

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**May 6, 2013**

Present: Ch. Edward F. Grouke, Robert Read, Keith Rondeau, Ronald Blum, Roger Ross

7:02 Ch. Edward F. Grouke called the meeting to order.

Ch. Grouke

This is the meeting of the Town of Seekonk Zoning Board of Appeals, May 6, 2013. I am going to go over our Rules and Regulations. I am going to read each petition as it was advertised and call upon the petitioner or their representative to present their case. All testimony, including the testimony and statements of the petitioner and/or the representatives or witnesses will be taken under oath. The Board will ask questions of the petitioner and witnesses. Any questions from the podium will go through the Chair. We will hear from anyone in the audience to speak either in favor of or against the petition or with any questions. At the close of the evidence, we have a discussion and then take a vote. We also usually make a decision on the same night, although we are not required to do that. There are times that we may postpone a petition for another meeting either for a site visit or to gather some information. Once we have closed the public hearing and taken our vote, it is then reduced to writing and filed with the Town Clerk within 14 days of the date the vote is taken. Any person who feels that he is negatively affected by our decision, as long as he has the proper legal standing, has the right to appeal to the courts of the Commonwealth of Massachusetts; and anyone considering taking such an appeal has to comply with very strict time limitations that are applicable to a court appeal. The time limits are very strict.

**2013-05**

**Donald & Denise Chevette**, 100 Cherry Hill Drive, Seekonk, MA, Owner by Stephen E. Navega, Esq., 447 Taunton Avenue, Seekonk, MA, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 5.3 and a **Variance** under Section 6 of the Zoning Bylaws to allow the extension and/or alteration of a pre-existing, legal, nonconforming structure or use with less than the required front, side, and rear yard setbacks and lot area and frontage requirements at 49 Perrin Avenue, Plat 31, Lots 49 and 72 in R-1 Zone containing 10,000 sq. ft.

Stephen Navega

447 Taunton Avenue, I am an attorney with an office at 447 Taunton Avenue here in Seekonk also residing in town at 175 Warren Avenue. I am here tonight representing Denise and Donald Chevrette, Seekonk residents residing at 100 Cherry Hill Drive. He is a contractor. He purchases property to renovate and resell for a profit. This property requested is an R-1 residential comprising of two lots with a total of 10,000 sq. ft. There is a paper street, Wood Street, that was abandoned by the abutters. It went before the Planning Board, where it was endorsed and recorded. There is a copy of the recorded plan. So the abandonment of Wood Street now increases Chevrette's lots, the lots in question at this time went from 10,000 sq. ft. to 15,000 sq. ft., to make it in conformance with lot requirements of an R-1 zone of 14,400 sq. ft. and also increases the frontage by 25 sq. ft. Like I said, the Chevrettes purchased the property on November 8<sup>th</sup>, 2012. They are in the process of the renovation, committed to starting with the interior, removing the sheetrock; they found that the building, originally thought to be a bungalow was altered during construction in size by the previous owners, before Mr. Chevrette. They created a living area in the attic. When the ceiling was taken down, the floor joists were actually 1x 6's, 24" on center as opposed to what the code is now—2 x 8's. When they exposed the ceiling and contacted the Building Inspector, she agreed that in order to do the second floor, to pass the code would require raising the roof and it would be probably better to demolish the building and start from scratch. She was in favor of this approach. That is essentially why we are here. Now, I would suggest to you that under Section 75.3, we are a pre-existing legal nonconforming structure and the alteration of this structure is allowed. This is going to be a brand new, one-floor—nothing on the second floor--ranch house, everything new from scratch, including a septic system. It would be less than the existing structure height-wise, and it would be less than the encroachment on front yard setback by approximately two feet due to the removal of the existing roof overhang. The porch that is identified on this submitted plan will be enclosed and become part of the house proper with the shed on the submitted plan remaining. So I would suggest that under 5.3 as a legal nonconforming structure, we are first of all a preexisting legal nonconforming at 5.1 feet off the side yard of the house proper; we are also preexisting at one foot off the side yard from the unattached garage. We are preexisting at 4 feet through 8 feet off the front yard from the street line of the house. We are preexisting, even if you take the original lot of 10,000 sq. ft. –200 ft. by 50 ft. With addition of the abandonment of Wood Street (inaudible) to now 15,000 sq ft. it will be an improvement of the neighborhood. This will still be a use in harmony with the general purpose and intent of the bylaws under 5.3. I urge you to act favorably upon the petitioner and grant the

petition. I have a theory on a variance, but I don't think we need to go there. I think we are okay.

