

**SEEKONK PLANNING BOARD**  
**Regular Meeting**  
**October 11, 2016**

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Present: Ch. Abelson, M. Bourque, R. Bennett, S. Foulkes, L. Dunn, J. Roach, D. Sullivan

**Ch. Abelson opened the meeting at 7:00 p.m.**

**Site Plan Application: 32 Industrial Court/Consolidated Trucking**

AP 1, lot 158 located in the Industrial Zoning District

The applicant, Mr. Robert Dias from Consolidated Trucking signed a continuance until January 10, 2017.

**D. Sullivan made a motion to accept the continuance, L. Dunn seconded and it was unanimously approved.**

**VOTE: Approved 7-0**

**Discussion: Sagar Services, Inc. /Woodland Avenue**

AP 35, lot 22

**(Continued from the September 13, 2016 Planning Board Meeting)**

Town Counsel, Attorney Torres, provided a summary based on the review of the file and documents:

- 1) The PB acted in accordance with Section 6 of the Zoning By-laws while reviewing the Site Plan. The title in question is not an issue since the land court judgment and the Assessor's records verifies the owner. A rescission is not a normal process for a board with respect to relooking at a site plan or a special permit. The only way for those to change are; 1) an appeal is taken in time and the appeal authority (ZBA) modifies that if it's permitted under your rules; and 2) the only person or entity that can move for a modification of a site plan review or a special permit would be the applicant. They would have to go through the normal steps with respect to abutter notification, proper application, proper documentation and substantiating the need for a modification. So the motion for rescission would not be an appropriate avenue with respect to changing anything with this site plan and there is no basis in the record for such a motion for a rescission or to nullify your decision.
- 2) In regard to the special permit questions, the type of facility needs to be verified. In this case the definition of public or private utility applies to the (SPF) and the reason for this is because the language that identifies that it as an electrical generating facility. Under the table of uses for that type of facility, and you have identified this as a special permit requirement because it's an institutional use in an industrial area, and in accordance with your chart, that it is in fact a special permit. So absence of a redesignation review, as there was for the site plan review, the special permit granting authority remains with the

ZBA. It gets down to whether the special permit is required, and again there is no exemption required, so by not making those modifications in the By-law it is presumed that they do not intend for them to apply. The principle of law is important. Attorney Torres disagrees with a document in the file regarding whether or not a special permit is required for these facilities.

- 3) Attorney Torres agrees with the Building Official as to whether or not the zoning and building code is being complied with in order to issue a permit. The dimensional requirements are not exempt because it is a solar facility. In his opinion, the building official properly concluded that there needs to be a variance for a lack of frontage on this site.
- 4) In regard to state law, unless it is an unreasonable restriction on the use of the facility, there is no case in Massachusetts that has concluded that a special permit requirement is an unreasonable restriction on the development of solar. There is language in the statute that specifically says, local legislature may eliminate certain restrictions on dimensional requirements, so they presume they do not have to and they presume they do not already exist in the law. So much like the land court case I cited, it would be very unlikely for a court to determine that your special permit requirement for these facilities is unreasonable. Now the application for that permit may be unreasonable and the Zoning Board might decide not to grant the solar facility on this site and it may be determined to be unreasonable. Unreasonableness in the context of this solar facility with making it cost prohibitive, so to the extent the cost of constructing that facility would drive the economics of the project into a negative perimeter based on the price per kilowatt of electricity, and that is the measuring tool. If the zoning board denies a variance for the frontage thereby leaving that land unusable for solar purposes, if there was a right-of-way, a right of access granted, that would probably be held an unreasonable restriction because you are essentially using the zoning law to not permit the development of solar facilities, and I think the court may conclude that may be an unreasonable restriction if there is adequate frontage. I think that state would apply the unreasonableness standard to this variance opposed to those traditional factors since they are trying to find a way to build solar facilities.

At this time, Attorney Torres states there are no steps the PB should make. They completed their responsibility with respect to the site plan review, very appropriate questions were asked of town counsel, and at this time, it is time for the building commissioner and potentially the ZBA to act if there is a proper appeal.

L. Dunn asked about abutter notification.

J. Aubin said there is no requirement under the current By-laws to notify the abutters.

Attorney Torres suggest that the PB not rescind the decision, it is the abutters responsibility to render an appeal to the decision to the ZBA.

Ch. Abelson asked for comments.

