

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**April 10, 2017**

Present: Ch. Roger Ross, Frank Braga, Keith Rondeau, Shane Halajko, Robert Read

7:00pm Chairman Roger Ross called the meeting to order.  
:: Pledge of allegiance::

Ch. Ross: Sorry we are a little bit late, it is 7:03pm on Monday April 10, 2017, the Town of Seekonk Zoning Board of Appeals is now in session. Before we get started with the agenda I will ask if all persons present will rise, please and join the board in the Pledge of the Allegiance to the flag ::all say pledge:: Thank you. We have four matters in front of the board tonight, but they are all interrelated, I will begin by reading the agenda, then I'll have a few comments, then we can get started, so the public hearing,

**2017-06 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Variance**, under Section 5.1.4 of the Town of Seekonk Zoning Bylaws for relief from the minimum side yard setback of 50' to 20' for a proposed large scale, ground mounted solar photovoltaic facility 68 Woodland Avenue, Plat 35, Lots 23 & 24 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 14.5 acres.

**2017-07 Jeffery H. Fisk, Trustee of Fisk Family Realty Trust**, 8 Jameson Drive, Rehoboth, MA 02769 Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lot 22 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.5 acres.

**2017-08 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lot 21 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.32 acres.

**2017-09 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lots 23 & 24 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.32 acres.

Ch. Ross: is someone here on the Fisk matter. Then we have a regular session with some new business which will be the approval of the minutes of the March 16, 2017 meeting. Before we, you're Mr.

Smith, I take it? Before we hear from the petitioner, I just want the record to reflect that this matter was originally scheduled and was on the agenda of the March of this year's meeting, but we had one of our regular members that had to recuse himself because he is an abutter to one of these parcels and consequently only have four members, as we always do, we gave the petition and owner the option of going forward with the four members that were present or to continue the matter until we had a full board of five members. The reason we did that is because in either case four votes, four affirmative votes would be required in order to grant the relief sought. So the matter was continued at the petitioner's request from March 6, until this evening. So we are ready to go. So Mr. Smith, if you could come forward, please and before you start making your presentation I have a question for you. The question I have is, the member that recused himself because is an abutter, Gary Sagar, by letter dated March 31, of this year, directed to our building inspector, Neal Abelson, and to the chair of this board. Filed a letter relative to your pending petitions. Did you receive a copy of that letter?

D. Smith:

I did,

Ch. Ross:

And you've reviewed, it?

D. Smith:

I have,

Ch. Ross:

So you're familiar with the contents, so I will abstain from reading the entirety of the letter into the record as long as you have had a previous opportunity to review it. I will ask our secretary to mark that as "boards exhibit A, without objection". Let's take the 2017-06 matter first, that's the variance, and assuming there are no dissenting views on the board, the other three are looking for the same type of relief, so we'll address those a group, but we will vote individually but, the relevant law and regs as to the variance are different, so if you would proceed on 2017-06

D. Smith:

I'll give you a brief introduction as to what we are going to do out there first. This highlighted area on here is the area where our solar array field is proposed and a fence all the way around, the proposed fence is 6' chain link with one foot of barbed wire. We're required by the electrical code, the national electric to have a seven foot minimum height on that. So our project sits on the rear of this property, there are two narrow parcels that extend to woodland Avenue, here at the base of this photo. These were created with what was permitted to TJA solar; to allow frontage for the two lots that were created in the back. There was a form A, ANR plan that was approved that combined lots 23 & 24, and 22, and created these two narrow parcels that provided the 50' frontage to those two parcels in the rear. We going to submit a revised drawing that will adjust the lot line between those two parcels, and also it will combine lot 21 with lot; it's either 20 or 26 that is in front of it to provide the frontage for that third parcel, that our third system is on.

Ch. Ross:

If I could interrupt you a moment, I may have misunderstood what you said initially, you just said now, I believe, that as part of a subsequent Form A, you are going to readjust the lot lines on parcels 23 & 24,

D. Smith:

As reflected on the plans

Ch. Ross:

Ok, I heard you say earlier, that lots 23 & 24 have already been merged,

D. Smith:

Yes, it was a previous (inaudible) approved

Ch. Ross:

So if they were merged, what lot lines are to be changed?

D. Smith:

The line between 23 and 24, and 22, so just so to accommodate the division of the two systems, (INAUDIBLE) the size of the systems around these parcels, we are going to rotate that property line what our design looks like now. And the complication of the other two lots is for the frontage for lot 1(INAUDIBLE)

K. Rondeau:

Mr. Chairman, if I may, when was the original Form A done?

D. Smith:

I don't have the exact date it was processed by InSite Engineering for the previous applicant TJA solar. What they had there was, they had two similar systems here, this is lot 23/24 that was combined, this lot 22, the system that were showing on lot 21 was in the front of lot 20, I do believe. That (INAUDIBLE)came back in to the town for approvals for because there was a small system that was up near Woodland Avenue, (INAUDIBLE) parcel and we're moving that to the rear to consolidate with the other solar system (INAUDIBLE).

- Ch. Ross: Mr. Smith, if I can, for a moment, Keith, just for your own, not that we disbelieve you at all, I was on the phone a short while ago with our Town planner on an unrelated matter, that I had discussed before and he had indicated to me that the ANR plan is already been approved to create the road frontage from Woodland Avenue to the two lots that have been merged that are 23/24. And that is in place,
- K. Rondeau: with planning approval?
- Ch. Ross: Planning approval is not a plan, it is an ANR, he's approved it.
- D. Smith: It was previously drawn up for the other project that had come before this body and had the planning board's approval. So the first case that we are speaking about right now is the eastern boundary of the project, the parcel to the east is owned by the town of Seekonk, it is largely wetland area, it is a residentially zoned property so under the terms of the by law, we would be required to set back 50' from that property, all that we're requesting is relief to go to the standard 20' setback on that side, keeping in mind that the property is owned by the town, and there's not going to be a residential use there. It is largely taken up with wetland areas. So it's mainly wetland area that would not be impacted.
- Ch. Ross: On lots 23/24 the dotted line that roughly runs north to south, that doesn't look like a 20' setback to me, unless I
- D. Smith: The dotted line is not the setback
- Ch. Ross: Is that the limit of the aquifer protection zone?
- D. Smith: That is the aquifer protection zone.
- Ch. Ross: So you are looking to go within 20' of the aquifer protection zone limits.
- D. Smith: What was previously approved by the planning board, and by, I believe also by special permits, some of these projects had special permit approval from this body as well. And the project that was approved was very similar to what we had, it did (INAUDIBLE) aquifer protection plan, we're not proposing anything different in that regards to the set back hearing that we are requesting now. This system will be very low impact. The modules themselves are constructed on racks that have ground screws (INAUDIBLE) so there is very little earth disturbance. They come in they screw the ground screw into the ground, and then they assemble the rack on top of that and place the modules on that so there is very little ground disturbance in that regard there will be some for the construction of our entrance driveway, and we have one small equipment are for each of those three systems. The area that is highlighted on this plan is basically a gravel base, there will be several small concrete pads that actually have the equipment, transformer some switching gear (INAUDIBLE) there's also a DAS, a data unit acquisition system that is constantly gathering data from (INAUDIBLE) system and sending it back to be monitored 24 hours a day. Not 24 hours a day, it's not an operation that runs; it's during all times of operation. It's monitored for efficiency and collection of energy.
- Ch. Ross: Ok, So, you're looking, you're requesting a 20' setback from the eastern most property line, and it appears that some of that setback will encroach on the aquifer protection zone's limits correct?
- D. Smith: A portion of it does,
- Ch. Ross: I'm not raising an objection; I'm just asking to make sure I have it clear. Do you have anything further on this issue? With those lots and the variance request?
- D. Smith: It's, it doesn't really affect the separation of our system from any of the existing residential places that it's around. The nearest residences is over to the south, the nearest residence is 379' plus or minus from the nearest residence to the southernmost modules of the system, and 722' to the nearest residence from the equipment area. The equipment area is the only thing that will generate any kind of sound. The equipment when it's operating has a hum to it, but once you get 150'-175' away it's back down to (INAUDIBLE) sound levels, you wouldn't be able to hear it, when you (INAUDIBLE)
- Ch. Ross: Do you have any idea how many decibels it puts out?
- D. Smith: It's between 50 & 60 and I believe 50 is like normal (INAUDIBLE) noise. So it's not a very loud sound.