Ch. Grouke Are you staying within all the existing setbacks?

Atty. Navega We are not changing the footprint. The only thing we are changing is that we are enclosing the porch in the front; it already exists, we are just making it part of the house proper. It's going to be a crawl space.

Ch. Grouke The two other buildings are staying?

Atty. Navega Right where they are.

Ch. Grouke Are you going to fix them up?

Atty. Navega Yes.

Ch. Grouke Are the exterior concrete stairs staying—in the front?

Atty. Navega I don't think so.

Donald Chevrette They are wood. The bottom step is concrete.

Ch. Grouke The slab is concrete?

Donald Chevrette Yes, it is. It is a cement walkway, with one concrete step; the rest are wood and they are a very important addition; I will be putting new concrete stairs out front of house.

Ch. Grouke Are there any other questions for Mr. Navega?

None.

Ch. Grouke Is there anyone who wishes to speak in favor of the petition?

Gary Sagar 70 Case Avenue, business address was sworn in. First, as a matter of disclosure, as you know, I serve as an alternate on the Zoning Board of Appeals, and I'm also an elected official in the town as a Selectman. I stand here as an abutter who has been dually notified of this petition. The owner of this property, Mr. Chevrette, there is a TV show, This Old House that is popular; it could be him in the Seekonk area. This is what he does; he does a very good job at it. When he first bought that house, I happened to see him working there; I went in and looked at it with him, in a lot of ways I don't know how it stayed up as long as it did. (inaudible) Also,

under Section 13 of yard exceptions, if you look at all the houses along that side of the street, they all line up, and they are all within the required setback; and they are grandfathered because of their age. Also, if you can recall Mr. Chairman, in 2007 we had a similar petition at 21 Perrin Avenue; and this Board acted very favorably, and it greatly improved the neighborhood. I strongly advise and enthusiastically support this petition and ask this Board to act favorably.

Ch. Grouke Is there anyone else to speak in favor of the petition? No response. Is there anyone to speak in opposition of the petition? No response.

Atty. Navega I ask that you consider a favorable vote on this project; it is a great improvement, and he has spent a lot of money to reconstruct this old house, doing construction inside, outside. It is very important to the neighborhood in the area, improving it esthetically but, more important than that, and it will comply with all the codes.

K. Rondeau I just have two questions, and the second relates directly to the first: The abandonment of Wood Street, has that taken place yet?

Ch. Grouke Yes.

Atty. Navega What happens with this petition, when you submit a Form A plan, it doesn't mean their approval; they are endorsing it. That is the one of the reasons why we say we have 15,000 sq. ft. instead of 10,000 sq. ft. That is as the recorded plan that was endorsed by the Planning Board. (inaudible) March 13<sup>th</sup>, 2013; it was recorded.

K. Rondeau The second question: When Wood Street was abandoned, was there any thought given to changing the house and making it more compliant?

Atty. Navega We could make it more compliant. The only thing we are increasing is the 25 ft. front—5,000 sq. ft., which would make us comply with the lot size requirements in R-1. We only increased by 25 ft. frontage; we are still encroaching on the front yard setback requirement; we are encroaching on the side yard setback requirement. Other than that, the rear yard, we are okay and that unattached garage is only one foot off the new lot line.

Ch. Grouke Is that garage staying?

Atty. Navega Yes.

Ch. Grouke Is the shed staying?

Atty. Navega Yes.

Ch. Grouke So the foundation is there?

Atty. Navega Yes. In all defense of Mr. Chevrette, this was a renovation, and he wants to do what is necessary—because he's doing a great job of (inaudible) but he never expected that he was going to run into the problems that he has. The problems that he ran into put him in such a financial situation that I believe he is going through the cost of demolition and new construction, inside, outside. It will improve the property. It will be very nice for the neighborhood.

Ch. Grouke It is not any derogation of the bylaws. It seems like it is a worthy project all the way around and going to end up being less nonconforming and a lot better than what presently exists.

Atty. Navega I am withdrawing the application for the variance.

