

William Cundiff

From: Jay Talerman [jay@bbmatlaw.com]
Sent: Wednesday, October 20, 2010 8:34 PM
To: William Cundiff
Cc: szisk@douglasma.org; 'Maria Lajoie'; areynolds@douglasma.org; 'Dan Heney'; 'Mike Guzinski'
Subject: Re: Wind Farm Variance Decision

Bill: A ZBA possesses no legal authority to unilaterally reopen variance proceedings or otherwise unilaterally alter or rescind a variance decision. The same holds true for special permit decisions. As an aside, I note that the letters you reference seem to suggest that the ZBA's variance did not provide setback requirements and, instead, left this issue up to the Planning Board. While it is true that the variance allowed the Planning Board to provide further setback requirements, the variance clearly provides hard and fast minimum requirements (1000' to residences and 150' to lot lines).

Jay

----- Original Message -----

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To: ['Jay Talerman'](#)
Cc: szisk@douglasma.org ; ['Maria Lajoie'](#) ; areynolds@douglasma.org ; ['Dan Heney'](#) ; ['Mike Guzinski'](#)
Sent: Wednesday, October 20, 2010 12:13 PM
Subject: Wind Farm Variance Decision

Dear Atty. Talerman:

The Douglas Planning Board, ZBA and Selectmen received the attached letter from an abutter to the Wind Farm Project: <http://www.douglasma.org/cdd/pb/reports/wind/101007-bha.pdf>. The Planning Board briefly discussed this request at their last meeting and asked that I contact you for feedback regarding whether or not the ZBA has the ability to re-open the variance decision pertaining to the wind farm based upon the information attached to the letter regarding setbacks. A subsequent email submitted to the Board(s) <http://www.douglasma.org/cdd/pb/reports/wind/101008-stevens.pdf> indicates that a number of assertions were made during the ZBA hearings that setback issues would be addressed during site plan review.

Please advise.

Thanks,

Bill

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