjective such as when discussing the beauty and harmony of the neighborhood and its disruption – perhaps our vision of the American dream are slightly different. As far as utility poles, there are many reasons for utilities to be placed underground – to protect them from damage during storms and the risk of injury to persons of the neighborhood when damage does occur. I just hope that the Commission can look passed these appeals and the applicant and the Commission can work together to swiftly work out this single technicality that stands in the way of a really great step forward.

Tracy Desilva of 10 Farm Circle – just to correct some of the points that were discussed – the \$400 a month savings was published on an internet article where both Mr. Karpavich and Mrs. Daddona was cited and from an example, the wind turbine was in a yard and it saved an electric bill from \$90 to \$10 so in an article where they were both interviewed, the month savings was \$80. The cost of the wind mill plus the insurance plus the fees and everything else, he will not have a payback on this windmill – a penny for ten years.

Kevin Killeen of 430 Northfield Road – as you know one of the prior times you met, I was fairly passionate about my address of the board and part of that was a passion of the moment but I know enough people on this board to know you to be very intelligent people, people who care about our community and I since have spoken to any number of you and your concerns seem to be in the right place – I'm sure if this discussion in its entirety had taken place seven months ago things would formalize themselves differently but that is not the case so we find ourselves today saying what steps are we likely to take to ensure that all the needs of our community are met. It is always disheartening to me to hear people address other people on the basis of the way they look or the way they dress, in other words, taking exception as a result of the issues and criticizing people and neighbors for factors other than the issues and I think that is particularly upsetting. This was never a green issue and it still isn't – everybody here in this room I totally believe wants to be more energy efficient, use less fossil fuels. It is not something that we do, it is something we can start as a local initiative and move towards our Federal initiatives to encourage – this is a way of ground swelling local communities. They say all politics are local, yet we live within the constraints of our State governments and so forth – you all know that – I would put my trust and faith in you that you will put your heads together and determine the appropriate course of action given what has been presented and I want to personally thank you for your volunteerism.

Jacqueline Daddona of 48 Farm Circle – I am not going to beat a dead horse right now but I just want to let you know that recently I had the opportunity to go to Palm Springs and travel through that highway and see all the different thousands and thousands of wind

mills that are located there that really make a difference and it was a sight to see – I did not see one house next to any of these wind mills and they are considered wind farms and I think that is truly an effective way to contribute to energy savings especially when you have a place like California and it is very overpopulated and that is the reason why they had to resort to this. I feel that a wind turbine for residential purpose like the one Mr. Karpavich is proposing is like spitting in the ocean – it is not going to make the biggest difference – we can make ourselves feel good that we are putting in this wind turbine in this neighborhood, but really how effective is it going to be – how much are we doing for the environment to put such a wind turbine that costs so much to build, has the transportation, the metal suit to produce it – to me is just not an effective way of saving the environmental – there are more intelligent ways of saving the environment than going through this residential wind mill.

Mr. Edwin Durgy spoke about the remarks he just heard and would like to comment that the benefits are well documented and proven and there may be more to this than what can be quantified. This is not only an effective but also an incredibly symbolic gesture to be the first in the State of Connecticut and I would challenge the woman that spoke before me to perhaps use some of her professed intelligence to implement and suggest the ideas that she may be considering because I would love to hear them.

Kim Guerrera of 68 Farm Circle – I just wanted to end the evening just to let you know that my husband and I came here for the reasoning that this wind turbine was going to be placed in our front yard. We did have our property re-evaluated and we are going to be hurt tremendously and I know each and every one of you have worked very hard to build your equity and that is the reason, we are not against wind turbines, we are not against anything green, we are against where it was going to be placed in my front yard and I would like you to think about that seriously because I am an interior lot. There was a remark made that you have to look up, no my interior lot is way below everyone else's property in our neighborhood so we don't look up. When I am in my foyer, I am going to look directly straight ahead and it will be there so you need to look at our property and you need to take this into consideration because this is my equity, it is nothing against using the wind mill or solar or anything else that we want to come up with in this country – you are basically, I feel and my husband feels, that it being placed in my front yard is going to hurt me tremendously and it will and that is why we came here tonight and that is how I want to end this meeting tonight because it is not against the Karpavich's, it is not against the environmental impact that we can make with turbines or solar panels, we are not against that, I am against you hurting me personally and that is what it is going to do - \$100,000 is what it is going to hurt my family – if that happens and we get into a situation that we need to borrow money, I am not going to have that equity to help me out. This is why we are here, it is not to bad mouth anyone like I have heard comments, we are not here to do that, we are here to protect our interests in our homes and my children's future, that is why I am here.

