



18 October 2018

Statement to the Town of Ulster Town Board
Re: Glidepath's Lincoln Park Grid Support Center

I submit three letters one from ToUC to the ZBA, the second the ZBA's denial of our request, and the third our rebuttal to said denial, in addition to this statement I am about to read, which is a summary of all of them.

ToUC has been seeking due process regarding a thorough zoning definition of "utility company structure" in general and as it applies to GlidePath's LPGSC. The Town Board replied through the Town attorney that the ToUC request is "of no moment" and "too late in the process" to consider. That was the limit of the discussion, which occurred at the Sept 20th Town Board Meeting.

Here is what our research has revealed:

GlidePath is a small energy investment firm owned by Quinbrook, and they are not a utility company like Central Hudson, Con Edison, NYSEG, or Niagara Mohawk which deliver essential electric services to citizens.

Utility companies are generally given privileged "as of right" or "by right" privileges to cross zoning due to their essential nature.

The LPGSC is an optional service to provide wholesale energy for sale to the grid. It is not essential and should not be granted "as of right" privileges.

There is a proposed moratorium on ground-mounted solar arrays that provide electricity to the grid because our Town Code does not have any regulations in place.

There are also no regulations in our Town Code for fossil fuel fired plants that generate electricity. The LPGSC would not be regulated by the Public Service Commission because it is slated to be under 25 MW. Under these circumstances, GlidePath would not be subject to any regulation specific to their function.

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ToUC appealed to the ZBA for an interpretative definition of “utility company structure.” The ZBA would not hear our appeal. ZBA said that Town Planning recommended to the Town Board to apply “utility company structure” to the LPGSC without any definition of that term.

Such an interpretation is the province of neither Town Planning nor the Town Board.

According to our Town Zoning Code, NY Town Law and Department of State explanations, Zoning interpretation is the province of the Zoning Board. The Planning Board may recommend definitions to the Zoning Board, and the Town Board can formally legislate a definition of that term in the Zoning Code, but it is the Zoning Board that has the sole independent responsibility to interpret and hold hearings on the meaning of “utility company structure.”

ZBA’s refusal to hear the ToUC appeal on this issue effectively shut down citizen due process on this issue in our Town.

ToUC has identified that the ZBA Chairperson’s denial letter cherry-picked the law to exclude their obligation of interpretation; we cited local and state laws along with Department of State explanations to back up our claims; and we filed for a re-consideration of appeal to the ZBA.

The LPGSC proposal and similar proposals will be subject to Town regulation. We have no such regulations in our Code. We don’t even have a definition of what the applicant is calling itself in our Code. Allowing the Zoning Board to do its job is the responsible and practical thing to do with or without a LPGSC. By extension, granting citizens due process on this issue is also the right thing to do.

Respectfully Submitted,
Laura Hartmann, Chairperson
TownOfUlsterCitizens.org

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