

BRSA Seeks More Space for Turbine Blades

Attny. for Union Beach asks for moratorium on project

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Union Beach, New Jersey: The heated debate over the construction of a 1.5-megawatt industrial wind turbine is still raging on in the Bayshore, a dispute that now involves land-use issues.

Officials from the Bayshore Regional Sewerage Authority (BRSA) submitted an application to the Union Beach Planning Board seeking a variance to consolidate two lots owned by Jersey Central Power & Light (JCP&L) that abut the sewerage plant's property in the borough to provide clearance for the turbine, which is expected to be completed by January.

"The turbine is completely within the confines of the property of Bayshore Regional Sewerage Authority; however, upon certain declamations of the wind where the turbine spins, there will be times where the blade extends past the property line," said BRSA attorney Louis E. Granata, of Granata, Wernik & Zaccardi, Matawan. "We are asking JCP&L to provide us with that property where these blades are spilling over our fence, so to speak."

The BRSA is seeking a 0.502-acre semi-circular lot to provide more room for the turbine's 118-foot-long blades, as well as to ensure clearance for a 219.5-acre tract known as Conaskonk Point, a property that consists of environmentally sensitive lands, according to the site plan application prepared by T&M Associates, Middletown.

Both properties are part of Block 251 in the borough, which the BRSA wants to subdivide into two new lots.

"This is an unusual subdivision because there is not anything that is happening to the property," Granata said. "The way you see the property today is the way you will see the property in 100 years. There's not going to be a change to the property in any way at all."

Granata explained that the BRSA is proposing to attach the smaller lot to the sewerage plant, a move that has drawn concerns from residents opposed to the turbine plan.

"It's a big problem for many people that are in the area," said Stuart J. Lieberman, of Lieberman & Blecher, Princeton, counsel representing the borough of Union Beach. "They are concerned about the noise, the effects if this unit begins to fall apart. There are documented case studies."

Lieberman requested that the planning board consider adjourning the application until a proposed Senate bill that prohibits citing of industrial wind turbines within 2,000 feet of any residence or residentially zoned property is voted on.

The bill, S-2374, sponsored by Sen. Sean T. Kean (D-11th District) and Sen. Andrew R. Ciesla (D-10th District), was introduced on Nov. 8.

“There is a 120-day window on an application, and it allows us within some time to adjourn it to see what happens with the legislation,” Lieberman said. “I think it would be in the interest of this municipality to do that, so they can get some relief from the prospect of this going through and then being exposed to it.”

The proposed 380-foot-tall BRSA turbine is located in the northern corner of the wastewater treatment plant’s 24-acre property and would be 1,080 feet from a residential neighborhood.

“As this board might be well aware, this application would fall within that prohibited zone, as there are residential properties that are within that area,” Lieberman said.

However, BRSA Executive Director Robert Fischer said the turbine and the proposed subdivision fall under the Coastal Area Facility Review Act (CAFRA) under the New Jersey Department of Environmental Protection (DEP).

CAFRA applies to projects located where Cheesequake Creek enters Raritan Bay, according to the DEP. Fischer said the BRSA applied for a CAFRA permit in February 2009 and it was issued in October 2009.

“Mr. Granata mentioned that the permit had a condition in it that required the blades to be shut down when certain wind speeds were witnessed,” Fischer said. “The permit was then amended because the DEP realized we didn’t fit under the energy use rule, we fit under the industrial use rule. As a result, we had a condition within the permit that required our neighboring property owner give consent to allow the blades to rotate over their property.”

Michael M. Espinoza, of JCP&L Real Estate Services, submitted a letter dated Oct. 12 to the Union Beach Planning Board stating that the company “has entered into an agreement with the Bayshore Regional Sewerage Authority for a subdivision of an arc only to provide clearance for the proposed wind turbine project.”

Fischer said the turbine blades should only clear the arc when the wind is harnessed from a northern direction.

“There’s going to be a considerable amount of time where that blade is not going to be over that arc,” Fischer said. “It’s only going to be over that arc when the wind is blowing in a direction that is, more or less, parallel to that property line.”

Granata said that if bill S-2374 comes into effect, the legislation would not halt the BRSA turbine project, because the DEP issued final approval for the project. He explained that \$2 million of federal and environmental grant money has already been spent on construction of the structure, which will generate 3.5 kilowatt hours, about half of the BRSA’s 7.5 kilowatt need.

Sen. Bob Smith (D-17th District), chair of the Environment and Energy Committee, proposed an amendment that was approved on Jan. 7 that will “exempt an applicant for the development of a small wind energy system from the restrictions set forth in the bill, such

as those concerning height, setbacks and noise, if the applicant has already been issued a permit under CAFRA,” according to the New Jersey State Legislature website.

“This law will not affect anything that’s been permitted.” Granata said. “The legislation has been introduced and ... it’s not even up for a discussion. If it does pass, we would be grandfathered. There is no reason to assume, or as Mr. Lieberman is suggesting, that this will have any effect on this application.”

However, Lieberman called for a moratorium on the application until further action is taken on S-2374.

The application was tabled to the Dec. 8 meeting in a 5-3 vote by the Union Beach Planning Board.

“I’m sure a lot of money has been spent on this [turbine] so far, but it was done at risk,” Lieberman said. “They [the BRSA] are here before this board right now after they spent all of that money for an application that they need.

“They need you to grant this application in order for them to run this operation. Whatever they did so far was obviously predicated on some kind of assumption that you are going to vote for this today. I don’t think that’s a fair and reasonable assumption. I think the fair and reasonable assumption is that you are going to weigh this and you are going to make the best decision that you think is appropriate based on the facts.”