Ch. Ross: This is all currently treed or forested right, so?  
D. Smith: Well, it was  
Ch. Ross: It was, before the clearing  
D. Smith: The owner has done a significant amount of clearing on the site under the previous approvals, (INAUDIBLE) the areas that we have slated for clearing there's about 1.75 acres remaining  
Ch. Ross: The ambient sound would be relatively low cause there is nothing around you right?  
D. Smith: Well there is a...  
Ch. Ross: Woodland Avenue  
D. Smith: to the south  
Ch. Ross: traffic on Woodland,  
D. Smith: even sounds of nature,  
S. Halajko: what is that sound coming from?  
D. Smith: the transformer, the transformer is probably the one that's in that range, most of the other equipment is below that range, as far as decibel levels go. So there is one transformer at each of these,  
S. Halajko: what is making the transformer make that noise?  
D. Smith: It is just operation, it's out of, to describe to you it'd be not as loud, but similar to the sound of a window air conditioning unit just not quite as loud as that, it's a low hum as it transponding the energy from direct current, which is used by the modules to the alternating current which is transmitted into the relay system.  
Ch. Ross: When the transformer is operating, you said 50-60 decibels is putting out, roughly, now is that fairly constant, or does that peak?  
D. Smith: It is mostly fairly constant.  
Ch. Ross: Ok  
D. Smith: As I mentioned before the system is only operating during the daylight hours, when the sun goes down, there's no sound, for the most part it's not (INAUDIBLE) operation maintenance we would come on site 3-4 times a year to mow the grass, all the areas disturbed will be reseed with native grass mixes so those will grow up (INAUDIBLE) underneath the modules.  
Ch. Ross: Concisely if you could, what your O&M plan, what does that consist of when you go out three or four times a year?  
D. Smith: Well, it's mainly maintenance of vegetation, so there are some landscaped trees that are proposed along the western boundary where the residential parcels are further to the west, those will be inspected on those site visits, there will be a warranty period after they are installed so they'll be checked and replanted as necessary, whatever doesn't survive through the first season. It's mostly come in and mow the grass, it is slow growing mixes they are kind of clumpy and provide cover for some smaller animals, some cover for them, that type of thing, to (INAUDIBLE)  
Ch. Ross: Ok  
D. Smith: that would be the main maintenance requirements, the modules themselves are at a very good angle so there can be time if there is a very significant snow fall in the winter time, that there is some snow build up on them. But the normal winter time it slides off. Unless the ground snow builds up high enough to capture that the systems, there is no maintenance in that regard. In addition to that, the modules (INAUDIBLE) themselves will be washed when necessary, they just use clean water, there is no chemicals involved, just to keep the surface clear, that's what's used to absorb the energy.  
Ch. Ross: This may be a silly question, but I'll ask it anyway. What is the expected life of a given panel?  
D. Smith: well, we don't know exactly, because the old systems are not that old, the technology is changing all the time, what is projected for our systems, at this point, we signed a twenty (20) year lease with the property owner, with two (2) five (5) year extensions. So thirty (30) years is what is projected for the expected life, (INAUDIBLE) they do lose efficiency over time,  
Ch. Ross: So it's gradual  
D. Smith: beyond that they lose (INAUDIBLE) it's not cost effective to keep them operating.

Ch. Ross: Do any, yeah, Shane?

S. Halajko: Are these similar to the ones that you see on the houses? But this is more like a solar farm?

D. Smith: The modules themselves will be similar, there about 4 by 5 each module,

S. Halajko: Doing the same thing?

D. Smith: It would be doing the same thing, yes, it's just that on these racks, there would be 4 by 5, (INAUDIBLE) 18 on each rack, rather than the single modules installed on someone's roof, there would be 18 on each rack,

Ch. Ross: You're from Lowell you said

D. Smith: Our office is in Lowell,

Ch. Ross: I go up 495 quite a bit on the way to southern Maine, if my recollection is correct, and this is not a specific question, when you get maybe to just south of Lawrence on the easterly side, I think that is where it is located, there is a stretch of about half mile where you just see solar panels as far as the eye can see, and they are six or seven deep, I know the intensity is not the same, but if I'm correct on the location of that, it would be that type of an operation?

D. Smith: It is that type, it a utility scale project. The size of the entire system is 7 megawatts DC or 5 megawatts AC (INAUDIBLE)

Ch. Ross: Any other members of the board have any questions of Mr. Smith? At this time? Bob?

R. Read: no

CH. Ross: Does any members of the audience have any questions, on, limited to this petition, on the variance? Any one wish to speak in favor of it? Hearing none, is there anyone who wants to speak in opposition to this petition? Sir, if you could go to the podium and take the microphone from Mr. Smith, if you would, and would you identify yourself by name and address, please for the record?

M. Lockwood: Mark Lockwood, 192 Woodland Avenue,

Ch. Ross: Would you raise your right hand please, and do you swear or affirm that the testimony you are about to give will be truth?

M. Lockwood: Absolutely

Ch. Ross: You may proceed, sir

M. Lockwood: I'm in favor of the project; I'm just not in favor of the 20' setback. I own lot 19 that is on plat 30, and I am the only resident that abuts this property here, I just have some concerns on the 20' setback, I think it should be 50'. We lived in town, we are lifelong residents, we've raised a family there, our property is R-4 zone, a few years back I put an addition on my house, I had to be 80' off the back line, you're asking 20? The other concerns I have, on this drawing you're showing and addendum one for lighting, so if you go into the detail there is no detail page, you really can't see what you're trying, is it a 6' light, or is it a 60' pole? I have concerns about that, and you've got screening on the other property boundaries, evergreen or whatever, where you abut mine you're not showing anything. I'd like to see some evergreen screen there, and your fence line is right on the property line, it should be 50' off, I believe, (INAUDIBLE), I do have some concerns there.

Ch. Ross: If I could ask you Mr. Lockwood, you own lots 19, 16 and 28?

M. Lockwood: Correct

Ch. Ross: and, where, of those three lots where is your residence located? Is it on 19? The immediate abutting lot?

M. Lockwood: No, it's not,

S. Lockwood: It's not 19 or 16, it's the other lot

M. Lockwood: it's the other one it's the 20 lot

Ch. Ross: the middle lot? Or the southernmost?

M. Lockwood: the southern most

Ch. Ross: on 28

M. Lockwood: on 28

R. Read: 28 or 15,

Ch. Ross: I don't see a 15. Just to make sure we are all operating on the same page, that is a copy of the survey plan sure, 28 is the southernmost lot, is that where the residence is?

M. Lockwood: 28

Ch. Ross: Ok, thank you, do you

M. Lockwood: I have one more statement, you know, with a variance aren't you pleading a hardship aren't you?

Ch. Ross: Yes,

M. Lockwood: to me, I don't see a hardship up here

Ch. Ross: well, the hardship, by law, can be economic,

M. Lockwood: by law it can be? With the amount of property that is out there, readjusting some panels, even if you double stacking them in the back to give them the 50'

Ch. Ross: I understand. Do you have any comments you would like to make to what you just heard?

D. Smith: The actual bounds of our property the northern most lot that they are referring to, is actually showing in the industry district, on the towns map.

M. Lockwood: It's not

D. Smith: That is why we weren't even approaching a variance there, because was it was an additional industry lot that was (INAUDIBLE), the lot to the east (INAUDIBLE)

Ch. Ross: Ok, this site plan, that I have, Mr. Smith, is sealed by you, so you're an engineer,

D. Smith: I sealed that, yes

Ch. Ross: And that lot is denominated as R-4,

D. Smith: The lot has an additional space of industry on the zoning map, so I'll have to refer to that.

Ch. Ross: We don't have the zoning map here, and even if we brought up online, the scale would be so small that we couldn't see it. We have a copy of the tax map, but not the zoning map. I'm not in a position to dispute that, you've acknowledged that it was mistake, at least you see it as a mistake, but we have a sealed survey plan that shows that lot 19 is in an R-4 zone; Mr. Lockwood states it's in the R-4 zone.

M. Lockwood: I can explain that. Lot 19 was under tax default from the town for I don't know how many years. It took me 7 years to buy that piece of property with a sealed bid, at that point it was zoned industrial, when I bought it, it got turned over to R-4.

Ch. Ross: How?

M. Lockwood: y the previous town administrator, when I bought the property, sealed bid from the town, that's what happened it got switched over to R-4.

