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Governor

Timothy P. Murray  
Lieutenant Governor

Kevin M. Burke  
Secretary

# The Commonwealth of Massachusetts

## Department of Public Safety Board of Building Regulations and Standards

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Commissioner

Alexander MacLeod, R.A.  
Chairman

Gary Moccia, P.E.  
Vice Chairman

Robert Anderson  
Administrator

Date: July 23, 2009

Name of Appellant: Thomas Michelman

Service Address: 41 Margaret Street  
Arlington, MA. 02474

In reference to: 100 Technology Park Drive  
Falmouth, MA. 02540

Docket Number: 09-752

Property Address: 100 Technology Park Drive  
Falmouth, MA. 02540

Date of Hearing: 06-23-09

Enclosed please find a copy of the decision on the matter aforementioned.

Sincerely:

**BUILDING CODE APPEALS BOARD**

Patricia Barry, Clerk

cc: Building Code Appeals Board  
Building Official

**COMMONWEALTH OF MASSACHUSETTS**  
**State Building Code (780 CMR) Appeals Board**  
**Board's Ruling on Appeal<sup>1</sup>**

**Docket No. 09-752**

Appellant(s): Thomas S. Michelman  
representing Notus Clean Energy LLC

vs.

Appellee(s): Falmouth  
Eladio R. Gore

**Procedural History**

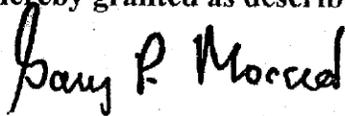
This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant a variance by allowing compliance to the 6<sup>th</sup> edition 780 CMR 106.2, for the wind turbine at 100 Technology Park Drive, Falmouth, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on June 23, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board. Attendees are noted on the sign in sheet on file at the Department of Public Safety.

**Discussion**

Based on the testimony, and submittals at the hearing, a motion was made to grant the Appellant's request for a variance and allow compliance to the 6<sup>th</sup> Edition 780 CMR 106.2. This variance allows for the wind turbine at this site to conform to this edition of the code instead of the 7<sup>th</sup> edition. The long term project had permitting delays and was originally designed to the requirements of the 6<sup>th</sup> edition. A letter from the Falmouth building department dated May 15, 2009 indicates that the building official had no objection to the granting of this variance. There was a second on the motion and a board vote was taken, which was unanimous.

**Conclusion**

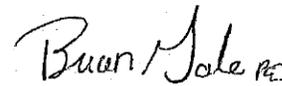
**The Appellant's request for a variance to comply with the 6<sup>th</sup> Edition 780 CMR 106.2, is hereby granted as described in the discussion above and so ordered<sup>2</sup> on this date: June 23, 2009.**



Gary Moccia



Douglas Semple



Brian Gale

<sup>1</sup> This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108.

<sup>2</sup> In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.