Mr. Minnich asked if there were any more comments from the public – there were none and Mr. Minnich turned it back to the Commission and wanted to get some things very

clearly on the record. Mr. Minnich asked Mr. Karpavich to come to the podium because he had some questions.

Mr. Minnich said – two Saturdays ago there was a site walk on your property and one of the stated purposes that we had wanted to have that site walk was to come to an understanding where the most appropriate place on that property was and to get comments from the neighbors. My question to you is – and asked Ms. Mulcahy if there was a site plan – I would like you to indicate on the map where your – having listened to all of that – I understand through staff you are revising where you want to place it.

Mr. Karpavich said the original document that Ruth has is the one that I stuck with from the beginning as far as the 51 foot drop zone, I reapplied under the new regulations – it is the same side of the yard and I set it back 70 feet – it is the same location.

Mr. Minnich said my understanding for the record then is that given the understanding of what the site walk, one of the intended purposes of the site walk besides to see the site for ourselves which was to come to a better understanding or for yourself to consider as the applicant another location as I hear you are now saying the location that you have submitted originally and you have on the site plan is your location you are submitting at this time.

Mr. Karpavich said that is correct, some Commission members were looking at alternate locations and the site surveyor from Solarites does not look at the steep slope, well actually it addresses the steep slope on the other side where the front yard issue is with Joe and Kim – that was never an issue with me about putting that equipment on that side. Basically it is a ten inch base tower – Judy you asked me to measure a bucket that was twelve inches, I said it was ten inches and I did measure it to give you an idea what the base of the tower would be – it would go up 44 feet and terminate at 5 inches on top.

Mr. Minnich said he did not mean to sound like he did not know what he was talking about – I've listened to your first response and you said you wanted exactly what it was...

Mr. Karpavich said that is correct.

Mr. Minnich said you then went on to say that you would have it at another site if I understood you correctly – I want the record to be absolutely clear what you originally proposed is the place you want it..

Mr. Karpavich said yes and that was always in my mind, yes.

Mr. Minnich said perhaps you can do it or perhaps the Guerrera's, but you are at the podium, you through the gentlemen that was here that spoke before was the attorney, he presented to us a document that is a diagram. The questions I have of you is if you could indicate to us on the Guerrera's property where the front of their house faces as it relates

to that and if you could mark that on the document for us and indicate where the front of their house as in relationship to your property.

Mr. Karpavich showed the Commission where the front of the house was on the map.

Mr. Minnich said so it faces the road and not faces your property.

Mr. Karpavich said it faces the road.

Mr. Minnich said your property is here so it doesn't face directly your property, it faces the road?

Mr. Karpavich said that is correct.

Mr. Karpavich then said it is faced on an angle and it intersects my property and...

Mr. Minnich said so it is partially facing your property and partially facing the road?

Mr. Karpavich said exactly, the house is cocked at an angle.

Mr. Minnich asked Mr. Guerrero where the front of his own faces.

Mr. Guerrero said this is my as-built for my property, the Karpavich's house is right here....

Mr. Minnich asked Mr. Guerrero if he could draw on the as-built where the house is on the property.

Mr. Rondeau said some of this is irrelevant....

Mr. Minnich said he is entitled as is any other Commissioner to ask questions that we find pertinent and I don't – you are entitled to your opinion.

Mr. Rondeau said he was just going to make a comment that the applicant isn't requesting to put the windmill, or the turbine, excuse me, on this side of the house based on his application.

Ms. Wick said he just changed it.