G. Sagar said he disagrees with Attorney Torres. He agrees the title does belong to the landowner, however, they do not own the locus. Reading of the deed says the westerly boundary is the Ten Mile River. Mr. Torres rendered a legal opinion. Mr. McDonough, the Building Commissioner provided you with a zoning determination which is a legally binding document. It is his opinion that under the current By-laws this approved site plan is zero compliant to the Zoning By-laws. It is clear under the design standards that you have to have drainage, landscaping, and lighting. Absence of any of those requirements before approval, you need a variance from the ZBA and that hasn't been done. Also under Mr. McDonough's letter, any and all zoning requirements need to conform for a building permit to be issued. Mr. Sagar asked, if he is correct in his opinion, what is going to happen once all the trees have been cut down. He thinks this application is non-compliant, half done, and should not have been approved.

Attorney Torres said the appropriate manner for the building official would be for the applicant to have all permits and variances in hand before you get the permit, so sequentially of course, the site plan has to come before the building official issues that permit.

J. Aubin said if a site plan that was submitted and approved that did not "meet those requirements" they would not be permitted a building permit until such time it was modified to meet those plans or a variance was granted from those ZBA. The PB's decision was conditioned on meeting all the zoning requirements.

G. Sagar said it does not make sense that under special permits/districts, 4 of them require a special permit or zoning and 4 do not. If you have the language that "has to be compliant" why bother having anyone come here then. Why don't you just tell everyone what they have to do, there is nothing in that plan that complies, there is no frontage, the dimensions don't work, they haven't done the landscaping, they haven't done anything.

J. Aubin said because the approval was granted with the understanding that there are further processes down the road. His understanding was that it has to go before the ZBA for a special permit in addition to any other zoning relief that they may require. If they were not proposing lighting, they would need a dimensional variance from that lighting, hence why we put that condition that it would need to meet all the other standards. It is the process where the site plan review fits in. What 6.8 provides for and what 2.8 provides for is the site plan review process. It does not provide for a use review process. It says how uses are going to be conducted. The applicant provides design standards for those uses. Where an applicant can't meet those or chooses not to present a plan that does not to meet those, they are under a need for a variance from the ZBA because this body does not have the authority to grant a variance.

G. Sagar said the PB did issue a variance de facto. He asked why they would issue an approval on a permit that they knew wasn't valid.

J. Aubin said if they can't get the variances from the ZBA, the PB can't stop them with going forward with a use that is or may be permitted by special permit. The PB took the plan, reviewed it for such things such as access and buffers from residential properties. It becomes a preliminary review because you have the other reviews and approvals that need to be followed.

This PB just doesn't approve the site plans and someone pulls a permit the next day. Theoretically that could happen but it is a very small set of situations.

G. Sagar said but if you sit there and you know variances are needed before the plan can go forward...

J. Aubin said you condition it by meeting all the requirements of zoning.

G. Sagar said if you look at the way it is structured, again you have 8 different special districts; 4 of them you need special permits for and 4 of them you don't.

L. Dunn said she is concerned with the cutting down of trees before this issue is resolved.

J. Aubin said the PB did not approve the cutting down of trees when they approved the site plan. The PB approves this process to move forward to the other administrative approvals that need to be done, i.e. Conservation Commission, and whatever zoning release they might need when they get to their final proposal.

G. Sagar asked for 3 separate votes for each of his 3 requests.

Attorney Torres reiterated the remedy relies on the special permit granting authority and ZBA. As an abutter, Mr. Sagar can appeal the special permit grant and the condition therein, and any variance that is granted so you are not leaving him without a remedy by not acting tonight. The PB is not required under the law to take any action at this time. You can answer Mr. Sagar's 3 questions, however, his advice is not to do that since it is not required.

Chairman Abelson asked for the board's decision.

**R. Bennett made a motion to let the PB decision stand and have it go through the ZBA.**

S. Foulkes asked how the issue with the locus be resolved.

Attorney Torres said the next Board may require a site survey be done by a registered land surveyor. He is not confirming that there is a problem with the locus but he did hear Mr. Sagar make valid points and requests that you to take a look at the locus, but I suggest you leave that for the land surveyors.

Ch. Abelson asked Attorney Torres if they looked at the site plan and investigated it.

Attorney Torres said they looked at the assessor's records, land court decision, and the plot and site plans that were available in the record, but Mr. Torres did not make a determination on whether the boundaries were closed.

