



TOWN OF WARE

Conservation Commission

126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext. 117

Meeting Minutes from
Wednesday, June 10, 2020
Selectmen's Conference Room, Town Hall

Commission Members Present: Chairman Mark Swett, Dennis Cote, Thomas Barnes, Kristin Rosenbeck, Dave Kopacz

Public in Attendance: Nicole Croteau, Anna Marques, Hector & Mariangela Figueroa, Steven Pikul, Rodney Galton, Joy Cook, Bill Zinni, Bob Kibole (Ecos Forester)

Governor Baker's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, dated March 10, 2020, allows remote participation under this Order due to the Coronavirus State of Emergency.

PLEDGE OF ALLEGIANCE

Chairman called the meeting to order at 6:37 pm and T. Barnes led the Pledge of Allegiance.

APPLICATIONS

RDA-2016-03 TEC Associated, MA Central Railroad Corp

David Kopacz performed a site walk and discussed with Tom Barnes the outcome. Tom reported that the ties were marked correctly. There are two booms, when they reach a marker, they stop and spray as needed.

MOTION by Tom Barnes to close RDA-2016-03 public hearing, Seconded by Kristen Rosenbeck. No discussion. All in Favor 3/0.

DEP No File Number Given, Sunnyside Storage, 319 Palmer Road

The applicant has requested a continuation until the next scheduled meeting date.

MOTION by Kristin Rosenbeck to continue the public hearing until next scheduled meeting. Seconded by Tom Barnes. No Discussion. All in Favor 3/0.

DEP 317-452, Ecos Energy, Monson Turnpike Road, Notice of Intent (Large-Scale Solar Arrays)

Rodney Galton is the project manager for the proposed solar arrays. The intent is to keep the roads as approved within the subdivision; but having gravel roads. Tom Barnes stated his concerns were made about the ice sheet flow going into Beaver Lake. Discussion was made about the wetland crossing. Rodney stated that maybe remove the wetland crossing now but possibly revisit that idea in the future since this project is buffer zone only impact project. Tom spoke about the tree harvest. The plan approved is removing a lot of trees and the runoff would destroy Beaver Lake and doesn't feel bridge could handle the water increase. If the bridge is damage, this could affect Fire Department and Police Department in emergencies. Very concern with what can come off the property when the trees are cut.

Dave Kopacz arrived at 6:42pm remotely.

Chairman stated he though the crossing was for the small array area. Rodney stated the project was in peer review for the stormwater design and will address what is needed but not a lot of comments were made. Rodney stated if the Conservation seems it as a benefit to remove the crossing, yes, the Commission agreed it would be beneficial. Rodney tried to state it was the same impact as the subdivision design. The subdivision was approved in 2006. Regulations have changed.

Chairman stated that due to COVID items have been delayed and wanted to give Ecos an opportunity to update the Commission the status of the project. Rodney asked if the wetland crossing was removed, would the Commission still see this project as complex and delay the hearing? Chairman stated yes. Chairman also stated removing the crossing is a great idea.

Nicole asked Rodney if he would be revising the plans by removing the crossing? He was unsure of what Ecos would like to do. Nicole and Rodney discussed that revisions can still be submitted for the peer reviewer to review and comment, so it does not delay the process.

David Kopacz stated the stormwater is under peer review to verify if it is properly sized. Will be looking for language in the narrative addressing the surface runoff and any potential movement once ground is broken, the Commission will be verifying if the site is stabilized once project is started, slope, bedrock stabilized and anything problematic.

Nicole stated the Forest Cutting Plan was approved. Tom was unaware of the number of trees were being cut. Rodney stated 50 acres out of the 140 acres are under the cutting plan. Chairman stated on another project, trees were cut and owners walked away, so we are concerned.

Bob Kobile, the forester is in no rush to start. Trying to work together, so the work is done the right way. Does the Commission have any questions about the approved cutting plan? Chairman did ask, in the area of the solar panels and roadway, is this part of the cutting plan or separate plan. Bob stated its Conservation jurisdiction. Bob also said Emerald Ash Bore was found on site.