Mr. Rondeau said you weren't at the site walk so I was just brining you up to speed.

Mr. Guerrero said this is where his house is, the septic field is here.

Mr. Martin said now it is on the other side.

Ms. Mulcahy said it wouldn't scale off to this in terms of

Attorney Kolesnik said he would point out while the site plan was being submitted by Mr. Guerrero, Commission Rondeau made a comment in an attempt to be helpful that the location being chosen now by Mr. Karpavich is the original location and he is on the other side of the lot. We understand that Mr. Rondeau but I would point out to the Commission that the Guerrero's can still see it on the other side of the lot – it is still visible from their front yard – it is the same site line – it is just further away and now you are going to go to the other ox – the Daddona's, so it really doesn't matter where it is back there and again we don't want to pit neighbor against neighbor so it doesn't matter as far as the Guerrero's concerned, they are still adamantly against it even if it goes on the other side of the lot and I know the Daddona's would feel the same way.

Mr. Minnich said I have one comment and one more question which I guess is of Kurt and asked Kurt if he could come to the podium.

Mr. Minnich said his comment isn't addressed to Kurt but is more of a statement that I don't think we have had in the record that the reason that the timing of this application that Kurt has made as I have received information from our prior Town attorney was a suggestion by the Superior Court judge in the hearing of the zoning variance to his knowing there are regulations in place, he suggested to the parties involved in the lawsuit to come back to this Commission and see if an application could be presented and considered and the outcome of that would be of some assistance to the court in their decision as to how they wanted to proceed with the zoning. The court case is still pending and has not been settled. My last questions at this point is – you obviously have a right to come to us and present the application and all of us know what our responsibilities are as to people on the zoning board and all have spent some time on this – this is not anything new – there already has been a windmill granted approval – this is not the first one in town – but, given the impact that the neighbors have come to us I personally am troubled by it as I know you are in terms of your neighbors. I want to ask you if there is some means that you might consider withdrawing the application and proceed along with the court case and go that way – that is my own personal view – it does not come from anybody else – would you consider withdrawing your application?

Mr. Karpavich said – so what you are asking me is....

Mr. Rondeau said he did not think that Mr. Minnich had the authority or the right to suggest.....

Mr. Minnich asked Mr. Rondeau if he was calling a point of order?

Ms. Wick said they are trying to be reasonable

Mr. Minnich said to Mr. Rondeau that he did not appreciate the fact that he can ask the questions and the respondent can or cannot answer – he does not have to answer and I made it clear I am not speaking on behalf of the Commission or is anyone there speaking as individuals and asking questions – my question is clearly stated for the record.

Mr. Rondeau said he would like to make it clear that he does not have to answer the question nor does he have to withdraw his application.

Mr. Karpavich said it is an easy cop out to say – let a judge decide it – and that is what I think you are asking me to get you off the hook and the only reason I came here was I was counseled by the Town Attorney to say “Ok – we have regulations in place, let’s file under the new regulations and go from there” – to save the Town court costs – that was his suggestion to me and I took that suggestion as he is the counsel, he is running the show, let him steer the ship – he steered me toward this board. I’m going through here double jeopardy again – I am hearing the same issues – we all are – over and over again. It is a national issue. It is not just me. I am addressing the Connecticut Zoning Enforcement Officers Association on February 6th on zoning regulations. The zoning commission like yourself have a lot of questions – you are the most educated we have right now. You know a lot about the subject – you heard a lot. The foot print of this unit is less than a flagpole. We had expert testimony from the manufacturer; we had expert testimony from the Health Director. Now, we are coming down to – do I want to defer this to court....

Mr. Minnich said – that is his question.

Mr. Karpavich said he knows that is where you are going because basically it gets you all off the hook and I would not be here unless I was counseled by the Town Attorney to do this. I can withdraw the application and go to court and we are going to be victorious – there is no doubt about it because I have expert testimony. I brought in the manufacturer; I brought in Bob Chue who is a wind turbine expert. Bob Chue was 2007 entrepreneur of the year in Rhode Island. So, it is easy for me to say – let it go to court and it gets everybody else off the hook, everybody walks out of here warm and fussy and we don’t address an issue, we just give that issue to somebody else – do you want to do that? Are you going to counsel me to say let a judge decide on the technical aspects? I think my technical aspects on this case are very good.