Ch. Abelson asked if the boundaries that are described in the court meet the description of the property on the plans.

Attorney Torres said they did not close the survey plans.

S. Foulkes said it appears the applicant is responsible for disclosing who own the locus.

Attorney Torres said yes and instead of rescission by the PB, the next step should be challenging the ownership in front of the Boards that have not yet exercised jurisdiction or have not received the application of the petition for the relief (variance or special permit). At that time, Mr. Sagar as an abutter, can challenge the title. If I were asked by the Zoning Board sitting as the SPGA on a variance and we were satisfied that Mr. Sagar presented sufficient information to challenge that title with respect to boundaries, I would recommend the board go with a registered land surveyor.

Ch. Abelson asked if Attorney Torres believes it was accurate and the PB acted on proper information that they were given.

Attorney Torres said yes the PB can only act on the information the assessor has (field cards) and the land court referenced what the assessor's office records. An applicant can have a land surveyor.

Mark Stopa from Stopa & Associates (represents the owners of the property) said they are dealing with a deed dating back to 1873 and the land court decision is very specific for plat 35, lot 22. The land court decision is a recent decision and fairly definitive. It was done in coordination with the judge to satisfy a number of issues that came up during the process, but to also make it definitive as to what the property was that was being described. Because clearly going back to 1873, the handwritten deed, sometimes there is a lack of clarity or specification that we would otherwise expect in 2016. Mr. Stopa does not think it is an issue to the specific property his client is selling.

G. Sagar said he disagrees with Attorney Stopa because it is very common practice when you go before land court that you bring the documents to support that you own the title and you always come in with a plan stamped and signed by a land surveyor. This judgment of land court is a default judgement. The land court judge said "commonly described as" not "definitely described as." The land court in essence settled a family dispute. I don't disagree they own the title. Mr. Sagar said he has two surveyors and two title attorneys tell him the locus does not fit that piece of land. Mr. Sagar said that property (referring to his property) was surveyed by Caputo and Wick and was stamped by Anthony Caputo. There are two common property lines on this piece of land that we are talking about that are Mr. Sagar's property lines as well. Where they came up with these numbers, nobody knows. He said there are arbitrary numbers shown on the plan. The applicant is working with an engineering firm that has surveyors on staff and he is not sure why a surveyor didn't stamp the plans. If there is no problem with the land, then why didn't a surveyor stamp the plans. There is nothing on the plan that certifies the boundaries. I challenge that being a valid plan (Plat 35, lot 22) being submitted to the planning board.

L. Dunn asked if Mr. Sagar had known about the issues with the boundaries when he purchased the property.

G. Sagar said he reached out to ? owners in 2003 and had several discussions with different members of the family and they have approached him multiple times to buy it. The reason he didn't buy the land is because they don't own it and he can't buy something that they don't own. Mr. Sagar knows another abutter that would have bought it as well but he knows that they don't own it. There are two distinct issues; there is title and there is locus. You can own title (like they do) but the locus does not fit there. Land court is registered not recorded. Two issues: a piece of land that does not fit the locus and it is zero zoning compliance with the Zoning By-laws.

Attorney Torres said Mr. Sagar has the opportunity to present that to the special permit granting authority and the ZBA for variances that he is concerned will not satisfy the zoning requirement.

Ch. Abelson asked if there are any additional comments from anyone. He said a motion was on the floor.

**S. Foulkes seconded the motion, M. Bourque opposed, and Ch. Abelson abstained.**

VOTE: Agreed - 5  
Opposed - 1  
Abstained - 1

**Form A: ANR - 202 Greenwood Avenue/James Viara**

AP 21, lots 240 & 292 / R-4 Zone

David Bray from Caputo and Wick summarized the reconfiguration of the proposed lots. The plans were reviewed. He said essentially the applicant is reconfiguring the lots to the previous condition.

R. Bennett asked if lot 3 is land locked.

D. Bray said it was originally landlocked

S. Foulkes asked if the existing buildings will come down.

D. Bray replied no.

J. Aubin said the intent is to get all the existing buildings on one single lot and then lot 1 will be listed as a lot for development.

D. Bray said that was how it was originally set up. Lot 1 was reconfigured in 1991.

S. Foulkes asked if this will be a development or a single family dwelling.

A gentleman from audience replied "no development."

J. Aubin asked if there is an existing single family dwelling on the property.

D. Bray said correct.

J. Aubin said lot 1 will be a lot for development down the road but at this time there is no proposal for a cul-de-sac or multiple lots.

