

Editorial: "How to fight the wind turbine project you just learned about yesterday"

—Eric Bibler, WTS.com guest editor The other day I was contacted by a woman from Bourne, Massachusetts, who wrote to say that she and her neighbors feel ambushed by a wind turbine project – or, at least, that, as is typical, they were late in understanding the implications of the proposed project there (six 500 foot wind turbines) and that they are scrambling to head it off. I thought that this list of relatively simple “things to do” might be helpful to people in Brewster, Wareham, Plymouth--all in Massachusetts--and anywhere else projects are currently proposed. The operative theme here is that you live in a community and that a community is a collective enterprise. You've gathered yourselves together and established an intricate town government to manage your affairs. Why? Because you have all committed to the idea that you have a shared interest in achieving certain goals and providing certain services – health and safety, education, transportation, EMS and fire, police, regulation of hazards, building codes, environment, historic preservation, land conservation, parks, and so forth – all of which contribute to the quality of life in the community and all of which are fundamental to your decision to make your homes there. Sure, you have laws and statutes on the books, and these are necessary instruments to enable individuals, and the town, to formulate and execute necessary plans. But two extremely important principles underlying our system of laws are the following: a) laws exist to protect the fundamental rights of interests that are weak and divided – typically individuals – from abuse by the rich and the powerful; and 2) laws exist to protect the fundamental rights of the minority against the tyranny of the majority – which is to say that some issues should not be subject to a referendum because doing so would impinge on individual rights. An example of this might be that a town has no right to seize your property – or render it useless by erecting a 500 foot wind turbine on the boundary – just because it is convenient and just because 51% of the population (or even 91%) votes in favor of such an action at a Town Meeting. These are fundamental principles and they are enshrined in our laws. For example, the government can't silence me just because I don't agree with them and say so. Similarly, if you look at the Special Permit language in your town – and this is the means by which the towns have typically decided to approach the approval process for wind turbines – you will find that it states quite clearly that any applicant for a Special Permit must satisfy certain criteria in order for the permit to be granted. If those criteria are NOT satisfied, then the Special Permit should be denied. Why do these criteria exist and what do they provide? The permitting criteria exist to protect the community – chiefly, to protect members of the community that own property abutting the property under development, but more broadly, the entire community. But since the adverse impacts of industrial wind turbines are not confined to the developer's property, but, in fact, are broadcast over a wide area, I think that you can argue very forcefully and persuasively to your Planning Board (and to everyone else in town) that the concept of “an abutter” MUST be extended to every property owner, and every member of the community, who experiences these adverse effects. Absolutely. Let me give you three examples: 1) “Flicker Effect” – Intense “Strobe Effect” when the sun is at low angles to the wind turbine blades.

Every wind turbine project does a feasibility study and part of that feasibility study is something called a “Flicker Study.” [Note: do NOT ever refer to this as the “flicker effect” – the *wind industry jargon* for this highly disturbing phenomenon – because, in fact, it is a very, intense strobe effect that drives people to distraction. To give you some idea, please understand that people end up sealing off windows and taping off doorways, or jamming towels underneath them, in a desperate attempt to alleviate the suffering from this intrusion]. A “Flicker Study” is a fairly straightforward calculation of the precise times (and cumulative annual time) that the effect will occur during a given period, typically a year (assuming sunny skies). The study also provides an indication of the geographical extent of the effect; i.e. how much area around the wind turbine will it cover. And the study typically provides a MAP of that pattern.

Brandish this map and insist that it be taken seriously. Why did they go to the trouble of producing it if it is meaningless? Ask why all of the property owners within the “Flicker Pattern” should be subjected to this highly disturbing effect.

The developers will say that one need only pull the blinds for a few brief moments during the day and they will point out that it may only effect a given location for a “mere” 70 hours a year – so it's really no big deal. But how do you feel about that – when those 70 hours are divided into 20 minute intervals that may typically occur while you are having dinner, cocktails, working in your garden after work or playing catch with your 12 year old son to help him improve his arm for Little League – every goddam day of the summer? Is that “nothing”? Can the developer really pass the straight face test with the Planning Board – and can the Planning Board really agree with him – when he insists that this does not constitute a “Nuisance” under the Special Permit provisions? Really?