Mr. Minnich said it is your decision

Mr. Karpavich said it is very good and I thought about this two weeks ago even before I came here and said why am I going through double jeopardy all over again because all of this was discussed. You are putting me on the spot. If I go to court and we have a court date soon, this is probably going to linger another six months, could linger another year, so that means I won’t be able to do my project for another year. We don’t have all the Commissioners here to vote – are we going to vote today?

Mr. Minnich said – I don’t know what we are going to do – the public hearing is still open.

Mr. Karpavich said right, but we don’t have all the Commissioners here to vote.

Mr. Minnich said we have seven members – there are alternate members who are sitting in for them and they have a right under the law to vote if we are going to vote but the decision is yours – I leave it to you to decide what you want to do or not comment at all if you don't want to – it is up to you.

Mr. Karpavich said – I think we have heard a lot of about this and I think we heard a lot of issues and as far as property values, there have been major studies even on wind farms – it is not there – it is not supportive – it is not supportive at all. If you are asking me to go to a judge and delay a project for maybe eight months to one year and spend Town money to defend a decision that was already rendered in my favor – I'll spend the Town's money and I will get you off the hook and that is what you are asking me to do. I mean, that is the question and that is the way I look at it.

Ms. Wick said keep in mind it is just one person. As Mr. Minnich said, he is just asking this as an individual.

Mr. Karpavich said he knows that and I thought about this when I came here. I said I am applying for something all over again and here on the same arguments; but on the other hand when you look at the news and TV – things are changing rapidly. This may be the future – it is going to be the future. There are energy rebates for small wind through Connecticut Innovations. Wind power is a great resource but there are stereotypes that you have to break down. So do I get the Commission off the hook or do I go to court and spend the Town's money – since you asked me that and I know where you are coming from, I will withdraw the application and spend the Town's money because this board is kind of fickle on making the decision – I can see it.

Mr. Minnich said – so you will see Ruth in the morning to give a formal withdrawal?

Mr. Karpavich said – if this is what I am getting from this Commission.

Mr. Minnich said, no, let me be clear – I'm just asking the question....

Mr. Karpavich said it is easier to do that for you and let a judge decide it and then I can always come back and resubmit under the new regulations.

Mr. Minnich said you always have a right to come back.

Mr. Karpavich said he could always come back with a different type of turbine, a vertical helix turbine which the technology is very promising. We are talking vertical turbines that you can put on a roof top that don't even need a tower. I will withdraw my application to get you guys off the hook and spend Town money on court so we don't have to put these good people through this and it was never my indication to switch tower sites. It was the suggestion of Board members and it was a good suggestion and I was always open to shifting things but Dave and Jacqueline did not want to work with me and if they could work with me, maybe I could have put it in another spot but as soon as I put

the solar PV panels in, I am tied for shading. I have a contract with Connecticut Innovations so I will see Ruth tomorrow.

Mr. Minnich said if you would not mind, we obviously are going to discuss this at our special meeting tonight – Ruth could draw something up right now...

Ms. Mulcahy said in most instances where they withdraw they ask for the fee to be waived on a subsequent application within a year.

Mr. Minnich said – is that your request as well?

Mr. Karpavich said absolutely.

Mr. Minnich said we cannot vote on this now, we will vote at the special meeting.

Ms. Wick said she had some issues to address to Attorney Kolesnik. On the requirement for environmental, it is a waivable item, so it is not a “shall”. The Commission has the right to waive any part of the environmental requirements. The applicant would have to request that we waive it but we do have that authority. A site plan is not required with a special permit application, it must be done within a year but it is not required at the time. Going back to the comments that you picked out of the minutes – my understanding of a special permit is that it is a permitted use with additional requirements, so it is not unlike any other permitted use if you don’t meet the requirements, you don’t have to permit it; but if all the requirements are met and the fact is under a special permit you have additional requirements. If all of those requirements are met, then the Commission is obligated to approve it. I question whether in our definition in our turbine regulations – we do not call it an accessory structure. We give it a specific name as a wind turbine and it seems to me that it therefore comes in under those regulations and not necessarily as an accessory structure. The other question I had is the gentlemen who is the appraiser – have you appraised properties with wind turbines on them.