(Could not hear a response from gentleman in audience).

J. Aubin provided summary to the board and noted lot 3 be marked as “not for development” on the plans.

**M. Bourque made a motion to endorse the ANR plan dated October 5, 2016 for James Viara, D. Sullivan seconded and it was unanimously approved.**

**VOTE: Approved 7-0**

**Discussion: Continued Correspondence - Caleb Estates/Logan Court**

(Continued from previous meetings: 7/12/16, 8/9/16, and 10/13/16)

Martin. O’Loughlin, 1 Logan Ct, provided the board with documentation/plans. He updated the board regarding his most recent meeting with the contractor. Mr. O’Loughlin was under the understanding that there was supposed to be a 10’ pipe installed but only a 5’ pipe was installed.

J. Aubin stated the footprint of the house and driveway was changed from the original plans.

S. Foulkes asked if that would make a difference.

J. Aubin said according to Mr. Carlson it would not affect the overall design of the subdivision.

Mr. O’Loughlin explained his concern this evening was in regard to the drainage pipe.

M. Bourque asked Mr. Carlson if what has been completed in the subdivision, to date, is what is reflected on the plans.

P. Carlson said the approved subdivision plans has a 12’ wide driveway but Mr. O’Loughlin has a 20’ wide driveway. The pipes installed, along with the 5’ extension, if I’m not mistaken, there is now a 10’ section on the left hand side of the driveway. It is his understanding that the amount of pipe in the subdivision and the agreement as stated at the meeting, complies.

M. Bourque asked who the builder and developer was.

P. Carlson said DeCastro was both the builder and the developer.

M. Bourque said he built the house knowing that it was not how it was originally drawn out.

P. Carlson said there will be changes depending on who the buyer is.

M. Bourque referred to the plans and asked why there was need for 10' on one side but not the other.

P. Carlson said he does not have that answer. There is 10' of pipe on the downstream side. The original reason for this was out of the concern of someone falling down the driveway. That has been accomplished with what has been done with the pipe extensions and additional swale edges.

D. Sullivan asked if the repairs have fixed the concerns the residents brought to the PB's attention a few months ago.

P. Carlson said, as of today, the swale and the extensions are done. The final coat of pavement is scheduled for next week.

D. Sullivan asked if it would be fully functional after that.

P. Carlson said yes.

L. Dunn asked what if it isn't.

P. Carlson said it will be inspected by the consulting engineer and DPW.

S. Foulkes referred to P. Carlson's October 4<sup>th</sup> memo to J. Aubin concerning the pipe length.

P. Carlson said the total length of pipe is 34 feet.

Ch. Abelson asked if the pipe is exposed about the same on each side.

P. Carlson said it is about 10' on left hand side of the driveway and the other side is about 4-5 feet which is the beginning of the swale and not as deep.

Ch. Abelson asked if it is 5' beyond the driveway or 5 additional feet to what was already there.

P. Carlson said 5' additional pipe that was already there on the left hand side. The discussion was to add 5' to both sides and it was his understanding instead the 5' on both sides the right hand side 5' extension got put on the left side so there was a full 10' added to the left hand side.

Mr. O'Loughlin asked if he is supposed to have 5' or 10'.

D. Sullivan asked how that affects the function of the swale.

P. Carlson said it does not affect the function of the swale. It affects the rate not the flow of the water.



Ch. Abelson said he thought they were adding 5' to each side but if they added 10' to one side because it was shorter... He asked Mr. O'Loughlin if there was a problem with the 10'.

Mr. O'Loughlin said no but wanted to make sure it is supposed to be 10' according to the plans.

J. Aubin said it is supposed to meet the design calculations for the stormwater flow. It must meet design standards and not create any danger.

Ch. Abelson asked Mr. O'Loughlin if the pipe is buried and working properly.

Mr. O'Loughlin said right now it is working fine. His second concern is in regard to the drainage plans that were provided to the residents last month. He provided copies to the board and is concerned with the current plans being different than the approved plans. The elevations appear to be different by 1-2' (referred to blue lines on the plans).

(The plans were discussed)

Ch. Abelson said it appears to be still pitching away from your house.

Mr. O'Loughlin said InSite proposed putting in a drywell but Mr. O'Loughlin does not think there is enough pitch there.

Ch. Abelson asked if he was referring to the galley system.