R. Read made a motion to close the public hearing, seconded by K. Rondeau, **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ron Blum, Robert Read and, Roger Ross

**VOTE: (Approve 5-0)**

R. Read made a motion to accept the petition and grant the Special Permit as presented; and allow the applicant to withdraw the petition for a Variance, seconded by K. Rondeau, **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ron Blum, Robert Read and, Roger Ross

**VOTE: (Approve 5-0)**

**2013-06 Fisk Family Realty Trust**, 72 Pond Street, Seekonk, MA, Owner by Nicole Fisk, 72 Pond Street, Seekonk, MA Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 8.2 and 6.2.14 for a proposed Solar Photovoltaic project at 50 & 68 Woodland Avenue, Plat 35, Lots 26 and 30 in R-4 and Industrial Zone containing 35.01 acres.

Nicole Fisk and Otis Dyer were both sworn in.

Otis Dyer, Jr.

Of the company E. Otis Dyer, 368 Fairview Avenue, Rehoboth. I'd like to introduce a plan that I brought tonight of the subject property. This property is two addresses, 50 and 68 that join together, showing you the entire area on the north side of Woodland Avenue—just a little piece of it is on Pine Street. This property is about 35 acres; it is a split zone; the part in yellow (on the map) is a R-4 zone and the remainder of the property, with many power lines and pipe lines, is an industrial zone and is currently used as a rock processing quarry gravel plant. The proposal, coming before the Building Department, is—"is this zone permitted for solar"? By solar, I mean a large scale ground support solar, not the kind that you have in residential; this is a perfect kind of large scale mounted, photovoltaic solar installation, producing 250 kilowatts. We received a zoning determination on March 21<sup>st</sup>, 2013; and, in short, basically what it says--paragraph 3 is the important part—"The Town of Seekonk has a Photovoltaic Overlay Zone; that this property does not fall in that district. A special permit will be required from the Zoning Board of Appeals" I have attached a copy of that for you. We are appealing that decision from you. We believe that in the industrial zone that this is a permitted use, and I want to address the residential property. On this section, Section 8.2, permitted uses, the first sentence is the important one. Industrial uses are declared to be uses of land and buildings for administration research and manufacturing, processing, fabrication, (these are the important ones) storage, and all that. There is nothing that fits this under uses permitted under accord with the Zoning Board of Appeals' approval. I think it is pretty clear that something of this large scale, producing electricity is the processing, manufacturing; we are processing solar and producing electricity in large scale to be sold to the grid, National Grid Company. As far as the residential, we actually do agree with the Building Department's decision on that. Under Section 6, which is the residential district uses, 6.2--it says uses permitted under approval of Zoning Board of Appeals, Section 6.2, Number 14, public and private utilities, (again, this would be a utility) production of energy and selling onto the grid—so, that portion we agree with.

- Ch. Grouke Is it going to be like a field?
- O. Dyer Yes.
- Ch. Grouke Where is it going to be located? Has that been determined?
- O. Dyer First of all, we still have to go for a site plan review process; we still are subject to environmental laws. We are still restricted by easements—these are high voltage lines and pipelines. You can't put a structure—these are structures; if you drive Route 44 to Taunton you will see a field of these arrays; you can't put these under power lines. We are restricted, and I can show you—the area in here you have to sandwich in between these areas; we cannot put it over the whole 35 acres. There are wetlands to the western portion.
- Ch. Grouke What are you asking us to do?
- O. Dyer We are asking you to render a decision in favor of the appellant that this is a permitted use in an industrial zone. Period.
- Ch. Grouke That is what you are asking us to do?
- O. Dyer Yes. It is a very narrow decision. I know you have correspondence from the Planning Board and I would like to address that.
- Ch. Grouke You are asking us to comply with the specific bylaws.
- Ron Blum Will this be owned by the Fisk family, selling the power generated back to the National Grid?
- O. Dyer There could be multiple parties involved, but the Fisk family will maintain control of the property to lease it out; it will be an operating company that will actually generate the power. National Grid is not going to own it. It will be a long-term contract with National Grid. It is a very big, expensive project, with a huge investment. A lot of tax money will be generated.
- R. Ross National Grid is a utility. You are not a utility.
- O. Dyer They will be a private utility selling to a public utility. Once electricity comes on, they are a private utility. The Fisk family will set this up and this property will operate as a utility.
- R. Ross I am unfamiliar, so I am asking the question. Does this project require review and approval by the PUC? It seems to me it will.