The developer will say that they will “mitigate” this effect but turning off the blades during this period of time. But that is easier said than done. Let's see the agreement. Make him commit to a firm schedule: “NO operation of the wind turbine during the hours of...during any period of time that produces a ‘flicker effect.’”

2) Wind Turbine Noise

We are providing a great deal of information to the various town authorities on the issue of wind turbine noise and many of you have doubtless done the same. The evidence is overwhelming that wind turbine noise has adverse consequences – and by “noise” I mean the noise that you can hear and the noise that you cannot hear (infrasound) and which is NOT covered by any state statutes – and that the “noise” affects people over a very broad area. We know from clinical research and from anecdotal accounts of first hand experience from around the world that people are very deeply disturbed by noise from wind turbines within a perimeter of a mile – and sometimes, depending upon local geography and/or daily weather conditions, within a much wider perimeter.

Does the Planning Board agree that sleep deprivation, anxiety, depression, fullness or ringing in the ears, and other commonly reported symptoms might reasonably be considered a “Nuisance”? Ask them! If not, why not? What is a nuisance? Does someone have to drop a tree on my house? Or can it be something as simple as the fact that they have made it impossible for me to sleep, work, eat or function, made me extremely ill and ruined my quality of life? Would that be enough to constitute a “Nuisance”?

3) Precipitous Decline in Property Value

I’ve sent two real estate studies to CCC / Bourne / Brewster – one by Mike McCann and a similar one by Appraisal One Group in Wisconsin. The McCann study is available on the Wind Turbine Syndrome Website. Read it!

In the preamble to his report, Mr. McCann has made a very clear-eyed assessment of this problem and has stated that allowing such development is tantamount to a “condemnation” or a “taking of property” from nearby property owners. I absolutely agree. But who cares what I think? What I DO know, however, is that the whole reason for the Special Permit process is that these developments are deemed, by nature of their mammoth size, to be so consequential as to require special consideration, on a project by project basis, by the full Planning Board. That should tell you something. Don’t let the proponents trivialize the impacts of their projects. They wouldn’t have to petition the entire Planning Board through the “Special Permit” process if these projects were trivial!

Here are some more questions for the Planning Board:

o If the wind turbines aren’t a nuisance, why do people sometimes abandon their homes after the machines are installed?

o If the wind turbines aren’t a nuisance, why do studies show that property values often decline precipitously – from 30% to 100% -- after they are installed? Why do some people report that real estate agents will not even bother to show their homes after the machines are installed – because it’s a waste of time?

o If wind turbines aren’t a nuisance – and pose no threat to property values – shouldn’t the developer be asked to indemnify homeowners against any declines in their property value?

o If wind turbines produce so many adverse consequences – sufficient to make some people abandon their homes in some cases – and exert such dramatic downward pressure on property values, doesn’t this raise the specter of lawsuits against the town and/or the developer? Is the town willing to accept this risk? Does the “developer” – typically a shell corporation (an “LLC,” or limited liability company) have the *resources to pay claims* against any successful individual or class action lawsuits – or is it just a paper company?

o If the developer / operator were forced to pay a large claim – or a series of claims – against it, would it have sufficient resources to remain viable? *If not, what would happen to the wind turbines?*

4) Effect upon the Community – What’s in It for Us?!!!!

The community (typically) has enacted very stringent zoning restrictions prohibiting the construction of billboards and other structures above a certain height because: a) they constitute a commercial activity that benefits no one but the owner; and b) because they are out of scale and out of character with their surroundings; c) they are considered unsightly and incongruous, threatening to the historic character and the sense of community; d) they devalue surrounding property.

Why do not all of the same concerns – and more – apply to wind turbines?

o They are 400 or 500 feet tall – *many times* the height of the tallest billboard

o They make noise – over 100 decibels at the hub, equivalent to a jet or a helicopter

o They move – with blades spinning at up to 180 mph

- o They create intense strobe effects over a wide area
- o They are required to have flashing FAA beacons on the top
- o They operate 24 hours a day
- o They inevitably kill birds and bats (although the exact number and species may be in dispute)
- o They represent a hazard from fire and accident which cannot be controlled – because the town is not equipped to fight a fire at the nacelle at a height of 330 feet (or even 262 feet)
- o They represent a potential contamination of aquifers and water supplies
- o They benefit the commercial operator but provide no community benefit

Why should the Planning Board allow a Special Permit to an industrial wind turbine – or to a series of them – when they are, in fact, private commercial operations that provide no tangible benefit and present profound adverse consequences that are much more serious than the negative aspects of a billboard – which the town would never approve?