Mr. O'Loughlin said the galley system is for the downspouts. The drywell is located in the corner (referred to the plans). These elevations are different than the ones on the approved plan.

J. Aubin questioned whether the as-built condition compromises the overall functioning of the stormwater handling system for the development, notwithstanding any concerns Mr. O'Loughlin has with his backyard.

Mr. O'Loughlin is concerned with the pond in his backyard which is 40'x80' and he believes the elevations should move the water to the drywell. He has concerns with the drywell since they have a high water table. There should be a better pitch. He asked if the board can require the builder to grade the property the way it was supposed to be graded.

J. Aubin said a plan is approved with "houses" on it and then a property owner may make changes that will affect what the final grading looks like and how the final construction goes. Then it becomes a question of when it does get constructed how that grading affects the overall stormwater design system. We have a statement from Mr. Carlson, the design engineer, for this project saying that it does and that this drywell system is going to resolve the ponding situation out there. And no one is saying that there is no difference in what was approved because there are going to be changes between what is approved and what actually gets built in the field because of site conditions. The question becomes whether or not the changes negatively impact the drainage for the development. We know there is an issue here and we are attempting to resolve the issue.

Ch. Abelson referred to the plans (topo's 101.5, 100.5, 100, 99.5) and said the water flows in the right direction. He said you might not be able to get the grade any higher due to the foundation and then you could be in violation of the building code.

P. Carlson said the board requested Mr. DeCastro to ensure the stormwater measures and roadways were designed in accordance with the design plans. He is doing that. What is being discussed right now are private individual homes. With that said, the immediate abutter has a pool and landscaping that has changed the grade on their property which ultimately affects this property. The abutter to the south has also added substantial loam and grass along the common property line. So it is not just the developer that is being discussed, it is the surrounding abutters that also impeded on this property. We have provided possible solutions such as a drywell and the infiltration units for the downspouts.

M. Bourque asked if there is runoff going onto this property from the adjacent land.

P. Carlson said yes.

M. Bourque asked where it was coming from.

P. Carlson said majority of water comes from Olney Street and the adjacent property.

M. Bourque asked if the drywell will be deep enough.

P. Carlson said based on a 3' water table there is a possibility by mottling (different than where water table is) in the springtime and the bottom of it could be under water. But I can't say for sure.

M. Bourque asked if there is 360 degree leaching capacity above that if there is standing water in it.

P. Carlson said yes. This is the only solution we have.

S. Foulkes said builders should explain to the homeowners that water issues can occur if they make changes to the plans.

P. Carlson said once the house is constructed, the homeowner can put in a pool, a berm, etc. but that is not the developer's issues.

Mr. O'Loughlin said this was a spec house and the foundation was already there.

(Subdivisions Rules and Regulations were discussed between board members).

Mr. O'Loughlin said he is also concerned with the location of the drywell since it is also where the underground utilities are (in the backyard).

Ch. Abelson said he will go out to the property tomorrow to see the driveway, location of the drywell, and the underground utilities.

Mr. O'Loughlin said he is in receipt of a letter from Mr. DeCastro's attorney indicating they will not perform any more work on his property and offered him \$3,000 to relieve him of any obligations and legalities. He asked the board if they could enforce the builder to regrade the property.

Ch. Abelson reiterated he will go out to the property to take a look at the issues discussed, but it is not in the purview of the PB to force the builder since it is not part of the drainage plan.

J. Aubin said the engineer is stating the drainage is working.

(Stormwater drainage was discussed)

S. Foulkes asked who confirms the grading of the properties is as the plans state.

J. Aubin said an as-built plan and the engineer certifies that it meets the design standards for the development.

Mr. O'Loughlin asked if he had any recourse since the builder will not come onto his property.

J. Aubin said there is a bond in place to ensure the drainage is done.

Mr. O'Loughlin said there is to be a ledge to prevent water coming onto Logan Court.

J. Aubin said he will follow up with Dave Cabral.

### **Discussion: Fall 2016 Zoning By-law Amendments**

J. Aubin summarized the proposed Zoning By-law amendments for consideration of formal recommendation, review, and adoption proceedings. The amendments represent a number of small corrections consistent with recently adopted amendments and reintroduction of language removed without discussion or note as part of the reorganization of the **Zoning By-laws**. Once the PB approves the amendments, the proposed amendments will be presented to the BOS for a public hearing and recommendation to the Fall Town Meeting.