- O. Dyer                    That is a good question. I think it will. This is a state mandated quota; it puts public utilities under a great deal of pressure to come up with these places—there are only few places; it's not only industrial zone; it's not always a town that could take this load upon the wires; this happens to be one of the best places in Seekonk to do this; it actually has wires with enough capacity to take this load. This is a prime site to do this. The Fisk family has an advisor; he has talked to me about it, and they are applying to put this together with the state.
- Ch. Grouke                Is it proposed to be just within the industrial district?
- O. Dyer                    Yes, if it is permitted, we will be working within the industrial district. I understand we have a decision from the Building Department that, unless I am misreading it, they are saying that a special permit will be required as a binder to the whole thing. So, I see that the yellow part, we would come before you for a special permit. That is under private and public utilities.
- Ch. Grouke                Are there any questions for Mr. Dyer? None at this time. Is there anyone who wishes to speak in favor of the petitioner?
- Gary Sagar                I make the same disclosure I made earlier. I am an abutter to this project. I have an agenda for being here. I have preliminary approval for a nine-lot residential subdivision. I would much rather have a Solar Photovoltaic Facility in this Industrial Zone, where the railroad side is, we could see a big industrial building there with a 24/7 operation. The beauty of it, as we all try to go toward green energy concept, this is a great use for that land. Seekonk, with its dual tax rate and its very high commercial property tax rate, will be assessed under the personal property taxes; it could be a windfall for the town. The use of the site--it is very quiet, very clean, doesn't create any traffic. I'd like to see it go forward; certainly in my interest as an abutter with a subdivision soon to be developed, it would make my property and everybody else's property much more valuable. I am on the other side of this. So, all things considered, Mr. Dyer's plan has been submitted to the Planning Board. Putting in a Photovoltaic bylaw three years ago nothing has happened because one of the problems is that the grid does not support photovoltaic; we all get the sun everywhere but there are only certain parts of the grid that are accessible and are favorable. I ask you to support and endorse it. The town will realize a lot more tax revenue. As far as the question about 6.2.4 public and private utilities even some of the subdivisions that are coming in with common septic systems, those are considered private utilities such as this one. Recently, one member of the Planning Board has excessive knowledge with Solar, he mentioned the State Legislature, Chapter 40A, Section 3,



some neighboring towns allow solar I think the town of Swansea recently allowed solar without any special permits or anything. I think it is a great thing for the town.

Ch. Grouke Is there anyone else to speak in favor of the petition?

John Perry I am not in favor, I just have some questions. I live in Burrillville, RI right now. I own plat 35 lot 24; Mr. Perry was sworn in. I am not in favor or against it. My question is; if this goes through, does this become a restricted area? The reason I ask that is, the only way into my property is through Jeff's property. If I want to get to my property, I have to drive through all his land and everybody else's to get all the way back there. That is what I've been doing for years. I haven't been there for a while. My question is, is it a restricted area once this is in? If it is, I've got a problem.

Ch. Grouke Do you have an easement of some kind to drive over there?

John Perry Well, we had a road there for a while. I haven't used it for a few years.

Ch. Grouke Do you have any information about that, Mr. Dyer?

O. Dyer I don't know the particulars of his use of the land, but anybody who has that legal right; it will be a key for a lock. If it is legal and he has the right, if he has a key to the gate now, he will be given one later.

John Perry That still hasn't answered my question. Is it going to be fenced in?

O. Dyer It has to be fenced in. You cannot have people running in and out of there. It's just like a power plant. It is DC power not AC.

Ch. Grouke Anyone else wish to speak in favor of the petitioner? None. Anyone wish to speak in opposition of the petitioner?

Russell Hart 26 Melanie Circle, Sworn in. The town of Seekonk has had several people come into this town and want solar arrays in different areas, particularly the solar arrays district on Route 6. One contractor wants to build in the middle part of Seekonk. (inaudible) And the town would benefit from the rural rate on the power lines. I don't know how big the solar array is, I don't know if it falls within the category of solar rate. I realize (inaudible)...I just don't want to see a conflict between this and some company coming in to build large solar array. There is a solar district in the south.

Ch. Groucke Are there any questions about the project?