Mr. Lampert said no.

Ms. Wick said, so the number you came up with is what you think it would be.

Mr. Lampert said the answer to the question – there really isn’t any comparables, not only in the Town of Watertown but the surrounding towns also that actually sell in the open market where the property that was sold affected the next door neighbor’s property because of the wind mill. No comparable sales.

Ms. Wick said a comment was made that this is not a green issue and if this is not a green issue, I don’t know what is. I think this is, maybe not for the neighbors, but I certainly think for Mr. Karpavich it is a green issue. I guess we may have dodged the bullet this time because Mr. Karpavich has chosen to withdraw, but it is not going away. I want people to understand what we can and can’t do under these regulations.

Mr. Lampert said he did not think the green issue is going away – I am for the green issue.

Mr. Kolesnik said he would be happy to come to a work session at a later date. I am well aware what the zoning regulations say about these things. The application is for a site plan, it says it right at the top and special exception. But I understand we don't have to and I understand you can waive it – none of that has been done.

Ms. Wick said that is not the way you presented it. Again, I recognize that you are representing your client and that is fine.

Mr. Kolesnik said – the regulation does say accessory structure in the first line. It is an accessory structure by your own language.

Mr. Minnich asked if there were any questions of Commissioners – if not, we will turn it back to the public.

Mr. Kolesnik said it is a green issue – it is a \$100,000 green issue and we all are in favor of green issues, but let the power companies do it. As Jackie Daddona said, she was out in California and she saw the fields of these things and none of them were near a house. Do this the right way, let the power companies do it; get some vacant land somewhere and put up a thousand of them.

Ms. Wick said we just passed the regulation that doesn't allow it.

Mr. Kolesnik said you know, for Mr. Karpavich and we appreciate his decision, if he didn't withdraw or doesn't withdraw – obviously this one is going to court too and that would stay this thing for much longer than eight months. If you did grant it an appeal is going to be filed and it is not going to stop at the superior court level it is going all the way up and that is going to take years and we all know also that it stays the application.

Mr. Karpavich said you made my decision already. If you didn't talk a lot and say nothing. What we are looking for is a statewide ordinance, it is going to happen.

Mr. Karpavich said he is not going to sign this (the withdrawal) because this guy keeps talking and if we are going to play with lawyers I would rather put my faith in your hands rather than guys like this – I am not going to sign this.

George Valaitis, 647 Linkfield Road, Watertown – I sat down there quietly and listened to both sides and then I listened to the attorney with a few things that he did not quite finish in his sentences. I feel sorry for him – when he bought the lot, his real estate agents should have told him that whichever side of the house he is going to look out, it is going to be somebody's back yard. The attorney did not mention that regardless of who is going to do what in the backyard, it is always going to be visible from his side. What is going to happen when the windmill is not put on but the neighbor on the opposite side is going to put a dog cage. Within the zoning regulations he can have pets. They don't

have to change the zoning and if it is on the northwestern side of your property, enjoy the snow. What are you going to do again, sue the Town? Are you going to say – change the regulations? The problem is that your real estate agent took you in for an internal lot without telling you that you are going to see everybody's backyard. That is when you made the decision and that was a bad decision. When the house is sold the real estate agent will say “drop the price down” because of what is there. I was in real estate and I was a broker and I was in this Town and I know how it is. I am educated in real estate. I am retired for 20 years now.

Kevin Killeen, 430 Northfield Road – Chairman Minnich, I believe what you had presented to Mr. Karpavich was an attempt to present to him simply an option. In his discussion something became problematic that he said that he received counsel from the Town Attorney – there is a problem with that because if he is receiving counsel from the Town Attorney, I would like to know which one and when you go to the Town Attorney, if he is telling Mr. Karpavich what to do and the Town Attorney is supposed to be representing the Town, there is a problem.