### **Fall 2016 Draft Zoning By-Law Amendments**

**Please note:** Each amendment is presented below with existing language to be deleted indicated by ~~striketrough~~ and proposed new language indicated by underline. Where a portion of a section or subsection is proposed for amendment it is denoted by "parentheses" and ... before and/or after ... to indicate the language not quoted.

**1. §1.2 Purpose**

These Zoning By-laws are intended to be and shall be interpreted and construed as ~~permissive~~ prohibitive.

**Comment:** The proposal amend “permissive” to “prohibitive” is for consistency with the use table and an expression of intent of the Zoning By-law.

**2. §1.3 Definitions**

**LOT LINE:** A line of record, bounding a lot, which divides one lot from another lot or from another lot or from a public or private street or any other public or private space and shall include:

- b) **Rear:** the lot line opposite and most distant from lot line, or in the case of triangular or otherwise irregularly shaped lots, and assumed line at least ten (10) ~~free feet~~ feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
- c) **Side:** any lot line other than a front or rear lot line. On a corner lot, or irregularly shaped lot, there may be more than one front lot line, and consequently, more than one rear lot line.

**Comment:** The proposed amendment is a typographical correction of free to feet in subsection b) and add “front” to subsection c) for clarification.

**3. §4 USE REGULATIONS (add the following language to Table 4.2.4)**

4.2.4 Business and Commercial Uses

**Comment:** The proposed amendment adds the residential district to the land use table for clarity.

**4. §4 USE REGULATIONS (add the following language to Table 4.2.5)**

4.2.5 Industrial Uses

**Comment:** The proposed amendment adds the residential district to the land use table for clarity.

**5. §6.4.7 PERFORMANCE and DESIGN STANDARDS FOR SPECIAL PERMIT APPLICATIONS**

6.4.7 PERFORMANCE and DESIGN STANDARDS FOR SPECIAL PERMIT APPLICATIONS

In addition to those performance and design standards listed in Section ~~9.4.6~~ 6.4.6, the following performance and design standards shall apply to any activity that may be allowed through a Special Permit in the WRPD as applicable.

**Comment:** The proposed amendment corrects a citation error resulting from the reorganization of the Zoning By-laws.

**6. §6.7. Telecommunications Facility Overlay District** add the following language to Sections 6.7.6.2 and 6.7.6.5

6.7.6.2 Tower height shall not exceed 100 feet above the mean finished grade of the tower base. Variance applications to exceed this height limit cannot be requested except as provided for in Section 6.7.6.5 below.

6.7.6.5 Telecommunication facilities shall be designed to allow for up to three separate telecommunication carriers, as defined in the Telecommunications Act of 1996, and the original telecommunication facility owner shall allow co-location by these said additional carriers. In addition to the above, at the time of application for any communications tower, a minimum of 10' of antennae location space shall be made available on the tower for town police, fire, rescue or public works communications needs related to public safety, health, and welfare. The communications tower owner and wireless service carriers shall assist the town, when deemed necessary, in the enhancement of existing public safety communication systems by providing for the acquisition and installation of related equipment. Any such space allotted for public safety use shall remain available to the Town for the life of the facility regardless of any change in ownership of the telecommunications facility. A developer of a telecommunications facility may exceed the 100' height limitation set forth in Section 6.7.6.2 provided that such additional height is utilized for police, fire, rescue or public works communications needs of the Town of Seekonk.

**Comment:** The proposed amendment provides for an additional ten feet of tower height if such additional height is utilized for town communications purposes.

**M. Bourque recommended cell phone towers either be disguised or designed in such a way it blends in more to the surroundings (i.e. flag pole, tree).**

7. **§6.8. Solar Photovoltaic Overlay District** add the following language to **Section 6.8.5.1**  
6.8.5.1 Purpose and definition of terms

...  
In the application of this section the following terms shall be defined as follows:

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development of large-scale ground-mounted SPFs within the SPF District shall be subject to Site Plan Review to determine conformance with this Zoning By-law.

**Building Permit:** A construction permit issued by the Building Official; the building permit evidences that the project is consistent with the state and federal building codes as well as local Zoning By-laws, including those governing ground-mounted large-scale SPFs.

**Large-Scale Ground-Mounted Solar Photovoltaic Facility:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum rated nameplate capacity of 250 kW DC.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Comment:** The proposed amendment corrects an omission resulting from the reorganized Zoning By-laws in 2014.