Neal Abelson 1588 Fall River Ave., Seekonk sworn in. (Planning Board Chairman)We are having a public hearing at our next meeting to allow by right Solar Photovoltaic collectors in all industrial areas (inaudible) and then town meeting.

R. Ross But it is not project specific?

N. Abelson No, it is not.

O. Dyer I would like to address the comments from the Planning Board memo. There was a suggestion that you incorporate the solar overlay regulations with the decision and the primary focus being the bonding or surety. And, at first, at the hearing, well, that might work, but it's actually a surety for dismantling the whole operation if it doesn't work out. Keeping in mind, this is an extremely valuable structure, just like an industrial building, nobody is going to just go and take out a building. It is worth a lot of money. That provision does not seem practical; it is from SRPEDD and just a boilerplate type thing they put in there. If you really think about it, you can't go into private property and dismantle something if you don't like it. This is a permitted use. They can build it; and if it doesn't work, the town Building Department could condemn it just like an old house that somebody just neglects and lets it go, but there is really no legal provision, I don't think, for entering somebody's property and dismantling the solar array--private property, now it would make all the sense in the world, with public property, water district property, and something like that. I don't see how that would work. I think that was part of the memo that we were suggesting. We disagree; we do not believe that it is practical, that it may not be legal. We would say the recourse is that if this doesn't work in five years or whenever, they are not producing anything, first of all, there is going to be a lot of interest. The land is extremely valuable land for other uses. He won't want to dismantle it. Number two, the structure itself is extremely valuable. It is going to be valuable aluminum. Number three, if that thing is really obnoxious after a while, if it was abandoned for whatever reason, I would say the Building Department has to condemn it. That would be the proper and legal reason for entering private property. That's my comment.

K. Rondeau You are okay with 9.8 just not okay with 9.8.1.2?

- O. Dyer                    We don't believe that should be incorporated in the decision, that's correct. We believe that an industrial zone is an affirmative use that does not require an overlay district or its conditions and it is not appropriate to put that language in there.
- K. Rondeau                So, you don't believe that any of 9.8 should apply?
- O. Dyer                    No, I can't say that because it may overlap with the requirements of the site plan review. This still must go through a site plan review, just like an industrial building. It is the same status as a proposed industrial building--like screening on the property, the setbacks, the structures, traffic, noise, visual site; of course, this isn't like a windmill, it will be all down low. You can see it, but you can see a windmill a mile away. There is no traffic; it's really just closed up. A maintenance person comes every once in a while. It's very, very low impact industrial use. It is currently a rock crushing plant.
- Ch. Groucke                The site plan review has got to be done by whom?
- O. Dyer                    It would be the Planning Board.
- K. Rondeau                I'm confused; you want to put this in, but you don't want to have any rules and regulations basically other than...
- O. Dyer                    No, the site plan review which is the same as an industrial building and that's a lot. We'll be subject to environmental laws. That is a lot.
- K. Rondeau                So, then anybody else coming into town that goes into an overlay district would have to live and abide by a different set of rules then? You just want to be held to a different standard?
- O. Dyer                    No. We want to be held to the industrial permitted use standards; which have a lot less impact than a lot of industrial uses.
- R. Read                    The comment that Mr. Abelson made about the proposal that was brought before their Board, if that has been enacted, would that make this a moot point?
- R. Ross                    I don't think so. The subdivision and Planning Regulations are separate and apart; they tend to work in harmony. The Zoning Bylaws are the Zoning Bylaws.
- O. Dyer                    Whether the overlay district is all industrial, that is another issue.

Neal Abelson           As it stands now the overlay district is all industrial in the south end of town. It is our intent at our meeting next Tuesday to have a public hearing and make it a by-right in all industrial. We could discuss some of the matters, surety. We could propose those changes at any time.

R Ross                   We may want to harmonize with the Planning Board about this issue.

Tape change (inaudible)

R. Ross                 It may be something that this Board might want to discuss depending on what the Planning Board does, put it at town meeting organizing our bylaws with Planning on this issue so we are not operating at odds.

Ch. Grouke             Are there any other questions?

Colleen Strycharz     180 Woodland Ave. Sworn in. Requested a copy of the plans.

Ch. Grouke             Is there anyone else that wanted to speak on this petition either for or against? Okay, no one responded.