The *adverse consequences of industrial wind turbines are clear and undisputed* – even if the *magnitude* of the impacts is the subject of debate. But what, if any, are the tangible benefits to the community, in exchange for allowing the developer an opportunity for profit and in exchange for enduring these consequences?

If the Planning Board is going to endorse such a *dramatic exception* to the Town's overriding philosophy of protecting communal interests from unwarranted intrusion, what reasons can it offer for granting such a breathtaking exception? Is it enough simply to blurt out such vague and/or misleading phrases as “clean, renewable energy”, “reduce our carbon footprint,” “end our addiction to foreign oil” or “achieve energy independence”?

If the developer states that he will reduce green house gas emissions, it is not enough for him merely to claim that he will do so? Shouldn't he be required to demonstrate **how** he will do so? And shouldn't he be required to show us the basis for his calculations – so that we may evaluate the validity of his claim?

5. The Burden of Proof Rests with the Applicant (the Developer) – And Don't You Forget It!

If there is a wind turbine proposal in your town, then your town very likely has a newly minted zoning bylaw which allows a staggering “maximum permissible height” for industrial wind turbines that will dwarf any other structure on the horizon. You can't park a trailer in front of your house, but you can now erect a 500 foot wind turbine on your property, subject to approval from the Planning Board.

This zoning bylaw was likely advocated by lawyers for some developer with a twinkle in his eye and a plan; it was passed by your local zoning and planning boards on a wintry Tuesday evening while you were trying to regroup from a hard day at work doing whatever you do. Somehow, it never occurred to you that you needed to be vigilant enough to attend ALL of the meetings of your local Zoning Board to prevent such insanity. Shame on you. What were you thinking?

The zoning bylaw very likely provides that any “Utility Scale Wind Generation Facilities” – which is to say, industrial wind energy plants in your residential neighborhood that tower 500 feet above with blades weighing several tons apiece spinning at 180 mph – require the grant of a “Special Permit” by the full Planning Board.

The Special Permit *obligates* the developer (who insists that he is doing it all for the sake of the community -- and not for the historically unprecedented gusher of state and federal grants, depreciation deductions, renewable energy credits, investment tax credits, revenue subsidies, and the like, which generate such a handsome return) to satisfy certain specified criteria in order to receive his permit.

You become alarmed – and rightly so. You raise a few questions and concerns – and suddenly all hell breaks loose. You do a little more research. Now you are REALLY alarmed.

So what does the developer do and say? He tells you that you can't *prove* any of it; that your research is not “peer reviewed”; that his acoustic study and the state statutes show that you must be making up those stories about the hundreds of people who suffer and abandon their homes because, as his tables of data and his “predictive model” *clearly* show, you are getting all worked up over nothing; yes, they are 500 feet tall, but some people find them beautiful; yes, they kill birds and bats, but so does the sliding glass door on your patio, so what's the big deal; yes, they

make noise, but it's "no louder than a refrigerator, you'll get used to it; yes, it does produce a tiny bit of "flicker" but this shouldn't affect you for more than 25 minutes a day; you'll get used to that too; that's what window shades are for; there is no evidence of adverse impact on property values – see, the Dept. of Energy tells us so; there is no evidence of adverse health consequences: look, I have a study here that was paid for by wind energy lobbyists that proves it. Besides, you're just a NIMBY who cares only about the fact that your quality of life is about to be unalterably destroyed. One wonders how you can be so obtuse as to miss the larger picture. We all have to make sacrifices to reduce our energy footprint and end our addiction to foreign oil. Let's make a deal: I'll build the wind turbines – with your money (through outright grants, investment tax credits, accelerated depreciation, infrastructure support) – and I'll do my part to reduce our carbon footprint. You agree to make all of the sacrifices and pay me an outlandish return – with your money (through additional subsidies and user surcharges) – and you agree not to make any trouble over the visual pollution, the noise, the environmental impact, the disastrous consequences for your quality of life and the value of your home and nest egg – and we'll go forward together, hand in hand, and do this thing together. How does that sound to you? That's pretty much the deal that he's offering. Who could refuse those terms? Well, practically everyone once they realize what's really going on! Now you can understand why the developers have told Governor Patrick (and the ever loyal, ever dutiful Executive Director of the Cape Cod Commission) that they desperately need a bill like the Wind Energy Siting Reform Act (WESRA) – because the developers, having been repeatedly rebuffed, need to be able to put themselves in the position of "making you a deal that you can't refuse" – like Marlon Brando in "The Godfather." But we lost track of a VERY important point here in the midst of all of the developer's dismissals of your concerns. IT IS NOT UP TO YOU TO PROVE DEFINITIVE HARM FROM THESE PROJECTS. THE BURDEN RESTS WITH THE DEVELOPER TO PROVE THAT:

A) THERE WILL BE NO SIGNIFICANT HARM TO ABUTTERS AND COMMUNITY; AND

B) THE BENEFITS TO THE COMMUNITY WILL OUTWEIGH THE ADVERSE CONSEQUENCES TO THE COMMUNITY.

Theoretically, in order to get a Special Permit, the applicant must demonstrate – definitively – to the satisfaction of the majority of the Planning Board and to the entire community – that his application will satisfy these criteria. You are a citizen. You belong to a community. You have organized yourself around a government that passes local laws like bylaws and whose structure includes a Planning Board. The Planning Board is an instrument of government whose sole purpose is to weigh various proposals and to evaluate their impact upon the community at large. Use them. Remind them of their responsibilities. Express your concerns. Document them. Write to them. Call them. Tell them that you believe that there is SUBSTANTIAL EVIDENCE OF SIGNIFICANT HARM from these projects and you INSIST that the Planning Board – your Planning Board -- require the developer to PROVE to their satisfaction – to everyone's satisfaction – that the applicants project will not produce significant harm. Tell them that you insist that the applicant PROVE that his project will not produce significant harm, or disruption to quality of life, or adverse health consequences for ANYONE – no disruptive flicker, no disruptive noise, no decline in property value, no degradation of the environment – because the developer does not have the right – nor should the community, through the operation of the Planning Board grant him the right – to impose these adverse impacts upon ANY individuals or the community. Tell them that you insist that the applicant PROVE to the satisfaction of the Planning Board that "the benefits to the community outweigh the adverse consequences" – as the Special Permit language provides. If they say – as the Cape Cod Commission has baldly stated – that if we don't allow such an outrage, we'll never be able to build and industrial wind turbines on Cape Cod, because of the density of the population – tell them: "So be it! In that case, maybe we weren't meant to have wind turbines on Cape Cod after all!" Your Planning Board exists for the express purpose of protecting you and your community. It does not belong to the developer. It belongs to you. Insist that they do their job and tell them if they are going to allow construction of such consequential structures – which will inevitable divide the community into bitter factions as an extra bonus, as the industrial wind turbines inevitably do – then they better have a damn good reason. I'll leave you with one last thought. I was fortunate to have an opportunity to see the new documentary movie WINDFALL at the NYC DOC film festival last week about the resistance of citizens in Meredith, NY to a developer's efforts to divide and conquer the community by stealth and to install a series of huge wind energy plants there. The citizens faced an uphill battle. THEIR Planning Board did extensive research for a year and recommended against the project. Their Selectmen – who were financially conflicted – rejected the Planning Board's recommendation – without foundation – and decided to move forward with the necessary laws and approvals to allow it! So the citizens decided to run their own slate of candidates to replace the existing selectmen. As one of the wind turbine opponents said, they had been told for months that they were an illegitimate "vocal minority" of mostly "recent arrivals" to the area ("downstaters," in New York parlance) – and they feared that it was true. Until they began campaigning, that is. What they found when they started going through the phone book and systemically contacting residents was that the sentiment regarding the wind turbines was overwhelmingly opposed to them. They won by a landslide and they threw the bums out. They prevented the destruction of their cherished countryside and they ended the threat; but they did so at great

cost. The community remains bitterly divided, with many friendships shattered, over a proposal that never should have seen the light of day – because it was fundamentally antithetical to the values of the community and it was fueled by the desire of a handful of people to appropriate resources that properly belong to the community, collectively, for their own private gain. Please don't allow this happen in Bourne; or Brewster; or Wareham; or Plymouth; or anywhere. Start calling your Planning Board and your neighbors. Tell them that you are extremely concerned about where this is all heading and about its potential impact on the community. I think you, too, will be surprised by the reception you receive.



Eric Bibler is a writer living in Connecticut. (Yes, the glasses are real.)