

**ZONING BOARD OF REVIEW**  
**Minutes**  
**April 2, 2014**  
Coventry Town Hall  
1670 Flat River Road  
Work Session & Regular Meeting  
**7:00 p.m.**

Meeting started at 7:10 p.m.

**Members in Attendance:** Robert Crowe, Virginia Soucy, Russell Lacaillade, John D’Onofrio, Denise DeGraide and John Studley.

Mr. Crowe: Let the record reflect we have a full Board sitting. The fire exits are to your rear, the exits to my rear take you into the building. We have a Work Session in the beginning, to go over the Old Business from last month then vote on those applications then we go right to New Business. Has everybody had a chance to review the Minutes from March 5, 2014?

Mr. Lacaillade: Mr. Chairman, I make a motion we accept the minutes as presented.

Ms. Soucy: Second.

Mr. Crowe: Motion made and seconded, all those in favor say Aye?

Board: Aye.

Mr. Crowe: Nays? Ayes have it.

**OLD BUSINESS**

**Applicant:** WED Coventry 3, LLC  
**Owner:** Bruce Capwell, Sr.  
**Location of Property:** AP 315 Lot 61; 5555 Flat River Road  
**Zone:** RR-5  
**Existing Use:** Single Family Residence  
**Proposed Use:** Same

Applicant is seeking a Special Use Permit to construct a wind turbine

**Applicant:** WED Coventry 4, LLC  
**Owner:** Bruce Capwell, Sr.  
**Location of Property:** AP 315 Lot 88; Flat River Road  
**Zone:** RR-5  
**Existing Use:** Vacant Land  
**Proposed Use:** Same

Applicant is seeking a Special Use Permit to construct a wind turbine

Mr. Crowe: I would like to discuss them both but will vote on each one individually. In reviewing our meeting last month, I thought the presentation was good, there was discussion on fire, I have a letter here from Western Coventry from the Chief.

Ms. DeGraide: Mr. Chairman, on that letter you received from Western Coventry Fire District, I think if the applications are approved I think it should be with the stipulation that the Resolution that was forwarded to us be included in the stipulations.

Mr. Crowe: Correct and that referred to any costs associated with performing emergency training or anything else for the development of the wind turbines would be on the developer himself and the cost not be to the Western Coventry Fire.

Ms. Soucy: There is a whole paragraph in the minutes stating that. It's on record anyway.

Mr. Lacaillade: The ingress and egress is large enough and strong enough that it will be able to support fire apparatus going in there. I spoke to the Chief this morning and he is fine with this.

### **Findings of Fact**

Special Use Permit for WED Coventry 3, LLC

Wind Turbine

AP 315 Lot 61

5555 Flat River Road

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**Applicant is seeking a Special Use Permit to construct a wind turbine on the property**

There are certain criteria set forth in Section 430 of the Zoning Ordinance that must be addressed in order to approve or deny a Special Use Permit. At this time I would like to read the following Findings of Fact into the Record

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**Ingress and egress to the lot and the existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;**

**X** The ingress and egress to this lot is acceptable for the proposed use provided as depicted in the site plan

-OR-

**◇** The ingress and egress to this lot is not acceptable in the current proposal

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**Off-street parking and loading areas where required (see Article 12), with particular attention to the items in the Subsection A above, and to the economic, noise, glare or odor effects of the special-use permit on adjoining lots;**

The property has more than enough parking and loading area for the proposed use  
-OR-

The property does not have adequate parking for this proposal

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**Trash, storage and delivery areas with particular reference to the items above**

Trash collection will be provided by the applicant. Once the turbine is completed there is not waste created by this use  
-OR-

The applicant has not addressed how the waste from this business will be disposed of

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**Screening and buffering with reference to type, dimensions and character.**

No additional screening or buffering is required or necessary for this proposal  
-OR-

The proposal does not have enough screening or buffering to protect the neighbors from the adverse noise of this proposal

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**Utilities, with reference to location, availability and compatibility**

Utilities should not be a problem provided the applicant received tie in approval to the electric grid from National Grid  
-OR-

Utilities will be a problem

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**Required yard and other open space**