Ch. Grouke             So the question that the applicant wants us to answer is whether or not this will be a permitted use under 8.2 on this particular piece of property. They are not asking us to act upon anything else on the specifics of this project because they are not giving us that information and they are asking that it be handled under the site plan review process. When you read section 8.2, this certainly seems to be an industrial use when you talk about the processing in this case energy. Other than that, it seems that from what we know of this proposed use, it is probably apt for an industrial district and apt for this particular piece of property in this district.

K Rondeau             I don't want them to be potentially operating under a separate set of rules than others a couple of years down the road.

Ch. Grouke             It is going to be acted upon by the Planning Board and Building Inspector and I am sure they are going to be following a lot of what is in the bylaw. I think the major objection is the bond for the dismantling if it is abandoned. Everything else in the requirements of the bylaw do not seem to be onerous, it is just parking and shrubbery, everything seems plain vanilla in that part of it but the big issue seems to be the bonding.

K Rondeau             What is the time line?

- O. Dyer                    We would like the decision tonight if possible. I would like action tonight. There are other actions going forward; Town Meeting, etc. This is going to be a long time line at least a year. You have to get in line with the state there is a lot of queuing up, there is a certain amount of energy to generate with the state.
- R. Read                    You do not plan on putting it in the residential zone?
- O. Dyer                    We are asking you just to determine the industrial zone use.
- R Ross                    That is not the way I read the application. In the first instance, you are appealing the Decision of the Building Inspector and asking us to overrule that. Assuming we uphold the Building Inspector, now you are asking us to consider a Special Permit for both the Industrial and the Residential portions of the property.
- O. Dyer                    I did not write the application up I think it is confusing because we are really just asking about the third paragraph in the determination. The determination states that we need a special permit. We disagree on the industrial portion we agree on the Residential but that is not before. And you are not approving a project tonight, we still need site plan review.
- Ch. Grouke                So really, the request is to overturn the building inspector and withdraw the special permit without prejudice. That goes against the grain a little bit because normally when someone comes in for a Special Permit we attach conditions but that is different.
- R. Ross                    They don't know if they will need setback relief because they have no idea where they are going to site this thing.
- R Blum                    If you are looking at it that way, overturn the decision of the building inspector so there is no way to put anything in for the rules of 9.8 for the overlay district rules.
- K Rondeau                But then they would be subject to any and all bylaws that are in affect at the time they go to get their permitting for industrial district.
- R Ross                    Tonight it is just "yea" or "nay" as I understand it on the Building Inspector's Decision.
- Ch. Grouke                They have to go through quite a bit more state, local procedures and compliance or it is not going to go.

- R. Ross                    It seems that they will be back before us. It is all one parcel so they will have to be back before us because part of it is residential and they need a Special Permit whether they site it on the R-4 or not, it is all one lot. It is split zoning as I understand it.
- Ch. Grouke                I agree. It is one piece.
- R Ross                     I have a view on the Building Inspector's Decision. I am reading 8.2 with emphasis on two words, trying to apply rules of construction. It is my opinion that manufacturing, the normal understanding of the word, machines, tools, products, generation of electricity is not manufacturing as generally understood. I feel similarly about processing. Processing to me, within the context of an industrial use is what I just described, brick and mortar, building with machinery and putting out goods, I don't think that the generation of electricity is reasonably contemplated by the definition of permitted uses. I will vote to uphold the Building Inspector's Decision that the proposed use it not encompassed in permitted uses.
- O. Dyer                    The process is machinery, it is a raw product that produces something else that is being sold. If you don't see it as industrial, do you see it as a business? The structures don't need to be in a building. Manufacturing is taking the raw product, sunlight; and it does require machinery and it is sold.
- R Ross                     I have already stated my view. I believe the last sentence of 8.2 comprehends what I am saying, I believe a special permit would be needed it is not permitted by right based on the definition.
- Ch. Grouke                Do you read the petition as asking for a Special Permit?
- R. Ross                    Not tonight because they need much more information before they can properly come before us.
- O. Dyer                    I think that last sentence just states that you have to put something on there that is a pertinent industrial use of the first sentence. I don't think it further defines.
- Ch. Grouke                I respectfully disagree with Roger and I think the use is allowed in the Industrial District as defined in 8.2.
- R Read                     I would agree with you, Mr. Chairman. I think it is a neat, presentable type of manufacturing, it is certainly better than rock crushing.