D. Smith: That is probably where the confusion is

M. Lockwood: That's where the confusion is

D. Smith: I was looking at the town zoning map, which shows that lot as part of the industrial zone and as part of the solar overlay

Ch. Ross: we're not prepared to go in to it tonight, and it's not really our jurisdiction, but I will tell you as a matter of law the zoning map is the official zoning document for the town, by state law, having said that we're dealing with what we have now, and we'll take all of that into consideration,

R. Read: Wouldn't that zoning change have to go before the town meeting?

Ch. Ross: Yes, It would be a petition to modify the zoning map,

D. Smith: Just to make it clear, it was not our intention to encroach towards any of the existing residential, so if that turns out to be the case, we were not intending to request a setback variance (INAUDIBLE) it's along the eastern bounds that's adjacent to the town property that our variance request (INAUDIBLE)

Ch. Ross: Let me ask you this, and I address this to you to Mr. Lockwood, and we haven't voted yet, this is just a discussion, could your client live with a 20' setback on the eastern boundary line, but a 50', the existing 50' setback on the southern boundary line that abuts Mr. & Mrs. Lockwood's property, I don't know if it is acceptable to them, but I am asking you.

D. Smith: That would probably be acceptable to us, there's a (INAUDIBLE) boundary there we weren't intended ongoing residential use, I believe, I would have to check, but I believe that the previous plans that were approved, show a 20' setback there as well, we were just being consistent with

what had been approved before. So, I'll check, but from our end, I'm still not intending to request a variance, if it is industrial to the south of us, and not R-4 there would be a 20' setback, if it's residential (INAUDIBLE)

Ch. Ross: Two things about that, you're going to have to go back to on your ANR's any way, correct? And the setback issue is clearly the jurisdiction of this body, and not the planning board, that's ours/

D. Smith: Ok, well what I'm saying is, whatever the setback is required here, (INAUDIBLE) it's the eastern boundary we're interested in (INAUDIBLE),

Ch. Ross: ok, ok,

D. Smith: It's a very long boundary and would make a very big difference economically, to our system, if we had to setback from that

K. Rondeau: Also, on the adjacent parcel, to the westerly side, (INAUDIBLE) as it abuts

Ch. Ross: can you identify it by lot number, Keith, so I'll know? Is it 21?

K. Rondeau: It's going to be lot 21,

Ch. Ross: 21, Ok

K. Rondeau: Lot 21 as it directly abuts lot 19, which will be

D. Smith: no it doesn't

M. Lockwood: No, right here it's the westerly side

D. Smith: Oh, I see, you mean on the easterly side of

Ch. Ross: Your easterly, their westerly.

D. Smith: That would be fine as well (INAUDIBLE), so we're not adjacent to that property line, our fence line is more (INAUDIBLE) that property

K. Rondeau: So a 50' setback would be (INAUDIBLE)

D. Smith: If it turns out that it's a residential parcel, we will do that

Ch. Ross: Ok, Bob,

R. Read: Which parcels are owned by the town of Seekonk? I gather its 3 and 4

Ch. Ross: It's 4 and I don't see 3,

B. Garrity: Town of Seekonk owns 16 & 4,

D. Smith: Is that on map 36? Because on map 35, lot 16 is (INAUDIBLE)

B. Garrity: Yes, that is map 36, lot 16, that's not indicated

D. Smith: (INAUDIBLE)

Ch. Ross: Lot 4 I see, now or formerly Town of Seekonk, is 16 up here?

B. Garrity: I have no idea

R. Read: Which one are you looking at?

Ch. Ross: This (INAUDIBLE) parcel easterly abutting the end of their project.

R. Read: I have see 4, but to the north of 4 it's 3.

Ch. Ross: Its 3,

R. Read: Who owns 3?

D. Smith: (INAUDIBLE)

B. Garrity: Philip and Henry Silva, map 36 lot 3, it's the Silva family with a Central Falls address, they came back

D. Smith: small parcel (INAUDIBLE) that you're referring to. Up here there is 23/24 part of the industrial zone (INAUDIBLE)

Ch. Ross: Let me back track a little bit, Mr. & Mrs. Lockwood, that question that I asked Mr. Smith, about 20' on the easterly side but 50' from your property line, is that acceptable to you?

M. Lockwood: So he wants 20 here, that doesn't abut me, that's conservation land.

D. Smith: So if this is zoned residential

M. Lockwood: Where is the fence line going to go?

D. Smith: If it's not, its industrial zoned, then 20 is what is required,

M. Lockwood: Well if that is the case, I'm paying taxes on residential land

Ch. Ross: That's not our issue,

M. Lockwood: I'm just saying, if its, I'm paying taxes on residential

Ch. Ross: Yes

D. Smith: (INAUDIBLE) we will meet whatever setbacks are required there, depending on the zoning (INAUDIBLE)

M. Lockwood: So where does the fence line go?

D. Smith: the fence line is on the property line

M. Lockwood: It's on the property line?

D. Smith: Yes, (INAUDIBLE)

M. Lockwood: So

Ch. Ross: The setback is where they can build

M. Lockwood: So I'm just going to ask this question, (INAUDIBLE)

D. Smith: (INAUDIBLE), beyond that residential parcel, there are two narrow parcels that provide frontage (INAUDIBLE)

Ch. Ross: I'm sorry, gentlemen, you're going to have to address this to the board, 'cause we have no idea what you are talking about.

D. Smith: He's asking about these other boundaries; this is industrially zoned property s

Ch. Ross: This is all industrial

D. Smith: So that's why this is 20, this is residentially zoned, to the west

Ch. Ross: So it's 50

D. Smith: So there's 50 there, and there is more than 50 here, because of the additional (INAUDIBLE)  
This is residentially zoned to the north, so it's 50 there; this small corner is what I am referring to,

Ch. Ross: that's industrial

D. Smith: that's industrial, so that's why (INAUDIBLE)

Ch. Ross: Do you understand, Mr. Lockwood what he is saying?

M. Lockwood: I do, I don't like the idea of putting the fence on the property line,

Ch. Ross: Well, it's their property, as long as the fence is on their property and doesn't encroach on yours, there's no legal requirement to have the fence setback from the property line. They're talking about building when they're talking about setback. We're not talking about fences?

M. Lockwood: What about evergreen screen? What about, I've got to look at

Ch. Ross: Haven't gotten there yet, I made notes of what your comments and objection were

M. Lockwood: I'm listening, one more thing, I had a conversation with the property owner, three years ago, when he wanted to start this, the agreement was 50', for fencing and anything, so now we're coming along and we're kind of changing the rules.

Ch. Ross: Back to my question, Mr. Smith, maybe I didn't make myself clear, and I still don't know if it's acceptable to the Lockwood's what I heard you say is if lot 19 is zoned industrial, you're still looking for a 20' setback.

D. Smith: Because that is what is required

Ch. Ross: That's what's required. My question to you was, even if you're entitled as a matter of right, to the 20' setback, and I don't know you are, but accept that as a given, would you be prepared, or would your client be prepared, to have the setback, the southerly setback that abuts the Lockwood's setback 50' if you retain the 20' on the easterly boundary assuming we approve it.

D. Smith: well, I would say, if that comes as a package deal, we would do that, because it is a short boundary, I'm not certain what the impact to our system would be, with that change, it's going to reduce the size that's achievable on site, so I would have to consult with my engineers about what that affect would be, but if I have to make an agreement tonight, it would need to be part of the (INAUDIBLE), if we're getting a positive (INAUDIBLE) setback requirement to the east, we'd be willing to make that concession even if it's zoned industrial.

Ch. Ross: Obviously, if you are entitled by a matter of right, you're entitled as a matter of right, but I'm asking you if you would make that concession. Ok. The issue of screening with arborvitae of some other reasonably tightly planted evergreens, on your southerly boundary abutting the Lockwood's; do you have any problem with that?



D. Smith: Not if it's coming along with variance approvals, as well, that would be a small concession to get those set back area (INAUDIBLE)

Ch. Ross: I'm thinking, for purposes of discussion, and all members of the board will have their input, of course, because I'm thinking of something 6', 6' tall

D. Smith: Ok, yes, that would be consistent with was, is already proposed along the western boundary,

Ch. Ross: Mr. Lockwood raised the question about lighting, and I didn't see anything about lighting, so,

D. Smith: We did not submit the details, (INAUDIBLE) provide, one pole mounted at each equipment area, it's a 9' pole with a single LED lighting fixture it's shielded and directed down, it's also motion activated, so it would be not (INAUDIBLE) at most time, as I mentioned before, there is not much (INAUDIBLE) for us to be on site after dark, so in taking (INAUDIBLE) the illuminating would be very rare and when it was it's shielded so it only illuminates the equipment pad area which is over 700' from the nearest residence, there would be no light pollution

Ch. Ross: That was my next question, how is that lighting directed? So it's basically downward.