This proposal has no required yard or open space requirement  
-OR-

The proposal does not have the adequate yard or open space

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**General compatibility with lots in the same or abutting zoning districts;**

The proposed use is in general compatibility with the area. The applicant has demonstrated that there will be no substantial negative effect on the surrounding properties

-OR-

Due to the large size of the turbine if will be visible from all of the surrounding properties this visual intrusion significantly effects the character of the area

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**The use will not result in or create conditions that will exceed the Industrial Performance Standards**

**X** This proposal will be well within the Industrial Performance Standards

-OR-

◇ This proposal will exceed the Industrial Performance Standards in terms of noise

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**General compatibility with the Coventry Comprehensive Plan.**

**X** The proposed use is compatible with the Comprehensive Plan inasmuch as this project helps the land owner preserve his land from development and Comprehensive Plan encourages this area to remain rural

-OR-

◇ The proposed use is not compatible with the Comprehensive plan inasmuch as the Comp Plan calls for this area to be very low density residential and this is a commercial use

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**That the granting will not result in conditions inimical to public health, safety, morals and welfare.**

**X** The proposed use will not result in conditions inimical to the public health, safety, morals or welfare

-OR-

◇ The granting of this proposal will result in conditions inimical to public health, safety, morals and welfare. If the proposed use was approved it would create a condition that are not safe inasmuch as these turbine can ketch on fire and the local fire department does not have the means to fight such a fire . Ice can build up on blades and then be tossed a considerable distance creating a hazard to residence and property in the area. In addition the blades could be dislodged and fly onto an adjacent property causing and issue.

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◇ Therefore I make a motion to **Approve** the Special Use Permit Application

-OR-

◇ Therefore I make a motion to **Deny** the Special Use Permit Application.

-OR-

**X** Therefore I make a motion to **Approve** the Special Use Permit Application provided the applicant adheres to the following stipulations

\*Stipulation: That it is anticipated that any reasonable costs associated with performing emergency training and response (to include any fire, emergency medical attention, and the purchase and maintenance of any necessary equipment that is specifically unique to the installation of the subject wind turbine) that is

expected of the Western Coventry Fire Department at the site of the subject wind turbine, during wind turbine installation and operation, shall be the responsibility of the wind turbine developer. When any such training or response needs are identified by the developer or by the Western Coventry Fire Department, they will be contemplated and stipulated to in writing and filed with the Zoning Department. If an agreement cannot be reached between the developer and Western Coventry Fire Department related to the reasonable costs and necessary training and response needs, then the parties shall have their dispute heard before the Zoning Board of Review.

### **Findings of Fact**

Special Use Permit for WED Coventry 4, LLC

Wind Turbine

AP 315 Lot 88

**Vacant land**

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**Applicant is seeking a Special Use Permit to construct a wind turbine on the property**

There are certain criteria set forth in Section 430 of the Zoning Ordinance that must be addressed in order to approve or deny a Special Use Permit. At this time I would like to read the following Findings of Fact into the Record

---

**Ingress and egress to the lot and the existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;**

**X** The ingress and egress to this lot is acceptable for the proposed use provided as depicted in the site plan

-OR-

◇ The ingress and egress to this lot is not acceptable in the current proposal.

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**Off-street parking and loading areas where required (see Article 12), with particular attention to the items in the Subsection A above, and to the economic, noise, glare or odor effects of the special-use permit on adjoining lots;**

**X** The property has more than enough parking and loading area for the proposed use

-OR-

◇ The property does not have adequate parking for this proposal

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**Trash, storage and delivery areas with particular reference to the items above.**

Trash collection will be provided by the applicant. Once the turbine is completed there is not waste created by this use

-OR-

The applicant has not addressed how the waste from this business will be disposed of

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**Screening and buffering with reference to type, dimensions and character.**

No additional screening or buffering is required or necessary for this proposal

-OR-

The proposal does not have enough screening or buffering to protect the neighbors from the adverse noise of this proposal

---

**Utilities, with reference to location, availability and compatibility**

Utilities should not be a problem provided the applicant received tie in approval to the electric grid from National Grid

