



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, January 6th, 2022

Select Board Room, Town Hall

Planning Board Members Present: Josh Kusnierz (Chairman), Rick Starodoj (Vice-Chairman), Ed Murphy (Remote), Ken Crosby (Remote), Elizabeth Hancock (Alternate)

Planning Board Members Absent: Joe Knight

Staff Present: Rob Watchilla (PCD Director)
Laura White (PCD Assistant)
Anna Marques (Building Commissioner)
Chuck Niedzwiecki (DPW Director)

Public in Attendance: Robert Krasiky

PLEDGE OF ALLEGIANCE

Chairman J. Kusnierz called the meeting to order at 7:00 pm and led the Board in the Pledge of Allegiance.

MOMENT OF SILENCE

Chairman J. Kusnierz held a moment of silence for past Board member, Tim Cutler, who recently passed away.

ADMINISTRATIVE

Approval of meeting minutes from December 16th, 2021

Motion made by R. Starodoj to approve minutes. Seconded by E. Murphy.

Josh Kusnierz Aye
Rick Starodoj Aye
Ed Murphy Aye

Ken Crosby Abstain

K. Crosby stated he was absent for this meeting and, as a result, must abstain.

Approved. Three in favor, one abstention and one absent 3/0/2

Approval of meeting dates for 2022.

R. Watchilla informed the Board of the proposed meeting dates for 2022, stating they will be held on the first and third Thursday of every month. If a meeting fell on a major holiday, the meeting date was pushed back a week.

Motion made to approve by R. Starodoj, Seconded by E. Murphy.

J. Kusnierz	Aye
R. Starodoj	Aye
E. Murphy	Aye
K. Crosby	Aye

Approved. All in favor. 4/0/1

Discussion of recommendations for plowing and sanding unfinished subdivision roads for winter 2021 / 2022

R. Watchilla informed the public that Chuck Niedzwiecki, Director of the DPW, as well as Anna Marques, Building Commissioner, are both in attendance for this meeting. The Board discussed the following roads, based on last year's recommendations:

- **Belair Drive (Belair Estates)**
R. Watchilla informed the Board that it appears no repairs (or only minor repairs) have been made to this road for some time. **The Board recommends that Belair Drive be sanded, but not plowed, by the Town this winter. R. Starodoj suggests salting the road in case of an emergency. With the condition the road is in, however, the Board does not recommend plowing at this time, as it may damage the plows and or the road.**
- **Coldbrook Drive (Pennybrook Estates)**
R. Watchilla informed the Board that the road appears to be in good condition. **The Board recommends that Coldbrook Drive be plowed and sanded by the Town this winter.**
- **High Meadow Lane**

R. Watchilla informed the Board that this road serves as a resident's driveway and has not been plowed by the Town in the past. **The Board recommends High Meadow Lane not be plowed or sanded by the Town this winter.** There was discussion of whether or not to remove High Meadow Lane from this list, however, it was agreed that it will remain on the list to be discussed each year in case any changes are made in the future.

- **Hillside Terrace**

R. Watchilla informed the Board that, although it is not Town-owned, the DPW has historically plowed and sanded this road. **Although there are areas of concern that will need to be addressed in the near future, the Board recommends that Hillside Terrace be plowed and sanded by the Town this winter.**

- **King George Drive**

R. Watchilla informed the Board that the DPW has plowed this road in the past and that there has been no follow up per the Planning Board's discussion with Mrs. Robidoux on November 7, 2018 when she stated that she intends to move forward with road acceptance. **The Board recommends that King George Drive be plowed and sanded by the Town this winter.**

- **Lee Road**

R. Watchilla informed the Board that the DPW has plowed this private road in the past and that, recently, there have been two easements placed on Lee Road for the purposes of plowing, drainage, and general road maintenance. **The Board recommends that Lee Road be plowed and sanded by the Town this winter.** It was noted that there is gravel at the end of the road, but the original owners took responsibility for that part of the road.