D. Smith: It's shielded and directed downward,

R. Read: How many of those lights are there?

D. Smith: There is one in equipment area and there (INAUDIBLE) and one pole (INAUDIBLE)

Ch. Ross: I see a total of three (3) on your page 2, is that correct?

D. Smith: That is correct

Ch. Ross: Here, here and here. Mr. Lockwood, do you have a chain link fence on your property?

M. Lockwood: Yes, I raise cattle

Ch. Ross: Ok, It appears to be right on the property line, is that correct?

M. Lockwood: No, it's not, nope, it divides 16 and 19.

Ch. Ross: Ok, Mr. Smith am I missing something, on your page 2 of your site plan? Maybe if I check the inset? It appears your showing the chain link fence is right on the property line, right there?

D. Smith: Yes, right there

Ch. Ross: Mr. Lockwood is saying it is here, on the southern line of lot 19 and the northerly line of 16,

D. Smith: He is referring to his, this is our proposed,

Ch. Ross: That's your proposed, it is proposed,

D. Smith: His is along this lot line to the south,

Ch. Ross: Ok, so that does not exist, it is proposed

D. Smith: that's proposed

Ch. Ross: Ok, clear, that's why we ask questions,

R. Read: Mr. Chairman, I have a question for you, I guess, in the very beginning he said 2 lots were becoming one lot, and I'm not sure which ones he was talking about,

Ch. Ross: lots 23 & 24 have already been merged with an approved ANR, and that is the lot we have been discussing Bob, that's where we're looking for the variance.

D. Smith: I was also referring to lot 21 & 26. 23 & 24 is already done. I was referring to 21 and 26, that's, these are going to be combined

Ch. Ross: Understood, I think he asked me what 2 lots have already been approved, as merged, and that 23 & 24

D. Smith: (INAUDIBLE) we're just going to adjust the lot line between that and lot 22, and we're also going to be combining lot 21 and 26, (INAUDIBLE) frontage

Ch. Ross: into 23 & 24,

D. Smith: we're going to adjust the lot line

Ch. Ross: adjust the lot lines, but basically you're going end up with 2 lots, is that correct?

D. Smith: we're going to end up with lot 23/24,

Ch. Ross: 22

D. Smith: lot 22, and 21/26

Ch. Ross: so 3 lots,

D. Smith: 3 lots,

R. Read: That's what these drawings show, these 3 lots

Ch. Ross: Showing it merged. Correct?  
D. Smith: We will, 23/24  
Ch. Ross: That's showing it merged, that's correct  
R. Read: What's showing it merged?  
Ch. Ross: The plan  
F. Braga: the way it sits now is what they are proposing, not what currently is,  
D. Smith: This is already been combined, but the lot line is slightly different were adjusting this lot line  
R. Read: I guess my question is why don't you just eliminate that lot line, and put more arrays in there?  
D. Smith: The reason for that, under the current state guidelines the maximum system size is 2 megawatts a/c, so we have to (INAUDIBLE) a separate parcel for each of them, so we have two (2), 2 megawatt system, and one (1), 1 megawatt systems, and they all have to be (INAUDIBLE) under current state regulations. Otherwise we would have one large parcel  
R. Read: 5 megawatt  
D. Smith: (INAUDIBLE) so it's regulations that are (INAUDIBLE) at this point,  
Ch. Ross: any other questions, for any members of the board, is there anyone in addition to Mr. Lockwood, who has any comments, who wants to speak on this issue, do you have anything further, Mr. Lockwood? That hasn't been addressed yet?  
M. Lockwood: I just want to say, I'm not opposed to this at all, I want to see this go in, I just want to be a good neighbor, and expect from the same from these people. And I was looking for, maybe a timeline on when you're starting and when you are finishing.  
D. Smith: Sure, the current timeline for this is, we'd like to start this this year, based on what the state regulations that are in place right now, which would mean that we would need to start construction late summer, August, September timeframe. Probably prefer to do August so (INAUDIBLE) the completion by the end of 2017, (INAUDIBLE) one other thing I'd like to add to the board, Mr. Lockwood had mentioned that he had a previously held conversation with the property owner, Mr. Fisk, when I get back to my office tomorrow, I'll approach our project developer, and we'll get in touch with him, because we want to be a good neighbor, so we're going to what (INAUDIBLE) happy with what we've got in place  
M. Lockwood: I've been good with all the tree clearing and everything else that's happening out there,  
D. Smith: Good. I was not aware of that conversation, and we'll contact Mr. Fisk and our property developer (INAUDIBLE)  
M. Lockwood: Fair enough,  
Ch. Ross: Anything further on this matter? Keith?  
K. Rondeau: I just want to clarify, you are talking about a 6' arborvitae, is that what you are talking about?  
Ch. Ross: I threw that out,  
K. Rondeau: You threw that out, under 6.8.6.2. Section (c) landscaping, if it's around any perimeter, it's supposed to be a 10' landscaped buffer, and if there is a residential district property it's supposed to be 25', so  
D. Smith: We're aware of that, it's still a 10' landscape buffer, the 25' buffer can be a combination of fence, earthen berm, grass, landscaping,  
K. Rondeau: wall  
D. Smith: It's all right there in that section, we can provide a 25' minimum it's just not a the 25' feet of landscape, it's a 10' landscape strip in combination with grass and earthen berm, we have that all the way around the project (INAUDIBLE)  
K. Rondeau: and how high, that would be?  
D. Smith: well, the 10' is the width  
K. Rondeau: how high?  
D. Smith: let me refer to the plan. It's consistent with what was approved before  
Ch. Ross: the planning board

D. Smith: it's not clear on here, (INAUDIBLE) the actual size of the landscaping is not there, but it will be consistent with what was approved, (INAUDIBLE) it's largely the same location with what had been approved, whatever is required under by-law (INAUDIBLE)

Ch. Ross: You've got to comply with the by-law in any event; the issue I addressed is specifically as to the southern border of lot 23/24 that abuts the Lockwood's,

D. Smith: Yes

Ch. Ross: if you would plant 6', is 6' acceptable to you Mr. Lockwood?

M. Lockwood: Absolutely

Ch. Ross: 6' arborvitae or similar bushes to screen his northerly property line,

D. Smith: (INAUDIBLE)

R. Read: How about his westerly property line?

D. Smith: It's already (INAUDIBLE) all the way along the industrial boundary (INAUDIBLE) destination,

Ch. Ross: Speak up, a little louder,

D. Smith: It's already shown along the western boundary (INAUDIBLE), property and also there is also a large wetland area on that, so there is a significant buffer over there,

R. Read: What are we?

Ch. Ross: He's talking about the Lockwood westerly property line,

D. Smith: oh, ok you mean the eastern side (INAUDIBLE) it would be under the same conditions, everything that is adjacent to that lot,

Ch. Ross: lot 19

R. Read: And the 50' buffer on both the north side and the west side of that lot?

D. Smith: Yes

Ch. Ross: Yes, that is what was agreed to

R. Read: I wasn't sure about the westerly line

D. Smith: (INAUDIBLE)

Ch. Ross: Ok, anything further? Nothing, last time, anyone in the audience wish to speak further on this matter? Hearing none, I'll entertain a motion relative to the public hearing,

R. Read: Move we close the public hearing,

Ch. Ross: Motion by Mr. Read, do I have a second?

S. Halajko: Second it

Ch. Ross: Second by Shane, do I have any discussion on the motion, hearing none, on the motion to close the public hearing, all those in favor signify by saying aye, aye, opposed no, ayes have it 5 to nothing. On the pending petition on case number 2017-06, for the variance relief for lots 23/24 on map 35, do I have a motion?

K. Rondeau: If I could attempt a motion, I would move that we approve the variance with the following stipulations, the variance for 20' would be for the eastern boundary of lot 23/24 as shown on the map, it would be 50', it would remain 50' for the southern boundary as it abuts lot 19, for the western boundary as it abuts lot 19, with a 6' arborvitae screening and all other screening around all of the setbacks to be in accordance with section 6.8.6.2 section (c) regarding landscaping in a photovoltaic zone, overlay district, I'm sorry,

Ch. Ross: and If I can add to that, before we vote, amend it on my own and I don't think I heard it, Keith, that owner/petitioner on this petition will plant minimum of 6' tall arborvitae or similar bushes in a tightly planted configuration as any property lines abut any of the Lockwood property lines on map 35, lot 19, and that would be subject parcels southern property line and a portion and of the westerly property line, of lot 21.