Mr. Minnich said – I think this can be explained easily – I don't normally get in this cliquy, but I understand. There was a court hearing and the judge suggested as an option to both parties as to whether they wish to come back to this commission because there was regulations now in effect that were not in effect at the time and it was the judge's suggestion to do that. Mr. Pilicy's involvement was to inform the judge that there were such regulations in place. I don't think it was more than anything in judge's chambers or in court itself that the whole process started.

Mr. Killen said as a matter of record, the Town Attorney was not counseling Mr. Karpavich and so I just wanted to point that out as a point of record. Mrs. Wick mentioned that if it is not a green issue I don't know what is – that is a rather erroneous statement; the fact is that it is an alternate structure issue. The application is stated as such and that is what has to be ruled on, not its green issue. I believe this issue is not going away – I believe we should proceed more cautiously than we have and I have confidence that again the Board cooperating to the extent that it will with one another that due diligence will be done.

Eric Lauer, 360 Straits Turnpike, Watertown – I hear about property values from this real estate appraiser. When he entered the area to Wheeler Farm to Farm Road, the left corner you will see big, ugly center blocks, concrete blocks that would most likely bring the property value down much more so than a beautiful wind mill and beside this, the neighborhood does look beautiful other than that. They have well water and septic. Many of these people keep their lawns beautiful but are positioning them with chemical fertilizer. I would consider this when discussing property values.

John Blais spoke – I used to buy real estate and sell it for about 20 years. This real estate person here is only giving you negative values – I could also do that – I could give you negatives and positives about buying and selling houses. It is kind of like a gamble and everyone knows that when they buy a house or a lot. When you buy a house after it is

done, you have the right to sell it also so now if you look at it this way – if somebody was interested in buying this lot that they are complaining about, and he is into going green, he is going to spend that extra \$100,000 just because he is up on the hill and is going to get the wind, so then once this wind turbine goes up to generate electricity which will wipe out your electric bill, you will have more people interested in those lots because then they will say I'm up here, it is very nice and also I can do away with some of my bills with this location, so the real estate person is just giving you negatives and not giving you positives because he is on their side and could be getting paid too. I still have my respect even though what happened through the comments here – I am only saying when I do something I always stand fast and don't have anyone push me around, I don't care who it is and I don't let words scare me, I don't let people scare me – I just stand here and keep on pushing until I get where I'm going. I am going to call my lawyer and donate my lawyer's time, if she wants to, and she will win for you guys.....she is good because she is a woman.

Denise Karpavich, 60 Farm Circle – we had the site walk Saturday and I was watching and seeing all the comments from the neighbors who were saying to me, especially Mrs. Jackie Daddonna saying – our dogs defecate on their lawn – my dogs have radio collars that they can't leave my yard or they get shocked. Those dogs defecating on her lawn is her neighbor across the street, Hoyt's.....

Mr. Minnich asked if this was helpful to this issue.

Mrs. Karpavich said yes, because I want to get out – because what she said to me I want documented – she said she would shoot my dogs next time they come on her side – I want to document that was a threat to me which I am not vicious to them – but they were vicious to me and saying mean things which I don't think was very nice of my neighbors to do because Kurt and I are not harming anyone or saying harmful things to them but they are saying them to me and I don't deserve it.

Tracey DeSilva, 10 Farm Circle - said to reiterate, I have lived in Town for over 35 years. The fact that this is a neighborhood issue and consistently we are having members of the community come from outside the area to criticize this neighborhood, the decisions that the neighborhood has tried to bring forth is not right. It is an aesthetic issue, partly, probably majority – that neighborhood with a deed restricted lot subdivision when everyone bought in that subdivision. We are looking at a dead man's 10 foot wall in front of us, we were told it is fine but aesthetically it looks disgusting. We have the dog pen in front of us, we have our neighbor burning cooking oil. Every person in that neighborhood has done a change on their deed restrictions and to criticize a member of the neighborhood for buying that property in a public forum from someone who is not even from our neighborhood is wrong and that the fact that you allow that kind of comment to continue is unprofessional and it is not neighborly and it is not humanity. He bought that property thinking that he had a nice suburban property. They built that property and a construction company came in, they changed the deed restriction and moved their property us, we did the same thing, we wanted ten more feet of footage, we asked and we got it. So, to say that you are doing your zoning and all of that is crazy and