- **Walter Drive (Edgewood Estates)**

R. Watchilla informed the Board that the basecoat on this road continues to deteriorate, but that there appears to be no problems for either the Town or the owner if the Town plowed and sanded this winter. **The Board recommends that Walter Drive be plowed and sanded by the Town this winter.**

- **Wildflower Drive & Briar Circle (Isabella Ridge)**

R. Watchilla informed the Board that Wildflower Drive and Briar Circle is anticipated to be adopted as a public way at the Annual Town Meeting. **The Board recommends that Wildflower Drive and Briar Circle be plowed and sanded by the Town this winter.**

- **Williston Drive**

R. Watchilla informed the Board that only the eastern section of Williston Drive has been accepted by the Town. The DPW has historically plowed and sanded the entire length of this road so that the trucks could turn around easily. There were trees

overhanging the road, but they have since been trimmed. Overall, no major concerns. **The Board recommends that the entirety of Williston Drive be plowed and sanded by the Town this winter.**

In summary, the Planning Board recommends the approval of the expenditure of Town funds and to direct the DPW to manage sanding and snow and ice removal on the private section of Walter Drive and on the private roads Coldbrook Drive, King George Drive, Hillside Terrace, Lee Road, and Williston Drive during the winter of 2021 – 2022 (FY 2022). The Board also recommends that the Selectmen take action to approve expenditures to sand Belair Drive, but not for snow removal, on Belair Drive or High Meadow Lane until those roadways are repaired to the satisfaction of the DPW and the Planning Board. R. Starodoj stated that if there is any damage done to any of these roads, the Town is not responsible for the damage in any way.

Motion made by R. Starodoj to endorse the memorandum regarding the plowing and sanding of unfinished subdivision roads for the winter of 2021 / 2022 and to send it to the Board of Selectmen. Seconded by E. Murphy.

J. Kusnierz	Aye
R. Starodoj	Aye
K. Crosby	Aye
E. Murphy	Aye

Approved. All in favor. 4/0/1

OLD BUSINESS

Zoning Bylaw Updates

Review of recently proposed updates to previously discussed sections of Zoning Bylaw

Use Table Discussion

Section E - Retail Business & Consumer Service Uses

- **Adult Entertainment Establishment**

R. Watchilla informed the Board that, currently, in this section of the Ware Zoning Bylaw, Adult Entertainment Establishment use is allowed by Special Permit in all zones. Since the last meeting, this has been changed to No in each zone except, by Special Permit, in Rural Residential. E. Hancock suggested putting the Special Permit use for this in the Industrial zone. There was discussion about where to allow an Adult Entertainment Establishment by Special Permit and it was decided that it should be changed from the Rural Residential Zone to the Industrial Zone.

- **Microbrewery and Winery**

R. Watchilla informed the Board that, in this section of the Ware Zoning Bylaw, Microbrewery and Winery have both been added.

It should be noted that the definition of Winery in this section excludes farm-wineries or wineries that grow and use grapes on site, which may technically be allowed to operate without special permit and outside of zoning regulations as it is considered an agricultural use. The definition of Winery in this section would include any winery that imports its grapes from an outside source.

The definition of Microbrewery in this section is an establishment that produces less than 15,000 barrels of beer / malt beverages per year and sells at least 25 percent or more of its beer / malt beverages for on-site consumption. This includes brewpubs, taprooms, and craft breweries. J. Kusnierz suggested allowing Microbreweries by Special Permit in Rural Residential to possibly draw people in to other local businesses. R. Watchilla stated that a Farm Brewery could also be categorized as a Microbrewery, citing Sturbridge's Zoning Bylaw, and would technically be allowed in the Rural Residential Zone.

The Board discussed allowing Special Permits for Microbreweries and Wineries in the same Zones in the Zoning Bylaw.

- **Outdoor Recreation Facilities**

R. Watchilla informed the board that previously Outdoor Recreation Facilities were allowed by right in Rural Residential, Residential Business, Highway Commercial, and Commercial / Industrial Zones. They are now allowed by Special Permit in those zones.

Section F – Industrial Uses:

- **Junkyards**

R. Watchilla informed the Board that it was discussed by both the Zoning and Planning Boards had discussed limiting Junkyards to being allowed by Special Permits in the Industrial Zone and the Board discussed and agreed to the changes.

- **Earth Processing**

R. Watchilla informed the Board that the zoning for Earth Processing was changed to be the same as Earth Removal. It is now allowed only by Special Permit in the Rural Residential, Commercial Industrial, and Industrial Zones. The Board discussed also allowing it in Highway Commercial Zone.