**D. Sullivan suggested adding “notice to abutters.”**

8. **§6.11 Continuing Care Residency Campus Overlay District** add the following language to Section 6.11.10

6.11.10 DECISION

The Planning Board shall render its decision regarding the site plan within ~~sixty (60)~~ 120 one hundred and twenty days of the date of the application, as may be extended by agreement in writing. Such decision shall be filed with the office of the Town Clerk. Site plan approval for a Continuing Care Residency Campus shall be granted upon determination by the Planning Board that new building construction or other site alteration satisfies all of the following objectives.

**Comment:** The proposed amendment makes the time frame for review consistent with the other review timeframes provided for in the other overlay districts and in consideration of the scale of project anticipated within the CCRCOD.

**D. Sullivan made a motion to approve the 2016 By-law amendments as submitted and amended and to present them to the BOS for public hearing and recommendation to the Fall Town Meeting, J. Roach seconded and it was unanimously approved.**

**VOTE: Approved 7-0**

**Discussion: Review Seekonk Economic Incentive Guidelines**

J. Aubin summarized the proposed amendments to better reflect the consideration of incentive agreements as set forth by the MGL and Code of Mass Regulations. Once the PB approves the amendments, the proposed amendments will be presented to the BOS for a public hearing and recommendation to the Fall Town Meeting.

**Seekonk Economic Development Incentive Program Guidelines**

**I. Purpose and Intent**

**A. Introduction and Statutory Authority**

1. The guidelines of the **Seekonk Economic Development Incentive Program** set forth the application, review, and authorization criteria for economic development incentive agreements for qualifying development projects within the Town of Seekonk.
2. These guideline are promulgated and adopted pursuant to Chapters 23a, 40, and 50 of the Massachusetts General Laws and ~~the applicable provisions~~ Section 22 of chapter 760 of the Code of Massachusetts Regulations and the Economic Development Incentive Program of the Massachusetts Office of Business Development.

## **B. Definitions**

For the purpose of these guidelines the following terms shall be defined as follows:

**Applicant:** A property owner or their duly authorized agent or representative proposing a project seeking to enter into an Economic Development Incentive Agreement with the Town of Seekonk pursuant to these guidelines

**Application:** A complete submission in accordance with Section IV below by an applicant seeking to enter into an Economic Development Incentive Agreement with the Town of Seekonk pursuant to these guidelines

**Economic Development Incentive Agreement:** An agreement by and between an applicant and Town of Seekonk authorizing a specific economic incentive (generally a reduction in future anticipated tax increases) in recognition of or in order to facilitate general and specific public benefits, improvements resulting from an economic development project that would otherwise be infeasible without an incentive.

**Economic Incentive Committee:** Seekonk Board of Selectmen

**Eligible Project:** An economic development project subject of an application under these guidelines determined by the Economic Incentive Committee to be eligible under Section III below.

## **C. Goals:**

The goals of the Seekonk Economic Development Incentive Program are to:

1. Stimulate capital investments that result in a 50% increase in net taxable property value;
2. Attract new businesses that are compatible with the land use and growth pattern of the town of Seekonk as set forth in the Seekonk Master Plan and Zoning By-laws;
3. Foster renovation or reconstruction of blighted, vacant, or underutilized commercial or industrial properties;
4. Support new construction for businesses in locations compatible with local plans and goals.
5. Expand existing businesses;
6. Support new development in the Economic Development Overlay District, Solar Photovoltaic Overlay District, Highway Business, and Industrial zoning Districts;
7. Support desirable projects that are otherwise financially infeasible; and
8. Add to or enhance the ~~firm's~~ town's employment levels with salaries that compare to or exceed the Area Median Income.

## **II. Seekonk Economic Incentive Committee**

- A. The Board of Selectmen shall be the Seekonk Economic Incentive Committee and shall be the Town body responsible for negotiation of the terms and conditions of any agreement proposed for Town Meeting authorization under these guidelines. In review

of any application submitted under this program the Board of Selectmen shall request advisory review as set forth below.