I take offense to that comment about a woman, I am a woman in a man's profession and I feel I do the job because of who I am and not because I am a woman and to allow this kind of comments to go on for an issue where he needed to come in, show his hardship, show how he could not be paying his bills and why this thing had to be in our neighborhood has yet to be done and the fact that we have gone through all of this – we have lawyers – it is disgraceful – it should not have come to this. When you asked him to withdraw the application did you ask him – was it because you had consideration for your neighbors – you didn't. That was the wrong question to ask – you should have asked at this point in the juncture do you think it has gone on long enough, do you think you have expended enough energy, have you spent enough money, is it time to be neighborly and figure out how to get this neighborhood to work together.

Mr. Minnich said – if you review the record I did say that at the beginning, I prefaced my comments by that. Mr. Minnich said he thought they were going to have to continue the public hearing. Mr. Minnich asked Mr. Karpavich if he would grant the Commission an additional 30 days.

Mr. Karpavich said – and hear this all over again and answered no.

Mr. Minnich said – you will not grant us an extension, so you are requesting we make a decision – what is on the record is on the record.

Mr. Minnich asked Ms Mulcahy a question – in Section 7.25.10 of the Wind Turbine Regulations, it states – prior to special permit approval, application must have conditional and interconnection approval from Connecticut Light and Power Company. Do we have such a document?

Ms. Mulcahy said no, we do not.

Mr. Minnich asked if anyone had any questions and said based on Mr. Karpavich not wanting to continue this public hearing.....

Mr. Franson said, on our agenda we have until February 6th to close, correct?

Ms. Mulcahy said she just looked at the notice of hearing and said we opened the hearing on December 19th and that might be incorrect.....

Mr. Martin said, so it has to be closed this evening?

Mr. Minnich said well, we have a few more days.....before our next regular meeting.

Mr. Minnich asked for a motion to close the public hearing.

Mr. Martin said, well what can we do....right.

Mr. Minnich asked if there was no motion to close the public hearing... is our motion to continue the public hearing? What this will result in is we have a special meeting on this topic....

Ms. Mulcahy said we have a special meeting on the 23rd....

Mr. Minnich said – I am not doing this on the 23rd – we will have another meeting

Mr. Martin asked what is the date that this closes – could someone give me that please.

Ms. Mulcahy said the 23rd

Mr. Minnich said the 23rd of January...

Mr. Martin said the last date.....

Ms. Mulcahy said we are having a meeting that night...

Mr. Minnich said and that night is for the schools...

Mr. Martin said he moved to close the public hearing.

Mr. Minnich asked for a second...

Mr. Minnich said he would second the motion

Mr. Mancini said he had a question.....we if this is closed tonight does that mean we are going to have to vote on this one way or another tonight?

Ms. Mulcahy said no, you have 65 days.....

Ms. Wick said you can't take any more testimony.

Ms. Mulcahy said you have 65 days after closing to make a decision.

Mr. Martin if they could have discussion amongst themselves after that point on these topics that are brought up?

Mr. Minnich said yes, but no more public input and no evidence.

Mr. Minnich asked there were any more comments – hearing no further comments, I guess this will be controversial and asked Ms. Allen to call the roll for the purpose of recording votes.

Ms. Allen said he needed help in taking the vote because of members being seated and unseated.

Mr. Minnich said the members who are currently sitting are all the regular members and in the place of M. Masayda is D. George.

Ms. Minnich said Ok –

Ms. Allen called the roll.

Aye: 6 - D. Minnich, J. Franson, R. Russ, G. Martin,
C. Mancini, D. George

Nay: 1 – J. Wick

On a vote of 6 in favor and one opposed – the motion is approved – the public hearing is closed.

Mr. Minnich said this is on our agenda this evening –we may or may not talk about.