-OR-

Utilities will be a problem

---

**Required yard and other open space.**

This proposal has no required yard or open space requirement

-OR-

The proposal does not have the adequate yard or open space

---

**General compatibility with lots in the same or abutting zoning districts;**

The proposed use is in general compatibility with the area. The applicant has demonstrated that there will be no substantial negative effect on the surrounding properties

-OR-

Due to the large size of the turbine it will be visible from all of the surrounding properties this visual intrusion significantly effects the character of the area

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**The use will not result in or create conditions that will exceed the Industrial Performance Standards.**

This proposal will be well within the Industrial Performance Standards

-OR-

This proposal will exceed the Industrial Performance Standards in terms of noise

---

**General compatibility with the Coventry Comprehensive Plan.**

**X** The proposed use is compatible with the Comprehensive Plan insomuch as this project helps the land owner preserve his land from development and Comprehensive Plan encourages this area to remain rural

-OR-

◇ The proposed use is not compatible with the Comprehensive plan insomuch as the Comp Plan calls for this area to be very low density residential and this is a commercial use

---

**That the granting will not result in conditions inimical to public health, safety, morals and welfare.**

**X** The proposed use will not result in conditions inimical to the public health, safety, morals or welfare

-OR-

◇ The granting of this proposal will result in conditions inimical to public health, safety, morals and welfare. If the proposed use was approved it would create a condition that are not safe insomuch as these turbine can ketch on fire and the local fire department does not have the means to fight such a fire . Ice can build up on blades and then be tossed a considerable distance creating a hazard to residence and property in the area. In addition the blades could be dislodged and fly onto a adjacent property causing and issue

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◇ Therefore I make a motion to **Approve** the Special Use Permit Application

-OR-

◇ Therefore I make a motion to **Deny** the Special Use Permit Application.

-OR-

**X** Therefore I make a motion to **Approve** the Special Use Permit Application provided the applicant adheres to the following stipulations:

\*Stipulation: That it is anticipated that any reasonable costs associated with performing emergency training and response (to include any fire, emergency medical attention, and the purchase and maintenance of any necessary equipment that is specifically unique to the installation of the subject wind turbine) that is expected of the Western Coventry Fire Department at the site of the subject wind turbine, during wind turbine installation and operation, shall be the responsibility of the wind turbine developer. When any such training or response needs are identified by the developer or by the Western Coventry Fire Department, they will be contemplated and stipulated to in writing and filed with the Zoning Department. If an agreement cannot be reached between the developer and Western Coventry Fire Department related to the reasonable costs and necessary training and response needs, then the parties shall have their dispute heard before the Zoning Board of Review.

Mr. Crowe: The only stipulation if approved it would be the Resolution of all Fire Apparatus costs, training and anything else be directed to the owner.

Ms. Soucy: They said even if there was a fire they wouldn't even attempt to put it out.

Mr. Crowe: Right.

Ms. Assalone: Mr. Crowe, with respect to the stipulation I would only suggest that there be some language in there that suggests if there is any dispute about what is owed or what must be paid with respect to the training program and other things contained in that paragraph that it come back before the Board. For example, what if they suggest they need a new fire truck to conduct training, there has to be a limit and so if there are disputes, those disputes be settled by the Board.

Mr. Crowe: I agree with that 100% and that will be within the stipulation.

Ms. Assalone: Now with respect to the Resolution you are wanting all the language there in paragraph 1 or 1, 2 & 3?

Mr. Crowe: Perhaps all three? But again I will rely on counsel's input.

Ms. DeGraide: As far as #2 I would think that any agreement that happens with these wind turbines that come up in Town regardless of which fire department it affects I think those financial responsibilities for training would fall to the turbine company for any fire department not just Western Coventry.

Ms. Assalone: I am not sure that the Board can bind the Town of Coventry in such a way to really add that as a stipulation with all due respect. I think it should be set on a case by case basis.

Mr. Crowe: What is your opinion on the three stipulations?

Ms. Assalone: With respect to three I think it's clear that the Board is voting that the cost would be absorbed by the builder, in addition to the taxes.

Ms. DeGraide: So do we need to put three as a stipulation?

Ms. Assalone: I am counseling you on additional language; one was the additional language regarding disputes coming before the Board.

