

TOWN OF MARLBORO
Development Review Board

Application for Conditional Use
Findings and Decision

Permit # 20-11 CU

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review, under the Town of Marlboro Zoning Bylaws, of an application for Conditional Use submitted by Daniel & Gail MacArthur, PO Box 30, Marlboro, VT 05344-0030; Location: 770 MacArthur Road, Marlboro, VT; Tax Map Number 08-02-21; Proposal: Conditional Use; Site plan review for installation of a single-pole guyed tower and wind turbine located within the Wildlife Habitat Overlay District, accessory to an existing single-family home with garage and barn.
2. The application was received by Mary Sargent, Zoning Administrator, on June 8, 2020. A copy of the application is available at the Marlboro Town Office.
3. On July 6, 2020, notice of a public hearing was published in the *Brattleboro Reformer*.
4. On July 6, 2020, notice of a public hearing was posted at the following places:
 - Marlboro Town Clerk's Office
 - Bulletin Board outside the Marlboro Town Clerk's Office
 - Marlboro Town Website, marlborovt.us
5. On July 6, 2020, a copy of the notice of a public hearing was mailed to the Applicants.
On July 6, 2020, a copy of the notice of a public hearing was mailed to the following Owners of properties adjoining the property subject to the application:
 - David Matt, 370 Higley Hill Road, Brattleboro, VT 05301
 - Casey Deane & Kelly Salasin, PO Box 37, Marlboro, VT 05344-0037
 - Sisters of the Immaculate Conception of Christ, 600 Liberty Highway, Putnam, CT 06260
 - Gary MacArthur, PO Box 134, Marlboro, VT 05344-0134
 - John & Margaret MacArthur Trust, PO Box 30, Marlboro, VT 05344-0030
 - Robin MacArthur & Tyler Gibbons, PO Box 472, Marlboro, VT 05344-0472
 - Jacob & Megan Smith, PO Box 121, Marlboro, VT 05344-0121

6. The application was considered by the Development Review Board at a public hearing on July 21, 2020. The Development Review Board reviewed the application under the Zoning Regulations of the Town of Marlboro, as amended March 6, 2018.
7. Present at the hearing were the following members of the Development Review Board:
 - Steven John, Chair
 - Jean Boardman, Vice Chair
 - Brent Seabrook
 - Matt Tell, DRB Alternate
 - Peter Barus, DRB Administrative Assistant
 - Mary Sargent, Zoning Administrator
8. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested party an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The following person sought interested party status:
 - Lenn Orentas, representing the Sisters of the Immaculate Conception of Christ (Camp Neringa): Abutter
9. During the course of the hearing the following exhibits were submitted to the Development Review Board:
 - Permit Application, signed and dated 6/1/2020
 - Application Narrative, describing project and identifying supporting documents
 - Amended Certificate of Public Good #NM-274, issued by the Vermont Public Service Board dated 10/26/2011, approving an interconnected net-metered electrical power system, as required by § 470.6.c.8 ~ *Utility Notification* of the Marlboro Zoning Regulations
 - AIR Owner's Manual, page 7, listing Technical Specifications and documenting CSA certification for use in the US and Canada, in conformance with § 470.6.c. ~ *Wind Energy Systems Standards* of the Marlboro Zoning Regulations
 - Email from E. Ian Baring-Gould confirming NREL recognition of CSA certification, as required by § 470.6.c.6 ~ *Approved Wind Turbines* of the Marlboro Zoning Regulations
 - Drawing of the Wind Turbine from the cover of the AIR Owner's Manual, addressing § 470.4 ~ *Standards for Aesthetic Evaluation of Renewal Energy Systems*
 - Environmental Consultant Report from the Marlboro Conservation Commission, dated July 11, 2020
 - Town of Marlboro CTI Maps(4): Tax Map # 08-02-21 printed on June 25, 2020; showing parcel boundaries, dimensions and 20-foot contours; *Ortho Imagery 2015*; & *Bing Imagery*
 - List of abutters to D. & G. MacArthur property (Tax Map # 08-02-21), with corresponding Town of Marlboro CTI Map, printed on June 27, 2020

These exhibits are available at the Marlboro Town Office.

FINDINGS

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

1. The applicants seek a Conditional Use permit to install a single-pole guyed tower and wind turbine located within the Wildlife Habitat Overlay District, on a parcel with an existing single-family home, garage and barn.
2. The subject property is a 36-acre parcel located at 770 MacArthur Road in the Town of Marlboro, VT; Tax Map Number 08-02-21. The property is more fully described in a Deed recorded at Book 60, Page 135, of the Town of Marlboro Land Records.
3. The property is located in the Rural Residential District as described in the Town of Marlboro Zoning Map on record at the Town of Marlboro municipal office, and *Section 305* of the Marlboro Zoning Regulations.
4. Conditional Use approval is required under *Section 352.2* of the Marlboro Zoning Regulations. The project site was visited by the Marlboro Conservation Commission, which issued an Environmental Consultant Report in support of approving the proposal. The project meets the requirements of *Section 354* of the Marlboro Zoning Regulations.

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board approves the following Conditional Use: to install a single-pole guyed tower and wind turbine, accessory to a single-family home located within the Wildlife Habitat Overlay District.

No conditions were established at the hearing.

Dated at Marlboro, Vermont, this 6th day of August, 2020.


Steven John, Chair
Marlboro Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the *Vermont Rules for Environmental Court Proceedings*.