- K Rondeau I think that making electricity is manufacturing; you use other means to manufacture electricity. It doesn't just occur in a vacuum, even Ben Franklin needed a kite and a string and a key and a jar. Any other types of creation of electricity whether it is water, solar, nuclear all use machines. There is a lot that goes into the solar panels; they are a machine in and of themselves. As long as we are just addressing the decision of the building inspector regarding whether or not it is industrial and the special permit, I would be in favor of it and I have questions if 9.8 applies or not.
- R Blum I can see both sides of the argument.
- R Ross I want the record to reflect that I am not suggesting that I am for or against this project or that the proposed use is better or worse than the current use that is not the issue for me. The issue is as I stated it.
- Mark Lockwood 192 Woodland, sworn in. I am a direct abutter to the quarry. For years we put up with the noise, the crusher, the excavation of gravel and we put up with that. I would like to see this go through. It would be a nice silent neighbor, no dust, produce energy so I would like to see that go through as an abutter.
- Neal Abelson I am not opposed to project, if you overrule the Building Inspector's decision, none of the regulations in the Photovoltaic Zone that we have in place will apply to this. They would still have to comply with the site plan and some other things but some of the other regulations that fall through the cracks would not apply to this.
- Ch. Grouke But this isn't in that district.
- Neal Abelson I know but we would like to keep it across the Board so it is the same for everybody in all Industrial Zones. That is why we are having the public hearing Tuesday.
- R. Read In this public hearing when you suggest making it available in all Industrial areas would the Photovoltaic section apply to that?
- N. Abelson Yes, we might make some changes but; things were brought up, maybe the surety would be removed, I don't know.
- Russell Hart Is it appropriate to ask how much power is the solar array?
- Otis Dyer There is a maximum capacity of 2 megawatts.

- Gary Sagar I would like to request to overturn the Building Inspector, listen to the neighbors, the Town's interest is protected, it is in an Industrial Zone where it belongs, I think you could move forward without hesitation.
- R Blum If the Planning Board proposes changes, they will be subject to 9.8. Right now, this current application if we overturn it, will not be subject correct?
- Ch Groucke If it passes town meeting I believe the answer is yes, this project will be subject to that.
- O. Dyer We need certainty moving forward.
- R Ross I have an awful lot of problems applying overlay district regulations to a property not in the district. That is what we are facing here. I would vote against applying 9.8 to a Special Use Permit because it is not in the district and I don't think you can apply overlay district standards to a property that is not in that overlay district. That is the nature of an overlay district. It is not grandfathered in.
- R. Blum But if we say that this is a permitted use in an Industrial Zone it doesn't have to fall under any of these guidelines in section 9.8.
- R Read Could we make 9.8 apply?
- Ch. Groucke Not with the way the question is asked; are we overturning the Building Inspector? Yes or No. I don't think we can attach any stipulations to that. I think the definition of industrial district in section 8.2 encompasses this, the manufacturing of power is allowed in industrial district. Site approval process is going to result in the sufficient guidelines and safeguards as this project goes on. The big issue in 9.8 is the surety thing and a vague number and could be a factor in the whole project.
- R Read Why is that paragraph there anyway? Why should they be subject to that more than anyone else?
- Ch Groucke I think that the definition of the Industrial District under section 8.2 does encompass this operation and the processing of electricity and power is within the definition of a permitted use. The site approval process and other permitting processes will result in sufficient guidelines and safeguards as this project goes on. They have to put it in the right place and will incorporate all or most of what is in 9.8. The whole issue of 9.8 is the surety thing and the requirement for the applicant to post a bond or 125% of the cost of removal which could be a huge factor in the whole project.



R. Read I question why that paragraph is in there why should they be required to post a bond to demolish the place any more than anybody building any kind of manufacturing building?

Ch. Grouke That is a good question but it is there. I think it is a permitted use under the definition and the rest of the process they have to go through there will be sufficient safeguards the applicant will have to comply with. My vote would be to overturn the decision of the Building Inspector to answer that very narrow question and then they go on from there.

K. Rondeau made a motion to close the public hearing, Seconded by R. Ross; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

K. Rondeau made a motion to overturn the decision of the Building Inspector for the reasons that the use as proposed does fit under section 8.2, "permitted uses in an Industrial Zone", Seconded by R. Read; **and so voted by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read

Opposed: Roger Ross.

