

STATE OF NEW YORK
SUPREME COURT

COUNTY OF MADISON

**In the Matter of the Application for a Judgment
Pursuant to Article 78 of the Civil Practice Law
and Rules and for Declaratory Relief Pursuant to CPLR
Section 3001 of:**

LAWRENCE J. FRIGAULT, CAROL A. FRIGAULT,
PAUL KIDDER, DEBORAH A. KIDDER, REX A.
SEAMON, DAWN M. SEAMON, JOHN C.
WOUDENBERG, PAULA M. WOUDENBERG, JOEL
G. SAWICKI, LORI E. SAWICKI, FREDERICK C.
VERTUCCI, JOY L. VERTUCCI, TED S. FOX,
MICHAEL J. REID, LOUIS M. SALAUN, LUCY G.
SALAUN, GEORG-ANN F. GIGLIOTTI, KELLY A.
AUGER, DAVID E. YODER, LESLIE P. WEAVER,
DANIEL E. MEZIK, SHERRY M. MEZIK, WILLIAM
J. ZALESKI, PATRICIA L. ZALESKI, FLORENCE V.
TREEN, HOWARD C. MOSS, PATRICIA A.
DUCIAUME, DOROTHY S. DUCIAUME, E. ALAN
SILVER, SUSAN J. HUXTABLE, KATHLEEN G.
CARNEGIE, DANIEL R. SULLIVAN, TERESA W.
SULLIVAN, and BARBARA H. MEZIK

Petitioners

v.

TOWN OF RICHFIELD PLANNING BOARD,
MONTICELLO WIND LLC, NORTHEAST WIND
PROJECTS, LLC, RIDGELINE EASTERN ENERGY
LLC, ALICE C. ARMSTRONG, KEITH C.
ARMSTRONG, MARNA M. ARMSTRONG, LOIS A.
AUGER, WENDY S. MULLIGAN, WAYNE K.
ARMSTRONG, KAREN A. RUDD, HAROLD T.
FERGUSON, FAY R. FERGUSON, HAROLD F.
FERGUSON, JR., HANWINSEL FARMS, INC.,
HUXTABLE FARM PROPERTIES, LLC, DEBRA J.
KOSEK, and WILLIAM R. KOSEK, JR.

Respondents

AFFIDAVIT OF ROLLAND A.
MINER, III

Index No.: 2011-2012

RJI No.: 2011-0465-M

Hon. Donald F. Cerio, Jr.

STATE OF NEW YORK)
) ss.:
COUNTY OF OTSEGO)

ROLLAND A. MINER III, being duly sworn, deposes and says:

1. I reside at 2302 Jordanville Rd. Jordanville, New York and I am the Scoutmaster of Troop 14 of the Boy Scouts of America headquartered in Richfield Springs, New York.
2. On November 22, 2011 I accompanied two Boy Scouts of Troop 14 working on their Citizenship in the Community Merit Badge to the meeting of the Town of Richfield Planning Board at Town Hall in Richfield Springs.
3. The purpose of having the Boy Scouts attend the Planning Board meeting was for them to see how Planning Boards work and what Planning Board meetings are like.
4. When we arrived at Town Hall, the room was crowded full of people and once we were inside we heard the lawyer for the Planning Board announce that the occupancy limit for the building had been exceeded by approximately twenty people, and that some people needed to leave the meeting or the meeting could not be held.
5. In the audience at the time were 5 people we were told were representatives of the windmill company, three local news teams of two people each, and an independent photographer with press credentials, and someone in the audience suggested that the windmill company representatives should leave so that residents of the Town of Richfield could stay, but the windmill company representatives remained in the room.

6. Several members of the public suggested to the Planning Board that the meeting be postponed so that a meeting room could be found that could accommodate the very large crowd of people interested in attending.
7. Someone in the audience stood up and read from a law that said the Planning Board was required to provide an appropriate facility, and that all interested members of the public had a right to attend the meeting.
8. The lawyer for the Planning Board stated that the Planning Board would not get into discussions with the public and then again called for people to leave Town Hall.
9. Mindful of the need for Boy Scouts and their leaders to defer to and obey public authorities in charge during situations where public safety might be threatened, I escorted the two Boy Scouts outside of the meeting room in the rain.
10. The Boy Scouts and I did not want to miss the opportunity to observe what was going to happen with the Planning Board meeting, which by now was somewhat out of control, and we remained outside the entrance to Town Hall in the rain.
11. At this time we heard from outside the room the lawyer for the Planning Board again announce that people were going to have to leave the meeting and if people did not leave he would "take action".
12. From our position outside the door of Town Hall in the rain we struggled to observe what was happening inside, but we were able to see that the Chairman of the Planning Board appeared to avoid any interaction with the members of the audience, until at one point the lawyer for the Planning Board leaned over and said something to him, at which point the chairman of the Planning Board tool his gavel and banged the table and told the crowd that this was not an open public meeting and that

nothing the members of the public had to say would be entertained, discussed or listened to.

13. A state police officer then arrived and immediately went into a back office with the lawyer for the Planning Board and they remained in the room for almost ten minutes.
14. During this time, the atmosphere of the meeting was chaotic and unruly, and while the Boy Scouts and I were getting soaked and very cold from standing outside in the rain, but I realized this was important for the two Boy Scouts to observe their public officials.
15. While we were standing outside Town Hall, I had a discussion with the two Boy Scouts on their observations and thoughts. Both Scouts questioned whether the Planning Board was working for the residents of the town or the windmill company. Both scouts also questioned whether the lawyer for the Planning Board was working for the town or the windmill company. I responded to the scouts that I could not answer their questions, and that they should ask a member of the Planning Board.
16. After several more minutes, the chairman of the Planning Board announced that the meeting would be moved to a church on Main Street across from the Dollar General, and that the meeting would reconvene in 30 minutes.
17. By that time, the two Boy Scouts and I had been standing outside in the rain for approximately 45 minutes, and we were soaking wet and very cold.
18. We did not feel that it would properly be reverent to enter a church in soaking wet clothes, and we were very cold from standing out in the rain for so long, so we did not go to the meeting at the church.

Richfield Springs, New York
March 4, 2012



ROLLAND A. MINER III

Sworn to before me
This 4th day of
March, 2012



NOTARY PUBLIC

SUSAN A. KOROSEC
Notary Public in the State of New York
Appointed in Herkimer County
My commission expires 4/19/12