

## GROTON PLANNING BOARD

March 27, 2013

Deliberative session for EDPR North America LLC's Application for Site Plan Review

Present: Dave Labar, Celine Richer, Deb Johnson, Chairman Steve (Slim) Spafford, Clerk/Alternate Sherry Nelson, Jenny Burnett, Russ Carruth, Select Board liaison Miles Sinclair, Town Counsel Laura Spector-Morgan.

Ten members of the public were also present as well as Jeff Nemeth, Eastern Development Project Manager for EDP, Attorney Mark Beliveau representing EDP and Attorney Jason Reimers representing New Hampshire Wind Watch (NHWW).

Meeting convened at 7:02 pm.

First order of business, since election of two board members earlier this month, was choosing a chairman. Present Chair Spafford was reluctant to continue as Chair. His was the only vote against his being Chairman. He told the Board that when his term expires he will not be running for re-election. Deb proposed sharing more responsibilities to assist the Chair.

Minutes of Feb.27<sup>th</sup> were read and accepted. Deb and Celine abstained due to their absence last month.

Deliberations on EDP application began at 7:21 pm. Deb Johnson moved that we don't waive attorney-client privilege but allow Attorney Spector-Morgan to guide us. Russ asked Deb to explain her motion further, which she did. All voted in favor of her motion.

New Hampshire Wind Watch (NHWW) had raised several objections to the Planning Board's December 19, 2012 acceptance of EDP's application as complete, alleging that several of the submission requirements were not met. After the Chair read the first of NHWW's issues for the Board to address, Deb Johnson expressed her desire to first consider EDP's request for two waivers. Rest of the Board was fine with that. EDPR had requested a waiver of the requirement to register their plan. Deb stated her opposition to this waiver request as she sees registration of plans to be a way to let our town know what is going on. Chair explained that the County Registry does not want this plan. Only those plans that change lot lines are to be registered. Miles moved, Celine 2<sup>nd</sup>, to grant this waiver with updates to the plan required for public notice. All agreed. Deb would like to see the finished plan posted on line. The other waiver request from EDP had to do with identification of Abutters. This, too, had been a concern expressed by NHWW Attorney Reimer. Our Site Plan Review regulations require identification of "all abutting landowners, physical features and uses of abutting land within 200 feet of the site." RSA 676:4 requires that abutters be "identified" on the plan. It does not define "identified". "Site" is not defined in our regulations, but can be interpreted either to be the entire 3000 acre property, the lot on which the tower is located, or the site of the meteorological tower itself.

Miles moved, Dave 2<sup>nd</sup>, that “site” is the location of the tower and since no abutters are within 200 ft. of that site, the plan that EDP submitted, plus an appended list of abutters to Maxam’s property, is compliant. All voted in agreement.

Having finished consideration of EDPR’s waiver requests, the Board returned to looking at the issues raised by Attorney Reimer. First, NHWW takes the position that the plat does not have a signature block. The plan submitted does have a signature line. Chair moved, Celine 2<sup>nd</sup> that the line provided is insufficient and on the final plan there should be a block with seven lines for the entire Board to sign. All voted in agreement.

NHWW has taken the position that the plat does not show the location of the proposed meteorological tower. Jenny moved, Chair 2<sup>nd</sup>, that GPS coordinates are sufficient to meet our Site Plan requirement for location of proposed Met tower. All agreed.

Another concern of NHWW is that the application does not identify access to the site. On the plan EDPR does show Hardy Country Road as access from Sculptured Rocks Rd. Chair moved, Dave 2<sup>nd</sup>, that the applicant identify the access off Hardy Country Rd. up to the tower site on the plat. All were in agreement.

Next, the Board addressed the concern of NHWW that the application does not identify loading spaces or staging areas. Jenny said that loading spaces and staging areas do not apply here. The plan is adequate. All agreed with her.

NHWW objects that a Grafton County Soil Survey was not supplied with the application. The GCSS was provided to the board on February 27, 2013, and therefore no further action is required.

NHWW takes the position that an erosion control plan is required. Deb would like the plan to show specifics of land types. She wants EDP to tell what they will use to control erosion – water catch basin, silt fence, hay bales, etc. Deb thinks the plan should be prepared by an engineer. Miles exclaimed, “That is over the top! This project will cause minimal disturbance.” Deb suggested that the construction of the tower will not cause erosion, but creating access will probably cause erosion. She asked if anyone could tell her that little to no erosion will be created. Miles noted that we are all on slopes. He doesn’t think that a large sum of money needs to be spent on an erosion control plan. Jenny moved, Miles 2<sup>nd</sup>, that the erosion control methods planned by the applicant are sufficient. The Chair and Deb voted against this motion. The rest of the Board members supported it.

NHWW (and the Appalachian Mountain Club) takes the position that the meteorological tower has the potential for regional impact because it may lead to a wind farm. Russ noted that the AMC letter to the Board (2/27/13) pointed out that the MET tower (200’) is in the line of site of Cardigan Mt. Russ understands that a MET tower is the first step of a wind farm. NHWW and AMC also acknowledge this. Deb reminded us that legally we can only consider the MET tower. Russ said, “Laws can change.” He, AMC and NHWW believe that the tower has the potential to disturb or destroy a significant natural environment or habitat. Chair moved, Russ 2<sup>nd</sup>, to reverse the Board’s previous vote of “No Regional

Impact”. Two members voted for the motion and five voted against, so the earlier finding of “No Regional Impact” stands.

We moved on to determine whether EDPR’s plan complies with our Site Plan Review Regulations. NHWW alleges that the plan does not comply with the general purpose of the regulations, but in so alleging makes arguments relating to the potential wind farm, not the tower itself. Since the only application before the Board is for the tower, the Board’s jurisdiction and consideration is limited to the tower. Deb moved, Celine 2<sup>nd</sup>, that EDP use best management practices and erosion controls to include silt fences and all other appropriate erosion control methods. If that is done, section 10 A of our Site Plan regulations is met. All voted in favor. Our town counsel reminded us that if unacceptable erosion were to be found, the project head would be told to use more controls. If the project head did not comply, we go to court.

Since no outdoor lighting is proposed, the criterion for outdoor lighting is not applicable to EDPR’s plan. Since no screen buffers are proposed, the Screening criterion is not applicable. Since the site is not to be accessed on a regular basis, and since there will be no internal traffic patterns or need for emergency vehicles to access the site, the Street Access/Traffic Pattern criterion is not applicable. Since no water supply or sewage disposal systems are proposed, the criterion for those is not applicable. The applicant has represented that there will be no increase in surface runoff, so this criterion does not apply. We can take enforcement action if needed. Since no underground fuel storage tanks are proposed, this criterion is not applicable. Three more criteria which will not apply to this project are Pollution Control, Handicapped building access and landscaping. Since there is no proposed signage beyond the warning signs required by the Zoning Board, the Signage criterion is not applicable.

Six conditions of approval had been imposed by the Zoning Board. The Planning Board approved (6 for, 1 abstention) EDPR’s application for Site Plan Review with the following conditions:

1. The final plan submitted to the Board for signature shall include a signature block consisting of seven signature lines and a date line.
2. The final plan submitted to the Board for signature shall identify the access from Hardy Country Road to the tower location.
3. The tower shall be installed in conformance with all manufacturer specifications.
4. The meteorological tower shall be removed from the property within six months of the end of its useful life. A bond sufficient to secure this obligation shall be provided by the applicant.

The Planning Board also voted to grant EDPR North America LLC’s request for two waivers, described at the bottom of page one and the top of page two.

At 9:19 pm a motion to adjourn was agreed to.

Sherry Nelson, Clerk