

TOWN OF RICHFIELD ZONING BOARD OF APPEALS

**RESOLUTION
GRANTING APPEAL**

Date: August 18, 2015

WHEREAS, the Town of Richfield Zoning Board of Appeals (the “Board of Appeals”) received a “Notice of Appeal” dated July 13, 2015 (the “Appeal”) from Michael J. Reid of 1776 U.S. Route 20, Richfield Springs, New York (the “Appellant”);

WHEREAS, said Appeal requests that the Board of Appeals revoke and annul Land Use and Building Management Permits numbers 2015-10, 2015-11, 2015-12, 2015-13, 2015-14 and 2015-15, 2015-16 dated June 11, 2015 issued to Monticello Hills Wind LLC (the “Applicant”) in connection with the Monticello Hills Wind Power Project (the “Project”);

WHEREAS, the grounds for said Appeal are, among other things, that prior to the issuance of a Land Use and Building Management Permit for the Project authorizing the commencement of site preparation and construction of the Project, the Applicant is required to enter into, and the Supervisor of the Town of Richfield (the “Supervisor”) is required to execute on behalf of the Town of Richfield (the “Town”) a Host Community Agreement;

WHEREAS, the Board of Appeals convened on July 21, 2015 for its regular monthly meeting and reviewed the facts of the Appeal;

WHEREAS, the Board of Appeals held a public hearing, duly published and posted, on August 18, 2015 (the “Hearing”);

WHEREAS, at said Hearing all who desired to be heard were heard and their testimony recorded; and

WHEREAS, all testimony has been carefully considered and the Board of Appeals notes the following pertinent facts:

1. The Town of Richfield Planning Board Resolution Granting Special Permit dated September 9, 2013 (the “Resolution Granting Special Permit”) provides in pertinent part at section 1 on page 4 that “No construction or site preparation shall commence until all of the Applicant’s commitments set forth herein are completed, or upon further action of the [Planning] Board, except for those items which are described herein to be accomplished after completion of the Project”.
2. The Resolution Granting Special Permit further provides in pertinent part at section 3 on page 4 that “The Applicant shall enter into a Host Community Agreement with the Town of Richfield (the “Town”) which will incorporate terms and conditions consistent with the representations heretofore made by the Applicant and as set forth herein.”

3. A Host Community Agreement was approved by the Town Board on January 3, 2011 but never executed by the Town Supervisor, Francis Enjem, and this Host Community Agreement was applicable only to the first Special Use Permit issued by the Town Planning Board on November 22, 2011 which was annulled by the Supreme Court, Madison County, on August 18, 2012.
4. No subsequent Host Community Agreement has been discussed or entered into by the Richfield Town Board after the second Special Use Permit was issued by the Richfield Planning Board on Sept 9, 2013, which was subsequently annulled by the Supreme Court, Madison County, on January 21, 2014. This second Special Use Permit was reinstated by the Appellate Division, Third Department, on May 21, 2015.
5. Town of Richfield Land Use Officer (the "Land Use Officer") issued Land Use and Building Management Permits Numbered 2015-10, 2015-11, 2015-12, 2015-13, 2015-14 and 2015-15, 2015-16 (the "Building Permits") to the Applicant on June 11, 2015, which Land Use and Building Management Permits constitutes the last and final approvals from the Town authorizing the Applicant to move forward to construct and operate the Project.
6. At the time the Land Use Officer issued the Land Use and Building Management Permits on June 11, 2015, the Applicant had not entered into and the Supervisor had not executed on behalf of the Town a Host Community Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Town of Richfield Zoning Board of Appeals that because the Planning Board Resolution Granting Special Permit dated September 9, 2013 requires that Monticello Hills Wind LLC enter into a Host Community Agreement with the Town of Richfield prior to any site preparation or construction, and because the Town of Richfield Land Use Officer's issuance of Land Use and Building Management Permit numbers 2015-10,2015-11,2015-12,2015-13,2015-14, 2015-15, and 2015-16 dated June 11, 2015 authorize Monticello Hills Wind LLC to move forward with site preparation and construction, Michael J. Reid's Appeal is hereby **GRANTED**.

BE IT FURTHER RESOLVED, by the Town of Richfield Zoning Board of Appeals that Land Use and Building Management Permit numbers 2015-10,2015-11,2015-12,2015-13,2015-14, 2015-15 and 2015-16 dated June 11, 2015 issued by the Town of Richfield Land Use Officer to Monticello Hills Wind LLC are hereby **VACATED** and **ANNULLED** and are of no force or effect.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately, and shall be filed in the Office of the Town of Richfield Town Clerk within 5 business days of its adoption.

WHEREUPON, this Resolution was declared adopted by the Town of Richfield Zoning Board of Appeals as follows:

The Motion was moved by: _____

The Motion was seconded by: _____

Chairman _____

Member _____

Member _____

Member _____

Member _____

Motion Approved: ___ to ___

Date of Adoption: _____