Mr. Crowe: We could make a stipulation that any language addressed on this stipulation will be designated by the administration. Any language with the Board requesting that fire fighter cost training would be directed upon the owner the and language be relied upon to be put on by administration.

Ms. Assalone: I think that...I agree.

Mr. Sullivan: Stipulation be drafted by administration.

**Applicant:** Lisa C. Kilby and James M. Rosenberg  
**Owner:** Same  
**Location of Property:** AP 29 Lot 119; 84 Helen Avenue  
**Zone:** R-20  
**Existing Use:** Single Family Residence  
**Proposed Use:** Same

Applicants are seeking a Dimensional Variance to construct a two car garage with less than required setbacks

Mr. Crowe: I went and took a look at this, I don't think it's a problem and a lot are already set up like this in the neighborhood. I think it's a good use. I couldn't find any negative factors on it.

Ms. Soucy: They can't put it anywhere else so it would create a hardship for them.

Mr. Crowe: The hardship is due to the physical characteristics as this is an undersized lot.

Mr. Lacaillade: I think it fits the area, it's the only place they can put the garage and it fits with the area.

### **Findings of Fact**

Variance for Lisa Kilby & James Rosenberg

Dimensional Variance to construct garage 23.5' ft from the rear property line and 5' ft from the side property lines

AP 29 Lot 119; Zone R-20

84 Helen Avenue, Coventry, RI

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**Applicant is seeking a Dimensional Variance to construct attached garage 23.5'ft from the rear property line and 5'ft from the side property line.**

There are certain criteria set forth in Section 454 of the Zoning Ordinance that must be addressed in order to approve or deny a Dimensional Variance. At this time I would like to read the following Findings of Fact into the Record:

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**That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;**

**X** That the hardship that the applicant seeks relief is due to the unique characteristics of the subject land inasmuch as this is an undersize lot for the zone.

-OR-

**◇** There is no unique characteristic of this property that justifies a deviation from the regulations.

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**That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize a greater financial gain;**

The hardship is not the result of any prior action of the applicant and is not a result primarily from the desire of the applicant to realize a greater financial gain.

-OR-

The hardship is the result of the applicant's prior action

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**That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Coventry Comprehensive Plan.**

This requested variance if approved will not alter the general character of the surrounding area or impair the intent or purpose of the Coventry Zoning Ordinance or Comprehensive Plan.

-OR-

The zoning ordinance calls for garages to be 14'ft from the side property line and 30'ft from the rear property line. The granting of this variance would impair the intent of this ordinance.

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**That the relief being granted is the least relief necessary.**

The relief being granted is the least relief necessary

-OR-

That the relief being asked for is not the least relief necessary.

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**In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.**

If this application is rejected it will result in more than and mere inconvenience of the applicant.

-OR-

If this application is rejected it will only result in a mere inconvenience to the applicant.

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Therefore I make a motion to **Approve** the Variance Application

-OR-

◇ Therefore I make a motion to **Deny** the Variance Application.

-OR-

Therefore I make a motion to **Approve** the Variance Application provided the applicant adheres to the following stipulations

Mr. D'Onofrio: They are bound by the property and limited to what they can do there.

Ms. DeGraide: I am fine with it.

Mr. Crowe: I see no stipulations so if approved it will be approved as presented.

<b>Applicant:</b>	<b>Cumberland Farms</b>
<b>Owners:</b>	<b>Edward J. and Joan M. Green, Hildegard M. Perry, Carolyn A. Yuettnner and Rudolph Procaccianti</b>
<b>Location of Property:</b>	<b>AP 7 Lots 17, 18, 19 and 20; Arnold Road and New London Turnpike</b>
<b>Zone:</b>	<b>Business Park</b>
<b>Existing Use:</b>	<b>Single Family Residences</b>
<b>Proposed Use:</b>	<b>Convenience store with gasoline self service station (no repairs)</b>

Applicants are seeking a Special Use Permit to demolish three single family homes and construct a convenience store with gasoline self-service station.

Mr. Crowe: I don't see any problems with the location. This has been before the Planning Board for some time. The plans have been moved around a number of times and I don't see any problems with it. It has been studied by the Board and I see no problems with it at this time. The one thing that was brought up was that the Town would do would be the turning in lane would be extended to solve any back up problems. That came from a resident and was an excellent request.