D. Smith: It's the easterly property of lot 23/24

Ch. Ross: Easterly property line, did I say westerly? The easterly property line

S. Halajko: did you say 50' from the west of lot 19?

K. Rondeau: It would be 50' here and 50' there

D. Smith: (INAUDIBLE) Lockwood property

B. Garrity: Can I get clarification,

Ch. Ross: Yes

B. Garrity: 20' on the eastern boundary of lots 23/24, 50' on the southern boundary as it abuts lot 19, the western boundary of lot 19 with 6' arborvitae screening and what is the 6.8.6.2 section (c)?

Ch. Ross: All the setback area will comply with the provisions of section 6.8.6.2 c of the zoning by law.

B. Garrity: Ok, and you added the petitioner will plant a minimum of 6' arborvitae or similar tightly planted configuration as the property abuts any of the Lockwood property on map 35, lot 19, southern property line and eastern lot line of 21,

Ch. Ross: Southern lot line of subject, of the subject property, and the easterly property line of lot 21, that's correct. Ok, do we have any disc....

D. Smith: just to clarify, the easterly boundary of lot 21 where it abuts lot (INAUDIBLE)

Ch. Ross: Where it abuts Lockwood property

D. Smith: (INAUDIBLE)

Ch. Ross: Only where it abuts the Lockwood property

D. Smith: Ok. Thank you

Ch. Ross: Not the entire westerly property line, easterly property line, is there any discussion on the motion? Hearing none, on the motion to approve the petition for a variance, do I have a second?

F. Braga: Second

CH. Ross: There being no discussion, all those in favor of approving petition for variance on case 2017-06 with the conditions stipulated in the motions, signify by saying aye, Aye, opposed no, ayes have it 5-0. With the understanding it's not part of our decision by Mr. Smith has already indicated that he will contact his client in respect to the fence location, because that is outside our jurisdiction, they can put the fence anywhere on their property

D. Smith: Clarify that, if we have a 50' setback there, the fence will be 30' off the property line and the (INAUDIBLE) landscaping would be outside the (INAUDIBLE)

M. Lockwood: I see,

Ch. Ross: ok? So now we move on to the special permits, and we will consolidate petitions 2017-07-08-09 for your presentation purposes, and just for the record, these will, 2017-07 as to plat 35 lot 22, 2017-08 is as to plat 35 lot 21, and 2017-09 is as to lots 23/24 which we've just been discussing on the variance. Ok?

D. Smith: I will make my presentation very short, since we've already discussed most of the particulars of the project. It's what I have described to you so far a little over 4.5 acres of arrays surrounded by 6' chain link fence with 1' of barbed wire, (INAUDIBLE) those are 3 systems under current regulations, two 2.8 megawatt a/c system and one 1.4 megawatt a/c system which translates into 2, 2, and 1, (INAUDIBLE) alternating current a/c size so it's 5 megawatts a/c total for the project. As we've discussed it's located in the rear of the Fisk property that's along Woodland Avenue, 68 Woodland Avenue is the address that we are using for this application, the address is one of the lots (INAUDIBLE) to the Fisk's and (INAUDIBLE) property. (INAUDIBLE) think there is a whole lot else in particular that I need to point out to you, I described the racking system that we use, there is very little earth disturbance involved, with the clearing and one lot that has been done so far, there will be some grading operation on the site just to (INAUDIBLE) (INAUDIBLE) material, and what not before the construction of the system, most of the forest area has already been cleared and the previous approvals small amounts of between one and half and two acre that is still to be cleared within the northern part of the system. One thing I didn't mention before is, there is some of that clearing is within the 100' buffer the wetland areas, most of that was previously approved by the conservation commission we are going before them to amend those applications to comply with what we have got, (INAUDIBLE) it is very similar to what (INAUDIBLE) so there is not a lot of (INAUDIBLE), as it's been discussed already the three systems each one has a small equipment area, those are located in the central portion of the site, there is a gravel area around those, and small concrete pads for each piece of mounted equipment. Each of those will have the single pole mounted light that I described before, it's a 9' pole with a single light that is shaded and directed downward, so the only (INAUDIBLE) light in

or near the vicinity of (INAUDIBLE) equipment has just so our safety if someone does need to go on site after dark, which is a very rare occurrence (INAUDIBLE). And anything else that stands out on these, (INAUDIBLE) when you want to address the letter that was received do you want to (INAUDIBLE) some of the issues that were raised there,

Ch. Ross: At the planning board level?

D. Smith: No, I mean the letter that you mentioned

Ch. Ross: Oh, I was going to address that with you, but

D. Smith: (INAUDIBLE) pleasure, however you want to address that, I'm prepared to respond to each of the items that is raised there.

Ch. Ross: Ok, before you do that, let me just, why don't you do that Mr. Smith. Ok, everyone has a copy of Gary's letter that was directed to the chair and the building inspector, and it's basically a 2 page letter with some attachments, last paragraph is as to the tax treaty that is being negotiated, that is way out of our jurisdiction, so generally it appears to me, as an overview, and I'll allow you to discuss it as you so choose, is that, the principal issue of this letter is same issue that Mr. Lockwood raised with the screening. Ok, but having said that, go right ahead in your own words.

D. Smith: So if you refer, the first page is mostly taken up with just the verbiage of our (INAUDIBLE), the final paragraph on the first page refers to a zoning determination order from October of 2106, it is an attachment to that, it refers to the requirement for the special permit, because of (INAUDIBLE) town by-law, there is some notation on what the use there (INAUDIBLE) that is why we are here before you. The two northern system had received special permit approval on this body (INAUDIBLE) had not received, two out of three had not received it, with our application tonight, we'll be in full compliance with that section of your by-law, the second paragraph of that zoning determination letter is regarding 50' frontage (INAUDIBLE) required for each lot, as I've explained previously the form A for lots 23/24 created two narrow parcels one that extends from lot 22 down the western property boundary to Woodland Avenue, it's 50' wide so it provides 50' of frontage for lot 22, and another (INAUDIBLE) is 50' wide it extends across and joins lots 23/24 that provides 50' of frontage for that lot. Lot 21 we are going to reapply readjust the lot line between those two lots to combine lots 21 & 26, so that that provides the required frontage for lot 21 and those two lots in the far right line, so that addresses those number one and number two issues,

Ch. Ross: Just so, let me interject if I could, just so you know, assuming we grant approval of the special permits, it will be subject to you getting final ANR approval from the planner,

D. Smith: Yes, of course we expect that there would be conditions for approval and rightly so, we just didn't want to go through that exercise until we're sure what our system design looks like having to address the issue the conversation of setback and the residential property things like that it'll effect, and exactly whether that interior property lines moves, too, so it's best for us to wait until it's all defined before we get the Form A application, so, to turn to page 2 of Mr. Sagar's letter about halfway down, the second (INAUDIBLE) dimensional table, and in the industrial zone there is a 50% lot coverage in Mass, now you have to look to the definition of lot coverage in the bylaws, it's defined as impervious surfaces covering the ground, of what is considered lot coverage, our modules do not cover the ground they're elevated, they don't actually cover the ground and create an impervious surface on the ground, but if the lot coverage is (INAUDIBLE) in that fashion, then we only have a 2% lot coverage considering the internal driveways and the equipment areas themselves those are impervious surfaces that were created, but that's only 2% of our array area, not the entire lot area. If you considered the racks and modules to be included in that lot coverage calculation then we have 39.2% lot coverage, just within the 24 and 6 acres of the solar arrays themselves, to use entire parcel boundaries that again, the most conservative calculation on that, in this regard yields a 39.2% lot coverage as opposed to the 50% that's allowed within the industrial zone.

Ch. Ross: Ok,

D. Smith: The second point on that second page is regarding the screening, so we basically discussed this to the other parcel

Ch. Ross: Right,

D. Smith: it's that a requirement that had the 10' landscaped buffer and a 25 total buffer containing landscaping, grass or berm fence masonry wall or some combination of these screening devices. and we do meet that (INAUDIBLE) landscaping proposed along the western boundary, where Mr. Sagar's property abuts, so we have landscaping, we've got enough setback to our modules that can provide total 25' buffer area, in combination with our fence, grass and the landscaping, he is requesting a solid wall, I believe

Ch. Ross: or tight evergreen

D. Smith: or tight evergreen, we are providing a tight evergreen hedge and I don't think the wall is called for in the

Ch. Ross: no

D. Smith: in this case, between most of that boundary and the residential property to the west, is wetland area, there is a large expanse of forested area, between the boundary and the development area, where the landscaping will be, and the adjacent property, it is large distance all along the western property line, I think a wall would be excessive in that case, but we are proposing a tight evergreen landscaping

Ch. Ross: and what is he is requesting, is a minimum of 6' which you've already agreed to for the Lockwood's or 2' above the maximum height of your solar equipment, I don't know what that is,

D. Smith: Well, um (INAUDIBLE)

Ch. Ross: we could be talking about

D. Smith: (INAUDIBLE) changes in the ground elevation as well. The property right now has, is going to have some grade to it, after is done (INAUDIBLE) the height of the panels themselves is approximately 7' from the ground elevation, and that is very up and down. And with the other existing tall trees around us to the west, there is not going to be (INAUDIBLE) (INAUDIBLE) see the landscaping or the (INAUDIBLE) I would request that the standard bylaw requirement, that were proposed and already approved along that western boundary remain.

