

Schacht & McElroy

Robert M. Schacht
Michael R. McElroy

Attorneys at Law

(401) 351-4100

fax (401) 421-5696

Members of Rhode Island
and Massachusetts Bars

21 Dryden Lane

Post Office Box 6721

Providence, Rhode Island 02940-6721

email: RMSchacht@aol.com

McElroyMik@aol.com

February 5, 2008

Luly Massaro
Clerk
Public Utilities Commission
Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Re: Block Island Power Company

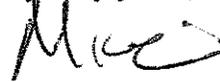
Dear Luly:

As you know, this office represents Block Island Power Company (BIPCo).

Enclosed for filing in this matter is an original and 9 copies of the Appeal by Block Island Power Company Pursuant to R.I.G.L. § 39-1-30.

If you have any questions, please feel free to call.

Very truly yours,



Michael R. McElroy

MRMc:tmg

BIPCo9:Sale-Massar0 5

cc: BIPCo owners (via e-mail only)

Walter Edge

Elliot Taubman, Esq.

Donald Packer, Esq.

Paul Roberti, Esq.

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: BLOCK ISLAND POWER COMPANY : Docket No. _____

APPEAL BY BLOCK ISLAND POWER COMPANY PURSUANT TO R.I.G.L. § 39-1-30

1. Block Island Power Company (BIPCo) is a company under the supervision of this Commission.

2. On January 28, 2008, the Building Inspector/Official of the Town of New Shoreham rendered a decision and issued a Zoning Certificate to BIPCo regarding Plat 17, Lot 37, attached hereto as Exhibit 1 and incorporated by reference herein.

3. Pursuant to R.I.G.L. § 39-1-30, "Every ruling, decision, and order of ... a building ... inspector of any municipality affecting the placing, erection, and maintenance of any plant, building, wires, conductors, fixtures, structures, equipment, or apparatus of any company under the supervision of the commission, shall be subject to the right of appeal by any aggrieved party to the commission within ten (10) days from the giving of notice of the ruling, decision, or order."

4. In addition, under this statute, "The commission, after hearing, upon notice to all parties in interest, shall as speedily as possible determine the matter in question, weighing the consideration of public convenience, necessity, and safety against the consideration of public zoning, and shall have jurisdiction to affirm or revoke or modify the ruling, decision, or order to make any order in substitution thereof."

5. BIPCo believes that in light of considerations of public convenience, necessity, and safety, the Zoning Certificate set forth in Exhibit A attached hereto should be revoked or modified by this Commission. An informational filing outlining the transaction which relates to the Zoning Certificate was previously filed with this Commission by BIPCo on or about May 24, 2006, and is incorporated by reference herein.

6. BIPCo also expects to appeal the Zoning Certificate to the New Shoreham Zoning Board of Review.

7. Accordingly, BIPCo is filing this appeal with the Commission so that it will be in compliance with the ten (10) day appeal period set forth in R.I.G.L. § 39-1-30, but BIPCo respectfully asks to the Commission to hold this appeal in abeyance pending a decision from the Zoning Board.

8. If the Zoning Board grants BIPCo's appeal, then no Commission hearing on this matter will be necessary, and BIPCo will voluntarily dismiss this appeal at that time. If, however, the Zoning Board fails to grant BIPCo's appeal, then at that time BIPCo will ask the Commission to, as speedily as possible, determine the matter.

WHEREFORE Block Island Power Company respectfully requests that the Commission determine the matter in question, weigh the considerations of public convenience, necessity, and safety against the consideration of public zoning, and revoke or modify the Zoning Certificate issued by the Town of New Shoreham.

Date: _____

2/5/08

Respectfully submitted,
Block Island Power Company
By its attorney



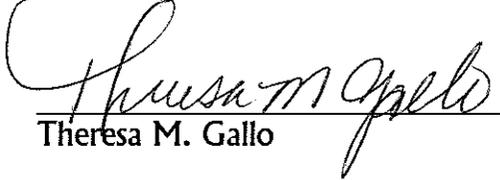
Michael R. McElroy #2627
Schacht & McElroy
21 Dryden Lane
P.O. Box 6721
Providence, RI 02940-6721
Tel: (401) 351-4100
Fax: (401) 421-5696
E-mail: McElroyMik@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2008, I mailed a true copy of the foregoing by first class mail to the following:

Donald Packer, Esq.
1220 Kingstown Road
Peace Dale, RI 02883

Paul Roberti, Esq.
Attorney General's Office
150 South Main Street
Providence, RI 02903


Theresa M. Gallo



TOWN of NEW SHOREHAM
DEPARTMENT of BUILDING INSPECTION
OFFICE of BUILDING OFFICIAL

NEW SHOREHAM, RI 02884
TELEPHONE (401) 466-9690
FAX (401) 466-9691
TOWNSHIP (401) 466-9692

Elliot Taubman, Esq.
Taubman Law Offices
P.O. Box 277
Block Island, RI 02807

Re: Assessors Plat 17, Lot 37
Block Island Power Company

ZONING CERTIFICATE

The Property is located in the Town of New Shoreham and is designated as Lot 37 on Assessors Plat 17, being the Plat as of August 2005, in the office of the Tax Assessor of the Town.