Mr. Peabody: The Engineer has revised the plan and it has reflected that.

Mr. D'Onofrio: Is it just re-striping the road?

Mr. Peabody: Yes, just re-striping.

### **Findings of Fact**

Special Use Permit for Cumberland Farms Gasoline Service Station.

Cumberland Farms

AP 7 Lot 17,18,19 & 20

Arnold Road, New London Turnpike, Gay Street

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**Applicant is seeking a Special Use Permit to construct a Gasoline Service Station in the BP Zone**

There are certain criteria set forth in Section 430 of the Zoning Ordinance that must be addressed in order to approve or deny a Special Use Permit. At this time I would like to read the following Findings of Fact into the Record:

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**Ingress and egress to the lot and the existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;**

The ingress and egress to this lot is acceptable for the proposed use provided as depicted in the site plan.

-OR-

The ingress and egress to this lot is not acceptable in the current proposal.

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**Off-street parking and loading areas where required (see Article 12), with particular attention to the items in the Subsection A above, and to the economic, noise, glare or odor effects of the special-use permit on adjoining lots;**

The proposal depicts 21 parking spaces; this will be adequate for the proposed use.

-OR-

The property does not have adequate parking for this proposal. 39 parking spaces are required for this development.

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**Trash, storage and delivery areas with particular reference to the items above**

Trash collection will be provided by the applicant.

-OR-

The applicant has not addressed how the waste from this business will be disposed of.

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**Screening and buffering with reference to type, dimensions and character.**

No Additional screening or buffering is required or necessary for this proposal.

-OR-

The proposal does not have enough screening or buffering to protect the neighbors from the adverse visual nuisances of this proposal.

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**Utilities, with reference to location, availability and compatibility.**

Utilities should not be a problem for this development.

-OR-

◇ Utilities will be a problem.

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**Required yard and other open space.**

X This proposal has no required yard or open space requirement.

-OR-

◇ The proposal does not have the adequate yard or open space.

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**General compatibility with lots in the same or abutting zoning districts;**

X The proposed use is in general compatibility with the area. The applicant has demonstrated that there will be no substantial negative effect on the surrounding properties.

-OR-

◇ This project is not compatible with the surrounding properties because of the traffic congestions that will be caused by this proposal.

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**The use will not result in or create conditions that will exceed the Industrial Performance Standards.**

X This proposal will be well within the Industrial Performance Standards.

-OR-

◇ This proposal will exceed the Industrial Performance Standards in terms of \_\_\_\_\_.

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**General compatibility with the Coventry Comprehensive Plan.**

X The proposed use is compatible with the Comprehensive Plan insomuch as the Comprehensive Plan calls for this area to be zoned BP and used commercially.

-OR-

◇ The proposed use is not compatible with the Comprehensive Plan insomuch as the Comp Plan calls for this area to be zoned BP and there are higher and better uses in the BP zone that could be sited at this location.

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**That the granting will not result in conditions inimical to public health, safety, morals and welfare.**

X The proposed use will not result in conditions inimical to the public health, safety, morals or welfare.

-OR-

◇ The granting of this proposal will result in conditions inimical to public health, safety, morals and welfare because this proposal has the high likelihood of contamination to the ground water in this area that will eventually traverse into Tiogue Lake. In addition this proposal will result in unsafe conditions in the area.

-OR-

◇ The proposed use will not result in conditions inimical to the public health, safety, morals or welfare provided the tanks installed are doubled walled.

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◇ Therefore I make a motion to **Approve** the Special Use Permit Application.

-OR-

◇ Therefore I make a motion to **Deny** the Special Use Permit Application.

-OR-

**X** Therefore I make a motion to **Approve** the Special Use Permit Application provided the applicant adheres to the following stipulations

◇ The fuel tanks installed are doubled walled.

Mr. Crowe: At this time here I would like to have a vote on the applications from last month.