Ch. Ross: Ok, for anyone who didn't read the letter, Mr. Sagar's letter that we've been discussing, he's in favor of this project as well, but he has some concerns that Mr. Smith has just addressed, we'll skip the tax issue that is our jurisdiction.

D. Smith: Well, just for the boards information, I can report to you that we will be pursuing a pilot agreement with the town (INAUDIBLE) I know that is not your jurisdiction it's our standard practice, and our (INAUDIBLE) developer may have already started those negotiations, but if they are not started right now, they will be very shortly

Ch. Ross: I think we're advised has at least contacted the Town Administrator and of course the Board of Selectmen has the final word on this. Ok. Two things, one that you said, kind of in passing about the health, that you have had meetings with the Health Department,

D. Smith: Well the health department is part of the Technical review committee that has reviewed to date; we made an application to Conservation commission (INAUDIBLE) order of conditions

Ch. Ross: I didn't want to get in to the merits of it, I just, because on the first petition, we didn't have it in the motion, I know you know this, but it's a given, but our approval is only for our approval and subject to any other licensee and permits or approvals that you need.

D. Smith: One thing to add, (INAUDIBLE) so far, the project once it goes into operation won't require any services from town, there is no water use, there is no sewage procured, there is no trash that is produced at the site, very little traffic generation, we only visit the site three or four times a year, that's a standard passenger truck, they are not large vehicles coming and going to the site, or traffic coming and going on a daily basis or anything like that, so, it will be a benefit to the town, there will be (INAUDIBLE) taxes that come in to the town coffers, but very little services that are involved to reflect that, most of our tax payment will be free and clear to the tax coffers, so I just wanted to point that out.

Ch. Ross: The last thing I wanted to say, and it's for anyone that's here in the audience, Mr. Smith knows this, and we know this, the only reason we are hearing these three petitions on the special permits, is a matter of timing, and from your perspective its' bad timing. The panels that they are looking to install, are not permitted as a matter of right under our by law, based on the date that the applicant filed his petition, which was February 15 of this year. At the March 1,

B. Garrity: February 27

Ch. Ross: February 27 town meeting, the bylaw was amended to make photovoltaic cells a matter of right on industrial land in an overlay district. The attorney general's department has not yet signed off on it, so it's not formally approved. Had this petition been filed on March 1, instead of February 15, we wouldn't have gone through this entire hearing. We would have as to your issue with the variance, but not as to the Special Permits, for a matter of 14 days, here we are

D. Smith: In real world of construction 14 days can make a difference

Ch. Ross: Yeah, understood, oh no

D. Smith: (INAUDIBLE) town planners that we would be required to complete construction

Ch. Ross: having said that, do any members of the board have any questions on any of the three pending petitions?

R. Read: I do,

Ch. Ross: Bob

R. Read: You mentioned merging lot 21 and the lot to the south of it, I guess,

D. Smith: Yes, lot 26

R. Read: does that mean you could put an array on that property?

D. Smith: no, the solar arrays will be limited to what is being requested in the special permit, which is what is showing on lot 21. There is no plan to extend to the south (INAUDIBLE)

R. Read: Why are you merging (INAUDIBLE)

D. Smith: To meet the frontage requirements, but that way the combined lot will have frontage on (INAUDIBLE)

R. Read: On the, what is this squiggly area here?

D. Smith: that's just a revision line, we realigned our inner connection, from the systems that had lot 21, 22, 23, 24 there'd be an underground medium voltage trench that runs along the eastern property boundary, it will follow an existing access drive then it goes down on the west side of the existing pond there, and the utility has approved our inner connection point at the very south end, yes, that square right there is showing some pad mounted equipment for the inner connection of the three systems. (INAUDIBLE) approved under TJA application, and that is what the utility has approved. They have a utility corridor that runs south of that, it's where our new connection point (INAUDIBLE)

R. Read: This is no longer route,

D. Smith: This narrow parcel is one of the parcels that provides frontage

R. Read: I understand that, I'm talking about this squiggly area

D. Smith: that is just a revision line, the (INAUDIBLE) trench is within this boundary and this is (INAUDIBLE) system (INAUDIBLE)

R. Read: Thank you,

Ch. Ross: Ok, any other questions? From any member of the board, let me poll the audience; is there anyone in the audience who wishes to speak in favor of this petition? Mr. Sagar, we weren't expecting you tonight. But here you are, nonetheless

G. Sagar: Always expect the unexpected

Ch. Ross: Would you raise your right hand please? Do you swear or affirm that the testimony you are about to give will be the truth and the whole truth?

G. Sagar: I do,

Ch. Ross: and for the record, you are appearing here as an individual and not as a member of this board, correct?

G. Sagar: That is correct. I am a direct abutter; I was invited to come to this meeting, so here I am. I do support this project, I think it's a great use of the land, but I disagree with the gentlemen, though, I walked the land a week ago and I have a very clear and unobstructed view of the solar field, this time a year since there are not trees (INAUDIBLE) vegetation, clearly any homes there would be effected by it, so that is why I requested what I requested with the perimeter and the height of the screening, that is my concern.

Ch. Ross: Now, my understanding, based on Mr. Smith's testimony, is that the, depending on the topography, which we don't know, that the height of any given solar panel is 7' is that correct?

D. Smith: Yes

Ch. Ross: From ground level, whatever it is, so what you're requesting, as I understand it, is where the solar panels are visible, arborvitae or some type of similar natural screening of 13' plus

G. Sagar: 2' above the highest,

Ch. Ross: 2' above, ok

G. Sagar: the difficult part about these plans, that I'm concerned about, are always incomplete, there is no final grading, and I chastise the planning board for approving them without it, we have to work with what we've got

Ch. Ross: right, we don't have a topographical map, we don't know what the elevations are, you're indicating, that there is going to be some type of grading, but we don't know what, and that's not really our specific issue, but we have to deal with what we have. So basically whatever ground level is, what you're requesting is solar panel plus 2' for screening to your lot,

G. Sagar: Correct, and if they go down 10' then they have to put in a berm.

Ch. Ross: Understood, anything further?

G. Sagar: no

Ch. Ross: Would you like to address those comments, Mr. Smith?

D. Smith: Yes

R. Read: I have a question, are you saying the street on the back there, to the west, is Robin Hood?

G. Sagar: correct

R. Read: are you saying you could see the array from there?

G. Sagar: No, I'm on the other side of the railroad tracks is my property. I'm a direct abutter

R. Read: You're talking about visibility from your property,

G. Sagar: Correct

Ch. Ross: your concern, Mr. Smith

G. Sagar: If I could approach the board, I can point it out on the plans (INAUDIBLE)

Ch. Ross: Is that the site plan you are talking about? It's the same one I have in front of me, so that's probably better.

G. Sagar: This is my land over in here, and this is where I was in here, and I could clearly see all this cleared over here.

Ch. Ross: So if you could see it clear, you could see the solar panels, is what you are saying?

G. Sagar: Absolutely,

Ch. Ross: Ok

D. Smith: Well, we can agree to use a combination of a (INAUDIBLE) berm in there to help elevate the landscaping that is proposed, we can incorporate another (INAUDIBLE), so there hasn't been a grading plan prepared now, we got (INAUDIBLE) information and the topography of the site and subsequent to our application to this board, it is included on the applications that's going to the conservation commission next week. (INAUDIBLE) copies of that for your information, I (INAUDIBLE) but we do have a grading plan, to flatten out the (INAUDIBLE) materials left on site, we have the states required approval to (INAUDIBLE) 25' buffer with a combination of fence, grass, earthen berm, landscaping as required under your code, so we'll work with that western boundary to provide screening that is tall enough the modules from view.

Ch. Ross: Anyone else wish in the audience wish to speak on these petitions? Anyone wish to speak in opposition, hearing none, do I have a motion as to the public hearing?