I reviewed the following information in rendering this opinion:

1. A letter from Taubman Law Offices, Ltd., dated October 18, 2007 requesting a Zoning Certificate for the above entitled property. The Taubman letter describes the current uses on the property and his understanding of the history of prior uses on Lot 37.
2. An affidavit signed by Andrew Transue, president of A. Transue & Company¹, dated 18 September 2007, stating that he has leased a portion of Lot 37 since 1987.

In the affidavit Mr. Transue stated that A. Transue & Company built a four bay garage on Lot 37 on 1987. The use of the building was for storage and repair of his company's construction equipment.

3. A building permit number 4953, dated 8 July 1987, issued to A. Transue Corporation to "erect barn on existing foundation with 12x28 cement block foundation 74'x30'- 2220 sq. ft. to be used for storage only."
4. A building plan attached to building permit number 4953 showing the elevations of the building and a floor plan with the intended use listed as "truck storage".
5. A self serving affidavit from Clifford R. McGinnes Sr., Vice President and Chief Operating Officer of Block Island Power Company, which owns Lot 37. In the affidavit Mr. McGinnes describes the history of some of the uses on Lot 37, in particular the garbage building which was built and used by A. Transue & Company and other subsequent sub lessees.

1. In Mr. Taubman's letter he references A. Transue & Company, the actual name of the business is A. Transue Corporation.

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The purpose of this Zoning Certificate is to provide guidance and clarification regarding whether the intended or existing uses, buildings and structures conform to the permit(s) issued and comply with, or are legally non-conforming under the provisions of the Zoning Ordinance.

Mr. Taubman requested this office, "to issue a Zoning Certificate as to Assessors Plat 17, Lot 38 and a portion of Lot 37, which is leased to the Marjorie G. McGinnes Estate". Zoning Certificates are not issued for portions of a lot. The two lots are under separate ownership. A Zoning Certificate is issued for an individual lot or parcel of land. This Zoning Certificate is for Lot 37.

I find that:

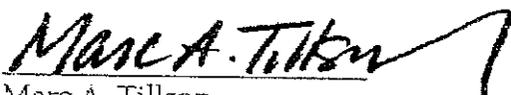
1. The Property is located entirely within the Service Commercial Zoning District.
2. The Property is a conforming lot of record.
3. The Property is serviced by municipal sewer and water.
4. There exists on The Property a lawful prior existing, legal, non-conforming use of a Utility Facility (Section 417), operated by the Block Island Power Company (BIPCO).
5. There exists on The Property three (3) one story buildings for housing electric generating equipment and associated equipment storage.
6. The three (3) buildings are legally non-conforming by location.
7. There exists on The Property a prior existing, legal, nonconforming underground storage tank facility for the storage of petroleum products.
8. There exists on The Property an area for equipment and propane storage, allowed by a Zoning Special Use Permit, for Hull Suburban Propane Company.
9. There exists on The Property a cellular antenna tower facility, allowed by a Zoning Special Use Permit and five (5) associated one-story equipment buildings.
10. There exists in The Property a radio station allowed by a Zoning Special Use Permit and associated equipment building at the base of the cellular antenna tower.
11. There exists on The Property a one story five (5) bay garage building, allowed by a Zoning Special Exception, for the storage and repair of equipment associated with a construction and excavation business.
12. There exists on The Property an outside area for the storage of stone and gravel material associated with the construction and excavation business.
13. There exists on The Property a portion of an electrical substation allowed by a Zoning Special Use Permit.
14. There currently exists on the property the following additional uses:
 - A large storage trailer, used for the storage of equipment associated with the construction and excavation business.
 - An automotive services and repair business located within two of the work bays of the five (5) bay garage building.
 - Three additional businesses are using the other three (3) bays of the five (5) bay garage for warehousing and storage of equipment.

In 1987, the Zoning Board granted a Special Exception to A. Transue Corporation to operate a construction and excavation business on Lot 37. A. Transue Corporation obtained the required building permit to construct the five (5) bay garage for the storage and repair of heavy equipment associated with the business. A five (5) bay garage was constructed in the area approved by the Special Exception. At no time was A. Transue Corporation in the business of automobile service and repair. A. Transue Corporation vacated the garage building but continued operating the construction and excavating business outdoors in the area specified by the 1987 Special Exception and continues that lawful construction and excavating business today.

After A. Transue Corporation vacated the garage building, new businesses operated out of or warehoused equipment in the garage building. Four (4) businesses are currently using the garage building. I found no building or occupancy permits for the new businesses which occupied the garage building.

If you should feel aggrieved by this decision you may appeal to the Zoning Board of Review within twenty (20) days of the date of this Zoning Certificate.

Dated this 28th day of January, 2008, at New Shoreham, Rhode Island.



Marc A. Tillson
Building Official
Town of New Shoreham

Cc: Nancy O. Dodge, Town Manager
Jennifer Brady Brown, L.U.A.O.

RECEIVED FOR RECORD IN
NEW SHOREHAM, R.I.
DATE: 1-28-08 TIME: 10:02
BY: FIONA FITZPATRICK TOWN CLERK