

William Cundiff

From: Jay Talerman [jay@bbmatlaw.com]
Sent: Friday, October 22, 2010 12:42 PM
To: William Cundiff; neexpansion@aol.com; 'Pamela Brown'; info@americanprowind.com; 'Lizotte, Craig'
Cc: 'Adelle Reynolds'; 'Dan Heney'; szisk@douglasma.org; 'Maria Lajoie'
Subject: Re: RA Zoning District

There are 2 distinct issues here stemming from the fact the original variances only mention industrially zoned land.

The first issue relates to notice. That is, the misidentification of the applicable zones may be relevant to the public which has a right to consider all facts when deciding how to present their position. On this issue, I have very limited concerns as it appears that the abutters' list was correct and that all concerned parties were given an adequate description of the construction itself.

The second issue relates to the use code in the bylaws. That is, if the RA zone allows different uses (which I assume to be the case), the ZBA should be given an opportunity to consider the compatibility of such uses with the desired use. It is unlikely that such a specific review occurred although it is plain that the ZBA had an opportunity to consider all current existing (albeit not prospective) uses in the area. From a strictly legal perspective, this second issue is more "weighty."

I do not wish to upset the applecart and ad process unnecessarily here but it may make some sense to seek an amendment so as to address both of these issues.

Jay

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

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Cc: 'Adelle Reynolds' ; 'Dan Heney' ; szisk@douglasma.org ; 'Maria Lajoie' ; 'Jay Talerman'
Sent: Friday, October 22, 2010 10:03 AM
Subject: RA Zoning District

Good Morning Rod:

Based upon the Drawings submitted, it appears that Turbines 9 & 11, as well as some of the infrastructure associated therewith, lie within an RA zoning district. If this is in fact the case, the question of whether or not this use may be permitted within the RA district is raised. Please review the Drawings, the variance decision, and discuss this matter with Adelle (and/or the ZBA, as may be appropriate) so that we can get the proper answer on this question ASAP.

Thanks,

-Bill

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