<b>Applicant:</b>	<b>WED Coventry 3, LLC</b>
<b>Owner:</b>	<b>Bruce Capwell, Sr.</b>
<b>Location of Property:</b>	<b>AP 315 Lot 61; 5555 Flat River Road</b>
<b>Zone:</b>	<b>RR-5</b>
<b>Existing Use:</b>	<b>Single Family Residence</b>
<b>Proposed Use:</b>	<b>Same</b>

Applicant is seeking a Special Use Permit to construct a wind turbine

Ms. Soucy:	Approve*
Mr. Lacaillade:	Approve*
Mr. D'Onofrio:	Approve*
Ms. DeGraide:	Approve*
Mr. Crowe:	Approve*

\*Stipulation: That it is anticipated that any reasonable costs associated with performing emergency training and response (to include any fire, emergency medical attention, and the purchase and maintenance of any necessary equipment that is specifically unique to the installation of the subject wind turbine) that is expected of the Western Coventry Fire Department at the site of the subject wind turbine, during wind turbine installation and operation, shall be the responsibility of the wind turbine developer. When any such training or response needs are identified by the developer or by the Western Coventry Fire Department, they will be

contemplated and stipulated to in writing and filed with the Zoning Department. If an agreement cannot be reached between the developer and Western Coventry Fire Department related to the reasonable costs and necessary training and response needs, then the parties shall have their dispute heard before the Zoning Board of Review.

**Applicant:** WED Coventry 4, LLC  
**Owner:** Bruce Capwell, Sr.  
**Location of Property:** AP 315 Lot 88; Flat River Road  
**Zone:** RR-5  
**Existing Use:** Vacant Land  
**Proposed Use:** Same

Applicant is seeking a Special Use Permit to construct a wind turbine

Ms. Soucy: Approve\*  
Mr. Studley: Approve\*  
Mr. D'Onofrio: Approve\*  
Ms. DeGraide: Approve\*  
Mr. Crowe: Approve\*

**Applicant:** Lisa C. Kilby and James M. Rosenberg  
**Owner:** Same  
**Location of Property:** AP 29 Lot 119; 84 Helen Avenue  
**Zone:** R-20  
**Existing Use:** Single Family Residence  
**Proposed Use:** Same

Applicants are seeking a Dimensional Variance to construct a two car garage with less than required setbacks

Ms. Soucy: Approve  
Mr. Lacaillade: Approve  
Mr. D'Onofrio: Approve  
Ms. DeGraide: Approve  
Mr. Crowe: Approve

**Applicant:** Cumberland Farms  
**Owners:** Edward J. and Joan M. Green, Hildegard M. Perry, Carolyn A. Yuettner and Rudolph Procaccianti  
**Location of Property:** AP 7 Lots 17, 18, 19 and 20; Arnold Road and New London Turnpike  
**Zone:** Business Park  
**Existing Use:** Single Family Residences  
**Proposed Use:** Convenience store with gasoline self service station (no repairs)

Applicants are seeking a Special Use Permit to demolish three single family homes and construct a convenience store with gasoline self-service station

Ms. Soucy: Approve  
Mr. Studley: Approve  
Mr. D'Onofrio: Approve  
Ms. DeGraide: Approve  
Mr. Crowe: Approve

### **NEW BUSINESS**

**Applicant:** Mike's Professional Tree Service, Inc.  
**Owner:** Same  
**Location of Property:** AP 44 Lot 1; 75 Airport Road, Unit 3  
**Zone:** Industrial I-1  
**Proposed Use:** Operate a commercial wood lot with firewood sales and storage

In accordance with Article 4, Section 423 of the Coventry Zoning Ordinance, you are hereby notified that the applicant and owner "Mike's Professional Tree Service, Inc. of 17A Reservoir Rd., Coventry, RI 02816" has been granted a leave by the Superior Court to present new evidence to the Zoning Board in the form of that certain report issued by the Fire Marshal, Town of Coventry, dated December 17, 2013, in accordance with R.I.G.L. 45-24-69 (b) as it relates to the use of "commercial woodlots & firewood storage & sales" on a 16 acre parcel of land, known as 75 Airport Rd., Unit 3, currently used for material screening, crushing and storing.

### ***SEE STENOGRAPHER'S TRANSCRIPT***

Mr. Crowe: I will step down on this matter because I am a neighbor and will turn the meeting over to Vice-Chair.