### **III. Project Eligibility**

The **Economic Incentive Committee** shall determine whether applications for projects submitted under these guidelines are eligible for an economic development incentive agreement based on:

- A. Anticipated job creation or retention;
- B. Total project investment;
- C. Proposed infrastructure or other public improvements;
- D. Anticipated increase in Tax revenue for the site of the project;
- E. Anticipated secondary economic benefits of a project;
- F. Conformance of an proposed project with the Seekonk Master Plan and Zoning By-Laws;
- G. Local scale and overall conceptual design of a proposed project;
- H. Period of time a project site has been vacant or underutilized;
- I. Presence of a brownfield or other real or perceived impediments to development on a site and /or;
- J. Employment goals and preferences for residents of the Town of Seekonk.

### **IV. Application**

A complete application shall be comprised of the following materials submitted to the Office of the Town Administrator:

- A. Letter of intent to the Massachusetts Office of Business Development Regional Director and the Town Administrator of the Town of Seekonk.
- B. ~~Completed Commonwealth of Massachusetts EDIP Application including the Local Incentive Valuation information.~~ A project statement included location, developer, owner, preliminary site development details, proposed uses, required local approvals, special permits, or variances and anticipated operational information as well as any proposed infrastructure improvements or other public benefits expected result from the project.
- C. Demonstration that project financing requires tax relief with an operating pro-forma
- D. Demonstration that the Economic Development Incentive Agreement is essential to the applicant's decision to establish a new business or expand an existing business.
- E. Demonstration that the Economic Development Incentive Agreement request does not equal the entire new revenue amount calculated over the term of the agreement.
- F. Financial information such as business tax returns, year-to-date financial statements, banking and credit references as requested during the pre-application review.
- G. Number of current and projected jobs including comparison of new job salaries with Seekonk's Area Median Income.



**H. Draft Economic Development Incentive Agreement**

**V. Review**

**A. Pre-application meeting**

Potential applicants are strongly encouraged to request a pre-application meeting with the Town Administrator and Town staff in order to review the overall project, local regulatory permitting procedures, and project eligibility under these guidelines prior to submission an application.

**B.** Upon receipt of an application the Board of Selectmen shall forward copies of the application and supporting documents to the Board of Assessor's, Finance Committee, and Economic Development Committee. The Board of Selectmen may also forward the application to any other Town Board, Committee, or Department as recommended by staff after a pre-application meeting, or the initial review by the Board of Selectmen; for the purpose of obtaining the opinion of those Boards or Committees with regard to an aspect of an application that is or may be under their purview or area of expertise. Any Board, Committee, or Department shall forward any opinion, comment or recommendation they may have no more than thirty (30) days from the referral of the application to the Board, Committee, or department.

**C.** After receipt of all advisory reviews or expiration of the thirty (30) day advisory review period the Board of Selectmen may consider the application and proposed agreement in open or properly convened executive session as appropriate and permitted by the Laws of the Commonwealth of Massachusetts.

**D.** The Board of Selectmen, by majority vote, shall either reject an application or vote to authorize a warrant article at the next Town Meeting to approve the Economic Development Incentive Agreement for the application.

**VI. Approval by Town Meeting**

No agreement under these guidelines shall be executed and recorded until it has been authorized and approved by a duly convened Town Meeting by a two thirds vote of those present to approve a warrant article specifically authorizing such agreement between the Town of Seekonk and an applicant.

**R. Bennett made a motion to forward to the Board of Selectmen, D. Sullivan seconded and it was unanimously approved.**

**VOTE: Approved 6-0**

**M. Bourque left meeting early**

**Monthly Department Update**

**J.** Aubin received correspondence/emails from the residents of Madison Court asking about completion of public improvements. They may request to be heard at either the November or December meeting.

### **Discussion: SRPEDD Update**

Jamie Roach provided SRPEDD update. The discussion with metropolitan and urban areas has been tabled for now and advised there has been no new information regarding the zoning provision act.

### **Approval of Minutes: 9/13/16 and 9/27/16**

**J. Roach made a motion to approve the 9/13/16 minutes with corrections, S. Foulkes seconded, R. Bennett and D. Sullivan abstained (not at meeting), M. Bourque (left meeting early). VOTE: 4-Approved, 2-Abstentions**

**D. Sullivan made a motion to approve the 9/27/16 minutes with corrections, L. Dunn seconded, J. Roach abstained (not at meeting), M. Bourque (left meeting early). VOTE: 5-Approved, 1-Abstention**

### **Adjournment**

**A motion was made by D. Sullivan to adjourn the meeting, L. Dunn seconded and it was unanimously approved.**

**The meeting was adjourned at 9:15 p.m.**

Respectfully Submitted by,

Kristen L'Heureux