**VOTE: (Approve 4-1)**

R. Ross The vote was taken but I think the record needs to be absolutely clear. On behalf of your client; that to the extent of this application is requesting a special use permit, you are requesting to withdraw that request without prejudice. Is that correct?

O. Dyer That is correct.

K Rondeau Then we need to vote on the separately.

K. Rondeau made a motion to accept the applicant's request to withdraw the request for a Special Permit without prejudice. Seconded by R. Ross; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

**2013-07 Inland Western Seekonk Power Center**, PO Box 9273, Oak Brook, Illinois, 60522, Owner, by Pretorius Electric & Sign Co, LLC, 267A S. Main St, W. Bridgewater, MA 02379, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** under Section 12.4.2.3 to install a sign in excess of Bylaw at 275 Highland Avenue, Plat 8, Lot 139 in a Highway Business Zone containing 105,859 sq. ft.

Ch. Grouke

Read a letter from the applicant into the record requesting a continuance until the next meeting.

R Blum made a motion to continue the public hearing until July 1, 2013, seconded by R. Ross **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

**2013-08 Stephen J. Barao**, 109 Sykes Road, Seekonk, MA, Owner, by Russell J. Hart, Seekonk Cable Access, Inc., Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 9.3.3 to allow a Public Access TV PEG facility at 578-580 Arcade Avenue, Plat 15, Lots 93 & 94 in a Mixed Use/R-2 Zone containing 33,016 sq. ft

- Russell Hart           Representing Seekonk Cable Access Board of Directors. The studio is at 301 Taunton Avenue, we have been there 23 years. We have outgrown the studio but wanted to stay close to 44 and the fiber optics system. The property is currently a commercial photography studio, there is also a chiropractor's studio which we will keep that is rental property and the chiropractor will stay. We have two employee vehicles and a van. There is little traffic in that area, need a change in use to go from a photo studio to cable access studio.
- Ch. Grouke           Most of the times it is a couple of employees parking and sometimes with the shows you might get a couple more cars.
- R. Hart                Maybe a dozen times per year we unload the van at night from Town Meeting or the Christmas Tree lighting but even during the day, sometimes we do a show, there might be extra cars. Probably the biggest one would be candidate night; we have 11 spaces the employees will park in the back.
- K Rondeau            Will you have to erect towers?
- R Hart                No towers outside, just put a sign up.
- R. Read              Where is the parking for the chiropractor?
- R. Hart                The same parking lot, the same 11 spaces.
- Ch Grouke            Going from photography to cable; it is just another form of photography.
- Ch. Grouke           Is there anyone in opposition to the petition? None. Is there anyone to speak in favor of the petition? None.
- K. Rondeau           It seems like a good use of the property.
- R Read                Who funds this?
- R. Hart                5% Comcast bill goes to Cable Access that is basically what we operate on. Comcast will have nothing to do with that building so it won't be an office like it used to be years ago.

K. Rondeau made a motion to close the public hearing and uphold the Decision of the Building Inspector, seconded by R. Read **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

K. Rondeau made a motion to grant the Special Permit presented seconded by R. Read **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

**Work Session:**

Approval of minutes:

R. Blum made a motion to approve the minutes from January 22, 2013, Seconded by R. Ross; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

R. Blum made a motion to approve the minutes from March 11, 2013, Seconded by K. Rondeau; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

**VOTE: (Approve 5-0)**

**Discussion:** Town of Seekonk Request for 1 year extension of Special Permit (Case 2011-06)  
Relative to the Senior Center

R. Ross made a motion to grant a one year extension from the date of the expiration of the current extension to run for one year to 2014, if additional extension is required the Senior Center Building Committee must come before the Board, seconded by K. Rondeau, **and so voted unanimously by:** Ch. Edward F. Groucke, Keith Rondeau, Ron Blum, Robert Read and, Roger Ross

**VOTE: (Approve 5-0)**

R. Ross made a motion to enter into executive session for the purpose of discussing pending litigation relative to Dr. Matthias; not to reconvene in open session, Seconded by K Rondeau; **and so voted unanimously by:** Ch. Edward F. Groucke, Ronald Blum, Keith Rondeau, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

Regular Meeting adjourned at 8:40 PM

Respectfully submitted by:

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Christina Testa, Secretary