Ms. Assalone: Mr. Crowe, my family member also has abutting property so I am also recusing myself for the record.

Mr. Crowe: I believe John Studley also will be recusing himself.

Mr. Sullivan: This hearing is a very limited hearing. This matter of Mike's Tree Service was heard by the Zoning Board. While the hearing was open, testimony was received by the neighbors, abutters, applicant and counsel produced evidence. The matter was voted down and the applicant took the appeal to the Rhode Island Superior Court in Kent County who has jurisdiction in this case. The appellant who is Mike's Professional Tree Service, Inc. They filed a motion under R.I.G.L. 25-24-69 to be granted leave from the Superior Court Judge and present additional evidence in this appeal. There was a hearing, Mr. Harsch filed a motion representing abutters which was granted and I am representing the Town. The appellant filed a motion to leave to allow him to present additional evidence that wasn't available at the time. The judge ruled in the applicant's favor and it will allow him to introduce a letter from Central Coventry Fire District dated December 17 of last year. The statute says that (inaudible) party which anybody can be file a leave. Mr. Volpe filed the leave and he is the only one granted to present evidence. He can present evidence today. (Inaudible).

Mr. Volpe: My name is Fred Volpe I am here on behalf of the applicant. You're Solicitor

basically provided my presentation. Basically what occurred we received an amended letter from the Fire Marshall and that report indicates that concerns resolved the issues that were listed in his prior report of July 16, 2013. Based upon that I am presenting this report dated December 17, 2013 as part of the record. My motion was filed under 45-24-69b which governs appeals to Superior Court and I would simply indicated on record that the Judge granted that order and part of the statute reads as follows:

*“The zoning board of review may modify its findings and decision by reason of the additional evidence and file that evidence and any new findings or decisions with the superior court.”*

Mr. Volpe: That is the purpose of my presentation.

Mr. Harsch: May I be heard?

Mr. Sullivan: Procedural?

Mr. Harsch: Procedural.

Mr. Sullivan: Yes.

Mr. Harsch: Mr. Volpe indicated that the purpose of the hearing (inaudible) the Board make determinations I understand that is not being the case but if they were to do so I want to point out for the record we do have an expert witness present and you will also note Mr. Volpe does not have a witness present to verify the letter to be examined. I don't know what value the letter has without the writer of the letter being here to verify it. I would also point out this letter is one of a series of three letters tonight which was submitted as a procedural matter is in appropriate for this Board to supply materials to the court is incomplete. There are a series of letters beginning with the original one this court saw at the time that the application was (inaudible). It was in the letter that Mr. Volpe refers but there was a letter after that on January 2 which further defines the position of the fire marshal and does once again basically which they have done throughout which is always refer to the fire code.

Mr. Sullivan: Mr. Harsch you have two options-File a motion for leave to present this evidence in superior court or you can address it through the briefing process which we are about to embark. It's up to you?

Mr. Harsch: You are planning on have a briefing process here?

Mr. Sullivan: No, there will be a briefing scheduled in Superior Court.

Mr. Harsch: Then the record will show I offered to present evidence because this was noticed as a public hearing and it will also show that the letter standing alone especially with no witness here to verify it I think it's very dubious.

Ms. DeGraide: Mr. Harsch I have an issue with the letter as well. The writer of this letter is not here for us to question if we chose and I would like an explanation of why the report has been changed from the first to the second with questions being asked by the Board and our Fire Department expert we have here. I am disappointed the writer of this letter is not here to question also but it is what it is.

Mr. Harsch: I have copies of all three letters...

Mr. Sullivan: This is in Superior Court and there is only one way to produce new evidence which is through Superior Court.

Mr. Harsch: Then I will put the Board on notice that there is another letter which is not part of that motion.

Mr. Volpe: If I may have a moment to address Mr. Harsch's comments he makes reference to the substance of the letter. That letter supersedes the letter of July 16. The letter of July 16 is part of the Decision. Also this letter was based upon the order issued by the Court allowing the letter to be part of the record.