Rodney will continue to have correspondence with Nicole with updates. Tom said that removing the crossing takes a load off his mind.

MOTION by Dennis Cote to continue until next scheduled meeting. Seconded by Kristin Rosenbeck. No discussion. All in Favor 4/0/1(Dave Kopacz).

DEP 317-463, Bertin Engineering Inc for Melink Solar Development, FT Smith, Greenwich Road, Notice of Intent (Large-Scale Solar Array)

Applicant has requested a continuation until next scheduled meeting.

MOTION by Tom Barnes to continue as requested. Seconded by Kristin Rosenbeck. No discussion. All in Favor 4/0/1 David Kopacz.

DEP 317-465, Bertin Engineering Inc for Melink Solar Development, Couture, Greenwich Road, Notice of Intent (Large-Scale Solar Array)

Applicant has requested a continuation until next scheduled meeting.

MOTION by Kristin Rosenbeck to continue as requested. Seconded by Tom Barnes. These are continued because Nicole just sent the plans out for review and we are still waiting for checks from Melink. All in Favor 4/0/1 Dave Kopacz.

DEP No File Number Given, Bertin Engineering Inc for Melink Solar Development, Harder, Osborne Road, Notice of Intent (Large-Scale Solar Array)

The Commission is acting on the Enforcement Order. David Kopacz stated the violation is 110LF as stated on the Enforcement Order and dates have been provided on the Order. If the applicant is ready to submit a restoration plan, they are more than welcome to submit it for review. Nicole presented the plan to the Commission as required under the Order by June 9th. Dave is more concerned about the bank being reshaped and stabilized. Does not except disturbance around the foundation. The applicant wants this done and behind them. Tom said behind the garage there is a culvert and a bunch of rumble that goes into Muddy Brook. Bill Zinni said he saw disturbance. Joy Cook said the clearing of the property has repeatedly washed out her driveway, having to re-shovel during and after rainstorms. Joy Cook shared her screen to show her land regarding the area that was cleared and how it floods her yard. Water is constantly pouring into her yard/driveway. Steven Pikul from Bertin Engineering asked Joy if Joel Harder spoke to her directly about this? Joy said over a year ago she had Joel come over because of her husband's work relationship with Harder. He came over, told her how things could be done and fixed, never provided a quote, or any other communications after that visit. Joy didn't know it was related to his site until after she did her own research. Joy tried reaching out 2-3 weeks ago and no response. The aerials clearly show the water runoff.

Chairman would like to ratify the Enforcement Order first and the required steps in the Order. The Applicant submitted the plan but still need to know who the applicant is hiring for a wetland scientist. Chairman would like to revisit the site and is becoming more complex.

Joy Cook asked about a third-party review, what is the status? Chairman stated this is not yet ready because the Commission is acting on the Order.

Tom Barnes stated this lot is also an Estate Lot. The engineer needs submit a subdivision plan through the Planning Board. There is still a long way to go. Steve said the owner will address any stormwater issues and intends to make any corrections. As far as other hydro behind the garage, this is out of the resource area.

Joy Cook said her neighbor, Rob Campbell gave Commission permission to walk his property. Chairman would like to arrange a site visit with owner and Hardwick Commission. General discussion was made about peer review and process.

MOTION by Kristin Rosenbeck to ratify the Enforcement Order dated June 2, 2020 for 278 Osborne Road. Seconded by David Kopacz. Discussion: Steve wanted specific language stating which infrastructures we are talking about. The two wetlands which were disconnected will now be connected. Chairman did not state a specific item(s). Chairman tends to do further investigation on his own. EcoTec will be the wetland consultant. This EO is for the installation of the culvert and foundation without a permit, that is it. The flooding on abutting properties is separate. The EO is limited to taking the pipe and crossing out, replacing it the way it was, getting rid of the unpermitted foundation and restoring that to the way it was. Steve said this was the first time about hearing about removing the foundation. End of Discussion. All in Favor 4/0/1 Dave Kopacz.

