

Thomas J Ashe
2 Sheeps Crossing
Chilmark, Ma 02535

January 4, 2010

Dear Mr. Hodgkinson and Chilmark Selectmen:

As you know I have been a resident of the Allen Farm subdivision for the past 16 years, and our family home here, has been a safe haven and a dream come true for us. This past summer we noticed the meteorological tower on the north end of the farm. All we knew was that some data was being collected and we also knew that the Allen's to their credit are involved with all kinds of ongoing alternative energy and environmental projects and data collection. Understanding the implications I began educating myself for what I thought could be for the potential of a wind turbine on that site. None of my neighbors are scientists or have the kind of engineering background to really understand the many issues that are raised when discussing the proximity of wind turbines and their affects on issues relating to people including but not limited to health. To date we have received no correspondence from the Town of Chilmark relating to the building permit issued, and only two days ago, Mitchell Posin and Clarissa Allen sent a location plat and told a neighbor that the type of turbine to be built is an Endurance 3120 – but that's all that we actually know.

Recently, we were informed that a building permit to erect a tower 149' tall for a wind turbine had been granted to the Allens and, through some investigation, we were told that this wind generator would be erected approximately 300 to 400 feet from my and my neighbors' residences. There had been no discussion, no meetings, no inquiry, and absolutely no regard for any of the neighbors or abutters in this process. This is about as wrong as anything that I have ever been personally involved in and I feel totally violated by this lack of process.

I understand and agree that we as a nation need alternative energy solutions, but have also read a great deal of information outlining the very negative effects of wind turbines in close proximity to humans, some of which I am including here. If this project goes further and is approved by the town, I want the Town of Chilmark to research and insure me that there will be no possibility of ill health effects to either me or my family as the years go by. As you know I sent a formal protest as an abutter a few weeks ago and addressed other concerns besides the health related issues. I did receive a letter via a neighbor that the town is considering hiring an engineer to assess a few of the potential negative effects including the flicker and noise, but didn't read anything about the ultrasonic effects and more specifically Wind turbine syndrome which I have read about and understand to be a real factor. I am also wondering, as we should as a town, what will happen once this floodgate is opened. Does this open the door to anyone who can site one of these turbines on their farm or property including an industrial size wind farm like Vinalhaven now has? According to what I have read, this issue has been a disaster for that community and especially for its closest residents. Chilmark is a town made up

of residents that love it as it is and that generally dislike change, and to that end has not even been successful in allowing a cell tower to be built. I understand that the reason cited by residents that have voted against it, is because of the potential health related concerns. In my opinion a cell tower, at least, has the potential to save lives by increasing response times to all kinds of real life emergency situations. What positive affects might our town derive from opening the door to wind turbines, and where will we draw the line?

So, with this as background, I'd like to ask a few questions and make several requests of you, as follows:

First, I would like this letter to constitute a formal appeal of the Chilmark Building Inspector's granting of the building permit for Allen Farm to construct a wind turbine on the farm. Can you confirm that as an abutter (or as an abutter to an abutter) I have formal standing to file this appeal. If yes, can you explain to me the process that will follow with regard to an appeal. If not, can you please tell me who has the right to file an appeal. And, when must an appeal be filed by? I think the building permit was granted on December 8th, but no notice was received by any abutters until two weeks ago. I want to make sure that – as a community – we preserve the right to file an appeal.

Second, my understanding is that the building permit was issued without complying with zoning laws because the wind turbine is supposedly for "agricultural purposes." And I've been told that the closest reported legal decision where this has happened on the Vineyard is a case in West Tisbury where this "agricultural exemption" was employed to allow the building of an underground oil tank in support of a greenhouse structure. In that case, the underground tank was found to be an essential element of the agricultural nature of the green house structure. The test for allowing an agricultural structure to be built without complying with zoning laws seems to be that the structure must be an essential component of the agricultural uses intended for the property. This would be consistent with allowing farmers to build farm stands, chicken coops and similar structures without complying with zoning laws. Isn't that the purpose of the so-called "agricultural exemption"? How could a wind turbine be essential to the agricultural use of the Allen Farm in this way? As I see it it is a substitution of an element that is already in existence even though it may constitute a cost savings over time. Moreover, I understand that the Town hasn't even determined how much energy produced by the wind turbine will be used for "agricultural purposes" as opposed to residential purposes or for what will be sold back into the utility grid? Can this information be shared with the abutters? Without this information, what basis would the building inspector have had to issue a permit? Certainly, at least a majority of the energy has to be used for agricultural purposes and not residential or re-sale purposes. But even if it were a majority, is that enough to circumvent zoning laws? Could 30 windmills or a coal-burning utility be built on a farm without complying with local zoning laws? Isn't the correct test that the non-conforming structure must be an essential component of the agricultural uses of the farm? And, in this regard, didn't the building inspector err in granting the permit?

Lastly, when I heard that the proposed turbine is an Endurance 3120, I became concerned about whether the turbine is really less than 150 feet. The specifications for this turbine can be found at <http://www.endurancewindpower.com/e3120.html> and these specifications indicate that the pole structure for the turbine can either be 100 feet high, 120 feet high or 140 feet high. I'm assuming that the Allens are hoping to build a turbine with a 120 foot pole. The specifications further indicate that the blade length for the windmill is 29.53 feet, which may be how the Allens concluded that their windmill would be 149.53 feet high, below the 150 foot limit requiring consideration by the Martha's Vineyard Commission. But if you look closely at the picture of this windmill on its website and study the specifications, you'll see that the height of the turbine cannot be measured by adding the pole height and the blade length because the motorized turbine also adds height above the pole and below the blades. In fact, the proper way of determining height is to add the pole height to one-half of the rotor diameter (which is 63 feet). This would indicate that the proposed turbine is 151.5 feet high and thus is required to be approved by the Martha's Vineyard Commission. Did the Chilmark building inspector consider this issue as well?

For all of these reasons, I think that the Chilmark building inspector erred in granting the permit. A terrible breach of procedure has occurred here. Can you let me know whether this letter is sufficient for purposes of filing a formal appeal to the grant of the building permit and, when the Chilmark Board of Zoning Appeals can properly consider these issues?

Thank you very much for your assistance on this matter.

Sincerely,

Thomas J. Ashe