S. Halajko: I make a motion we close the public hearing?  
 CH. Ross: Shane, do I have a second?  
 R. Read: Second  
 Ch. Ross: Second by Bob Read  
 R. Read: Is this all three now?  
 Ch. Ross: Yes, all three for purposes of the public hearing. All in favor of closing the public hearing as to matters 2017-07-08-09 signify by saying ayes, aye, ayes have it 5-0. As to, we'll take these one at a time, Gary you abut 22, ok, just bear with me one moment, ok, that's the first one, as to petition 2017-07, we have a letter of determination from the then acting interim building inspector/zoning enforcement official, William McDonough making the determination, that a special permit, and this addresses only map 35, lot 22 which is case number 2017-07, that a special permit for the solar photovoltaic facilities located on that lot is not required, do I have a motion, as to our action on the decision of the interim building inspector as to whether we affirm or overturn his decision. No? No one,  
 G. Sagar: Point of order, Mr. Chairman,  
 Ch. Ross: Yes, Mr. Sagar  
 G. Sagar: (INAUDIBLE) that action would be proper, because nobody appealed the decision of Mr. McDonough, so his decision stands.  
 R. Read: I didn't hear that,  
 Ch. Ross: Nobody it, you did not appeal this decision, did you?  
 D. Smith: no, we didn't  
 Ch. Ross: You're correct Mr. Sagar, I assumed that there was an appeal filed and there was none, you just filed for special permits. So strike my previous comments, ok on 2017-07 which address plat 35 lot 22 do I have a motion on the petition for a special permit?  
 R. Read: We don't have any stipulations that we discussed on that do we?  
 Ch. Ross: we may have the stipulation as to the westerly abutter, which is Sagar Services Inc.  
 K. Rondeau: I would make a motion that we approve 2017-07 for a special permit, as presented with a stipulation that along the westerly boundary of lot 22 as it meets the easterly boundary of lot 20, the screening or arborvitae be at least 2' higher than the highest point of the solar array panels,  
 Ch. Ross: If I could, a minimum of 6'  
 K. Rondeau: a minimum of 6' or 2' higher.  
 Ch. Ross: Do I have anything further,  
 R. Read: How about to the west of 21?  
 Ch. Ross: we're not dealing with 21 yet,  
 R. Read: oh ok  
 Ch. Ross: This petition is only as to lot 22, ok the only thing I will take it upon myself to add and this will be as to all three petitions, that all of this is subject to final ANR approval for the merger of the lots, and the road frontage that we've been discussing to lots 21, 22, and 26. Is there any discussion on the motion as presented? Hearing none, do I have a second with the two stipulations as stated?  
 R. Read: second  
 Ch. Ross: Having a second, all those in favor of granting the petition for a special permit for case # 2017-07, signify by saying aye, aye, opposed no, ayes have it 5-0. Ok case number 2017-08 this is for a request for a special permit as to plat 35 lot 21, do I have a motion on that petition?  
 K. Rondeau: Mr. Chairman, may I ask a question,  
 CH. Ross: sure  
 K. Rondeau: my reading of this is lot 21 does not abut lot 20, correct?  
 Ch. Ross: lot 21 does not abut 20 and I didn't hear Mr. Sagar have any issues with lot 21 in any event,  
 D. Smith: that is correct it is separated by the narrow parcels  
 K. Rondeau: the strips  
 Ch. Ross: by the strips, that is correct

R. Read: Now we are dealing with this once again, because of the timing of the  
Ch. Ross: filing of the application, that's correct, if this application was filed today, we'd never hear it.  
K. Rondeau: Mr. Chairman, I'd make a motion that we grant the special permit as presented for petition 2017-08.  
Ch. Ross: Do I, is there any discussion on the motion? Do I have a second on the motion?  
R. Read: Second  
Ch. Ross: motion being properly seconded, all those in favor of granting the petition for a special permit for case number 2017-08, signify by saying aye, aye, opposed no, ayes have it 5 to nothing. I didn't put it in here but as you understand, and Bridget will put it, this is subject to the final ANR approval as to the reconfiguration and showing the road frontage  
D. Smith: (INAUDIBLE)  
Ch. Ross: last matter is 2017-09, and that's the request for a special permit on plat 35 lots 23/24 as merged has, let me just interject, has a lot number been assigned to that merger yet?  
D. Smith: not that I know of  
Ch. Ross: you don't know what number is going to survive? So do I have a motion?  
K. Rondeau: I make a motion that we grant the special permit for petition 2017-09, as presented, with the stipulation that they abide by the stipulations as stated in 2017-06  
Ch. Ross: as to the ANR plans  
K. Rondeau: as the ANR plans and screening, etc  
Ch. Ross: Any discussion on that motion as made? Hearing none, do I have a second?  
S. Halajko: Second it  
Ch. Ross: having a second, all those in favor of granting the special permit in case 2017-09 signify by saying aye, ayes, ayes have it 5-0. Good Luck Mr. Smith.  
D. Smith: thank you very much for your time.  
Ch. Ross: We are done with the public hearing, all we have left is new business, approval of the minutes of the March 6, 2107, and do I have any changes or revisions to the minutes as submitted? By madam clerk, Hearing none, all those in favor of approval of the March 6, 2017 meeting as submitted, signify by saying aye, aye, opposed no, ayes have it 5-0. Do I have a motion to adjourn?  
K. Rondeau: Motion to adjourn  
F. Braga: Second  
Ch. Ross: Motion made and seconded in a New York minute, all those in favor of adjourning, signify by saying aye, aye, opposed no. Good Night all

Respectfully submitted by,  
Bridget Garrity, Clerk

Neal Abelson  
Building Inspector  
Town of Seekonk  
100 Peck St.  
Seekonk, MA. 02771

Roger Ross, ESQ.  
Chairman, Zoning Board of Appeals  
Town of Seekonk  
100 Peck St.  
Seekonk, MA. 02771

March 31, 2017

RE- Plat 35 Lots-21,22,23,24- Zoning Board of Appeals Petitions

**2017-06 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Variance**, under Section 5.1.4 of the Town of Seekonk Zoning Bylaws for relief from the minimum side yard setback of 50' to 20' for a proposed large scale, ground mounted solar photovoltaic facility 68 Woodland Avenue, Plat 35, Lots 23 & 24 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 14.5 acres.

**2017-07 Jeffery H. Fisk, Trustee of Fisk Family Realty Trust**, 8 Jameson Drive, Rehoboth, MA 02769 Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lot 22 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.5 acres.

**2017-08 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lot 21 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.32 acres.

**2017-09 Jeffery H. Fisk**, 72 Pond Street, Seekonk MA 02771, Owner, Borrego Solar Systems, Inc attn: Dean Smith, 55 Technology Drive, Suite 102, Lowell, MA 01851 Petitioner, requesting a **Special Permit** under Section 4.2.2.g "Institutional, Utility and Recreational Uses" of the Town of Seekonk Zoning Bylaws for Public or Private utilities in an industrial district for a proposed large scale, ground mounted solar photovoltaic facility 0 Woodland Avenue Rear, Plat 35, Lots 23 & 24 in an Industrial Zone within the Solar Photovoltaic Overlay district containing 12.32 acres.

Dear Mr. Abelson,

I have been notified as an abutter to these four petitions. With your consent and knowledge I discussed these petitions and the project as a whole with Interim Building Commissioner/Zoning Enforcement Officer, William McDonough. Mr. McDonough previously issued a Zoning Determination letter on October 3, 2016 relative to one of the subject properties, see enclosed.

RECEIVED MAR 31 2017  
ZONING BOARD OF APPEALS  
Seekonk Town Hall  
100 Peck St.  
Seekonk, MA 02771



Boards Exhibit 1 Accept. w/o Prudg.



While reviewing the submittal for these four petitions, my understanding of the Seekonk Zoning By-laws Section 6.8-SOLAR PHOTOVOLTAIC OVERLAY DISTRICT, Section 6.8.6 & particularly 6.8.6.1:

6.8.6

Dimensional and Design Standards

The following elements, in addition to any standards prescribed elsewhere in this By-law, **shall** be utilized by the Board in considering all site plans.

6.8.6.1

Dimensional Standards

a.)

Setbacks

b.)

All construction **shall** comply with the yard, space, and height requirements of the underlying zoning district(s).

Referencing Section 5.1-DIMENSIONAL TABLE- The maximum Lot Coverage In an Industrial Zone, which is the underlying zoning district is 50%. The submitted plans appear to be in excess to the maximum allowed under the by-law. It is my opinion that the approved plan by the Planning Board, if as it appears is in excess of 50%, cannot be permitted/built without a variance issued by the Zoning Board of Appeals.