Nicole asked what is the next step? Chairman stated this address certain dates and tasks required. Chairman said we can address this tonight. Nicole stated the EO was mailed on June 9 and three days later the plan was submitted, no description or supporting documents. Steve said the compliance statement will now be issued but couldn't until the EO was issued. Chairman would like to address this ASAP. Dave asked Steve to propose a consultant to act on the EO. Steve would like to nominate EcoTec to do the evaluation. Dave asked the Commission if that is ok.

MOTION by Dave Kopacz to accept EcoTec as the consultant to act on the Enforcement Order for 278 Osborne Road, Harder's site. Seconded by Dennis Cote. Discussion: Steve stated: "in order to respond to the EO, I need to issue a compliance statement so you would have to vote to approve the compliance statement to address the EO with the consultant." Chairman stated he cannot address a compliance statement he has not seen. The Commission just needs to accept and approve the consultant. All in Favor 4/0/1 Dave Kopacz.

MOTION by Dennis Cote to continue the public hearing until next scheduled meeting. Seconded by Kristin Rosenbeck. No Discussion. All in Favor 4/0/1 Dave Kopacz.

ADMINISTRATION

Hector & Marianela Figueroa, 55 Greenwich Plains Road

Dave spoke a prior filing for septic work being done near the road. What was approved was only the septic and no other work or alternations. On the downslope, there has been activity below. Dave would like to have a site walk with Commission and owners to discuss what would require a filing and not a filing. Unsure of the alterations what have been done to date. Hector stated the activity included adding stone on the hill and the driveway. Cleaned up the brush and debris from previous owner (paint cans / tires, etc.) Dave stated usually not a problem, the stone would like to verify. The Commission was unsure of the exact intent of work so that is why we asked you here tonight. Figueroa's need to understand that when you do such work near the river, within 200ft, you need to follow guidelines. Chairman suggested a site walk.

Administration Report

Shady Lane – Dave Kopacz stated the silt fence was installed but silt did go under the fence. The neighbor has issues, nonconforming lot. Not putting in slab but pillars. Dave agreed to hear the application under an RDA incase other Boards may change the footprint of the foundation. But if it can't be conditioned under an RDA then will have an NOI. Chairman asked Dave to contact the homeowner to remove the silt under the fence. Anna Marques stated the grass has started to come in. At this point it is stabilized, less of an issue at this point.

Chairman asked Dave if he has spoken to Mark Stinson about drawing water from rivers for hydroseeding because Chairman saw police stopping traffic so a truck can do this. Dave did talk to Stinson and Stinson suggested to have commercial use file a NOI. Make sure the water take does not cause a water loss when they do draw the water. Commission can make a conditions: ask for pumping log and not allowed during drought times. Tom asked about Zebra Mussels being spread, using same hose in different water sources. Dave said not really. Can make it conditions so the companies do not backwash. Chairman asked for a general letter to be sent to these companies. Nicole asked if companies can file an RDA over a NOI, but Dave said no, NOI, any commercial needs to do NOI. Chairman asked what is the cost of violating a Cease and Desist order? Dave said fines and possibly court.

Dave's appointment is up the end of June. Wants to stay as agent but not renewed on the Commission.

Emergency beaver – Stutsman property. BOH issued a 10-day, I guess Conservation needs to act on it as well because there are wetlands on site and asking Dave to come in to sign off the permit. Nicole will print out emails from DPW, BOH and Town Manager to review.

ADJOURNMENT

Motion by Dennis Cote to adjourn at 8:15 pm. Seconded by Kristin Rosenbeck. No Discussion. All in Favor 5/0/0.

Minutes from June 10, 2020

Respectfully submitted by,

Nicole Croteau

Nicole Croteau

Conservation Commission Administration

Minutes Approved on: Nov 18, 2020	
Swett	
Kopacz	_____
Barnes	_____
Cote	
Rosenbeck	