Mr. Resnick: Sanford Resnick, I represent Consolidated Concrete Corp., which is one of the abutters. In the case of Fryzel v. Zoning Board of Review Portsmouth basically this case stands for the proposition that when a party is allowed to supplement the record before the Board the Board should constrain its further review to those specific issues however, it would be manifestly unjust not to allow the other parties to present information which is what Mr. Harsch and I would like to do this evening.

Mr. Sullivan: If you were at the hearing you would understand that at the Superior Court hearing he had burden in the Superior Court. It wasn't available and to prove to the judge it was immaterial so that was the way this case is going to be run.

Mr. Resnick: I understand that but it seems manifestly unjust that someone would have the opportunity to introduce a letter and we don't have the right to question the witness or to bring our own witness to analyze this letter. This letter speaks for itself.

Mr. Sullivan: You had the opportunity at the beginning so the applicant now that he is an appellant is before the Superior Court. You are more than welcome to file a motion to intervene on behalf of your client but that's up to the judge.

Ms. DeGraide: We are not going to take any more questions.

Mr. Sullivan: The Board is free to modify its findings. The letter will be transmitted to Superior Court as a supplement to the record.

Mr. D'Onofrio: So are we going to overturn our original Decision?

Mr. Sullivan: Mr. Volpe are you asking for that?

Mr. D'Onofrio: They want to submit evidence to what end?

Mr. Sullivan: Right now, this letter will be transmitted to Superior Court. The record is already there.

Mr. D'Onofrio: That's assuming our entire decision is based on that one factor. It sounds like they are asking to overturn our decision based on that am I correct?

Mr. Sullivan: No he is asking that the paper be transmitted to Superior Court for the judge to determine.

Mr. D'Onofrio: To what end?

Mr. Volpe: Under that statute it reads as the Board you have a right to change, supplement your decision based upon this additional piece of evidence.

Mr. Sullivan: Or do nothing.

Mr. Volpe: Do nothing.

Mr. D'Onofrio: So how would the vote be called?

Mr. Sullivan: There is no vote if you don't want it.

Ms. DeGraide: I am not choosing to change my decision.

Mr. Lacaillade: I can only speak for myself. The two sole reasons that I was against the granting of this back in July was the fact that we had a letter from the Fire Marshal stating that following the Code that they are requesting water supply being down there and they also don't have a letter from DEM saying it would be okay for them to do that. Now both of those concerns have been addressed, there are two dry hydrants in that area, they have been tested, I can attest to that as a member of this and the fact that I am still a fire fighter in the Town of Coventry. I have nothing against the gentleman in the gallery but I am sure if Marshal Godin was advised to be here he would have been here. I think the letter speaks for itself. He wouldn't write it unless he felt it be true and I understand they have the right to question him. His concerns have been addressed and he chose to write it this way. The subsequent letter I believe was based on the fact that there was some talk about putting the road around the pond and he has addressed that too. My concerns have been covered. If it came to vote I would vote to approve the granting of this because based on the two concerns that I had have been corrected.

Mr. Peabody: Since we are moving on to the next application that means we are going to be closing the Board of Review and opening the Board of Appeals.

**COVENTRY ZONING BOARD OF APPEALS**

**April 2, 2013**

Town Council Chambers

1670 Flat River Road

Work Session & Regular Meeting

**7:00 p.m.**

***SEE STENOGRAPHER'S TRANSCRIPT***

**Re: Appeal of Thomas Forcier**

**Location of Property: AP 324 Lot 20; Peckham Lane**

**Zone: RR-2**

Appellant is appealing the Zoning Enforcement Officer's written determination dated December 3, 2013 regarding Water's Edge Campground AP 324 Lot 20.

**Re: Appeal of Suzanne Colwell**  
**Location of Property: AP 324 Lot 20; Peckham Lane**  
**Zone: RR-2**

Appellant is appealing the Zoning Enforcement Officer's written determination dated December 3, 2013 regarding Water's Edge Campground AP 324 Lot 20

Ms. DeGraide: Motion to adjourn.

Ms. Soucy: Second.

Mr. Crowe: Motion made and seconded, all those in favor say Aye?

Board: Aye.

Mr. Crowe: Nays? Ayes have it.

Meeting adjourned at 8:11 p.m.