Mr. McDonough reviewed the plans as I described above and concurred with my opinion. Please contact him to confirm my statement.

My reason for raising this issue is that this Solar Photovoltaic Project is a great use of this land, provided it is constructed properly. This project has my full support, including being in favor of a variance for an increased density as shown on the submitted and approved plans by the Planning Board.

I will be requesting from the Zoning Board of Appeals that proper screening be provided where it abuts my property in accordance with Section 6.8.6.2 (c)(i).

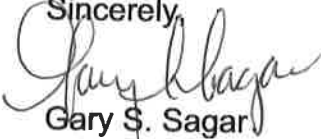
Landscaping - A minimum 10 foot landscaped buffer around the perimeter of all sites shall be provided. A 25 foot buffer containing landscaping, a grassed earth berm, a fence, masonry wall or some combination of these screening devices, shall be provided on each side which adjoins or faces the side or rear lot line of a parcel in residential use or in a residential district.

My request is that a wall of solid appearance or tight evergreen hedge, not less than six, but at a minimum height of two feet above the maximum height of the highest elevation of any component of the Solar Equipment, be installed and maintained in perpetuity.



The economic, environmental, and neighborhood friendly aspect to this project should encourage the immediate abutters and the community as a whole, to fully embrace and support this project. We all benefit from initiatives such as this too further clean energy while providing a vital financial long term resource for the Town. I will provide a copy of this letter to Mr. McDonough, the Zoning Board of Appeals, and my abutter, Jeff Fisk. Additionally to the Town Administrator as the petitioners have requested a PILOT (payment in lieu of taxes) which the final permitting may effect. I request this letter and attachments be included in the record for these Petitions. Please contact me with any questions.

Thank-you  
Sincerely,



Gary S. Sagar  
President  
Sagar's Services, INC.  
100 St. Laurent Parkway  
Seekonk, MA. 02771  
508-761-5065

ACNOWLEDGEMENT CERTIFICATE

Commonwealth of Massachusetts

County of Bristol

On this 31<sup>st</sup> of March, 2017, before me,

Christina P. Testa the undersigned notary

public, personally appeared Gary S. Sagar, (name

of document signer) proved to me through satisfactory evidence of identification, which

were personally known to me, to be the person whose name is signed on

the preceding or attached document, and acknowledged to me that (he) (she) signed it

voluntarily for its stated purpose.



**CHRISTINA P. TESTA**  
Notary Public  
COMMONWEALTH OF MASSACHUSETTS  
My Commission Expires  
September 21, 2018







## Building Department

100 Peck Street

Seekonk, MA 02771

Interim William McDonough, C.B.O. Building Commissioner/  
Zoning Enforcement Officer

Office#: (508) 336-2990

Fax #: (508) 336-0764

DATE: October 3, 2016

TO: Seekonk Planning Board

FROM: Building Commissioner/ Zoning Enforcement Officer

MAR 31 '17 AM 10:34

RE: 0 Woodland Avenue Rear Map: 035.0 lot: 022.0

Zoning determination relative to correspondence of Sagar Services Inc; regarding the August 22, 2016 decision of the Seekonk Planning Board on the site plan application of TJA Solar to allow a solar photovoltaic facility SPF.

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After review of the two issues the Planning Board has submitted and review of the requirements of the current Seekonk Zoning By Laws, the following determinations have been made.

1. With regard to whether or not a Special Permit is required for Solar Photovoltaic Facilities located within the Solar Photovoltaic Overlay District, my answer would be no. Section 6.8 of the Zoning By Laws does not specify that a special permit is required. A Planning Board Site Plan is required and a Special Permit would just be redundant.
2. Whether a building permit can be issued to a lot lacking frontage on a public street but otherwise accessed through adjoining lots under separate ownership. My answer to this would be only if the Zoning Board grants a variance for minimum frontage. The proposed project lies in the Industry Zone which requires 50 feet of frontage. The Zoning Board would have to grant a variance of 50 feet from the required 50 feet, leaving a required 0 feet of frontage. During that variance hearing I'm sure the access to the land would be worked out by the Zoning Board. Also, any and all zoning requirements would need to conform for a building permit to be issued.

Sincerely,

William McDonough

Town of Seekonk

Interim Building Commissioner/  
Zoning Enforcement Officer

Cc: Town Administrator

Zoning Board of Appeals

Town Clerk

File



5.1.4 Dimensional Table

District	Minimum Lot Area (Square Feet) <sup>12</sup>	Maximum Lot Coverage (%) <sup>12</sup>	Minimum Frontage <sup>1</sup> (feet)	Minimum Depth of Front Yard/ Corner Side Yard (feet) <sup>2</sup>	Minimum Depth of Rear Yard (feet)	Minimum Depth of Both Front and Rear Yards	Minimum Width of Each Interior Side Yard	Maximum Height (Stories/ Feet)
R-1 <sup>3</sup>	14,400 <sup>3</sup>	--	100	35/35	25	50% of longest side	15 feet + 5 feet for each story over one	3/40 <sup>4</sup>
R-2 <sup>3</sup>	22,500 <sup>3</sup>	--	120	35/35	50	--	20 feet + 5 feet for each story over one	3/40 <sup>4</sup>
R-3 <sup>3</sup>	40,000 <sup>3</sup>	--	150	50/50	70	--	35 feet + 5 feet for each story over one	3/40 <sup>4</sup>
R-4 <sup>3</sup>	62,500 <sup>3</sup>	--	200	50/50	80	--	35 feet + 5 feet for each story over one	3/40 <sup>4</sup>
LBD	10,000	40	50	10/10 <sup>6,7</sup>	See note 8	--	15 feet <sup>6,7</sup>	3/40
HBD	10,000	30	50	70/50 <sup>6,7</sup>	See note 8	--	15 feet <sup>6,7</sup>	3/40
LCVD	10,000	75	50	0/5 <sup>6,7</sup>	See note 8	--	5 feet <sup>6,7</sup>	4/45
<b>I</b>	20,000	<b>50</b>	50	50	20 <sup>9,10</sup>	--	20 <sup>9,10</sup>	3/40 <sup>11</sup>

(See page 35 for footnotes for Dimensional Table 5.1.4)

MAR 01 11 46:10:34



## 6.8.6 Dimensional and Design Standards

The following elements, in addition to any standards prescribed elsewhere in this By-law, shall be utilized by the Board in considering all site plans.

### 6.8.6.1 Dimensional Standards

MAR 31 '17 AM 10:34

#### a.) Setbacks

- b.) All construction shall comply with the yard, space, and height requirements of the underlying zoning district(s).

### 6.8.6.2 Design Standards

#### a.) Parking Requirements

The application shall demonstrate that adequate access, parking, and circulation are provided for service and emergency vehicles as determined by the Board.

#### b.) Drainage

Erosion and sedimentation control shall conform to Category 20B – Stormwater Management – Construction of the General By-laws. Runoff control shall conform to Category 20C – Stormwater Management – Post-Construction of the General By-laws.

#### c.) Landscaping

- (i) A minimum 10-foot landscaped buffer around the perimeter of all sites shall be provided. A 25-foot buffer containing landscaping, a grassed earth berm, a fence, masonry wall or some combination of these screening devices, shall be provided on each side which adjoins or faces the side or rear lot line of a parcel in residential use or in a residential district.
- (ii) Any double row of parking spaces shall be terminated by landscaped islands which measure not less than ten feet in width and not less than 36 feet in length. The interior of parking lots shall have at a minimum landscaped center islands at every other double row as applicable. Pedestrian paths may be incorporated within the landscaped area provided a minimum of four feet, exclusive of paved areas, is maintained for all landscaped areas. Said double rows of parking spaces shall not exceed twenty (20) adjacent spaces or ten (10) spaces in each row.
- (iii) The interior of parking areas shall be shaded by deciduous trees to the maximum extent practicable without limiting sunlight exposure of the SPF.
- (iv) Landscaping shall be so designed as to prevent parking or driving on any portion of a landscaped area except grassed areas to be used as overflow parking areas.
- (v) Landscaping, which shall all be live, shall include trees or shrubs of a potential height of at least three (3) feet sufficiently spaced to define and screen the area in the event the landscaping is inadequately maintained. Landscaping shall not interfere with a safe view of traffic or pedestrian flow.
- (vi) Utility areas as well as garbage collection, recycling areas, and other outside storage areas shall be screened by a planted buffer strip along three sides of such a facility. Planting material should include a mixture of evergreen trees and shrubs.

#### d.) Lighting

The minimum illumination levels measured in foot-candles for all parking spaces serving the designated uses of the SPF District is 1.0 foot-candle.