- **Distillery**

R. Watchilla informed the Board that he added the definition for Distillery under this section. The Board discussed the possibility of splitting Distillery into two categories: one for what could be considered a typical distillery, which would remain in Section F

of the Zoning Bylaw Use Table (Industrial Uses), and one which could be considered a "Micro Distillery," which would be moved to Section E (Retail Business & Consumer Service Uses). The Board decided more research needs to be done on that exact definition of a "Micro Distillery," but there is a possibility of allowing it by Special Permit in the same Zones as a Microbrewery and Winery.

- **Brewery (manufacturing only)**

R. Watchilla informed the Board that he added the definition for Distillery under this section as this refers to larger brewing facilities that primarily produce products for wholesale and do not offer tastings.

Section G - Marijuana (Cannabis):

- **Marijuana Delivery**

R. Watchilla informed the board that, as discussed in the last meeting, Marijuana Delivery use would mirror the same zoning use designation as Medical, Recreation or Hybrid Marijuana Sales, which would be allowed by Special Permit in Downtown Commercial, Millyard, and Highway Commercial.

Use Table Footnotes:

R. Watchilla informed the Board of the addition of Footnote 3, which includes the definition of Farm, as stated in the Town Bylaw as well as in Massachusetts General Law. This definition includes the use of land for agriculture, horticulture, silviculture, aquaculture, or viticulture.

R. Watchilla informed the Board of the addition of Footnote 5, which states that the definition of Winery used on the Zoning Bylaw Use Table excludes farm-wineries or wineries that grown and use grapes on site.

R. Watchilla informed the Board of the addition of Footnote 14, which states, "Per Article 4.7.1, any use not specifically or generically listed in § 4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited unless a determination is made by the Zoning Enforcement Officer (see § 7.5.1)." It was discussed in the last Planning Board meeting that the Zoning Board of Appeals should discuss whether or not to give this authority to the Zoning Enforcement Officer. The discussion focused on whether adding additional information should be added to this footnote regarding the right to appeal any decisions made by the Zoning Enforcement Officer.

Article 1 - General Provisions

- **Adoption of Rules and Regulations**

R. Watchilla informed the Board of the addition of Adoption of Rules and Regulations to Article 1 of the Town Zoning Bylaw which states, "The Town of Ware shall allow the Planning Board and the Zoning Board of Appeals to adopt rules and regulations for procedural and substance matters directly, provided they are not inconsistent with the Town's current Bylaw. They shall be made by majority vote and filed with the Town Clerk. Rules and regulations with penalties attached must be filed with the Town Clerk within ten (10) days." This would give both Boards the legitimacy and grounds to have any rules and regulations pertaining to these bylaw in place. There was also discussion of adding clarification that any rules and regulations changed by the Board would go into effect on the day of the vote or as otherwise noted by the Board.

Article 2 - Bylaw Definitions

- **Distillery**

R. Watchilla informed the Board of the addition of the definition of Distillery as, "An establishment that specializes in distilling spirits and hard liquor (whiskey, gin, vodka, etc.) for the production and off-site sale of such alcoholic beverages. Such establishments may also sell some of their products on-site and offer tastings." The Board discussed consulting the Alcoholic Beverage Control Commission (ABCC) regarding the difference between a Distillery and a "Micro Distillery"

- **Farm**

R. Watchilla informed the Board that the terms Hemp and Viticulture were both been added to the definition of Farm under the Town Zoning Bylaw Definitions. Also added to the definition of Farm is that it includes facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located. It was also discussed that our Bylaw states, in accordance with Massachusetts General Law, that any Farm of at least 5 acres is not governed by Zoning Laws, unless for design standards.

- **Hemp**

R. Watchilla informed the Board that, according to the federal definition, as well as the Cannabis Control Commission (CCC) definition, Hemp is, "The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinol acid in any part of the plant of the genus cannabis regardless of moisture content. Production of Hemp is separate from marijuana cultivation, and is considered an acceptable agricultural crop within this bylaw." The Board had nothing to add or change in this definition.

- **Battery Storage (proposed addition)**
There was no discussion of this topic during the meeting.

- **Junkyard / Auto Salvage (proposed addition)**
R. Watchilla informed the Board that, according to Belchertown's Zoning Bylaw, the definition of a Junkyard is, "A yard, field or other parcel of land used as a place for disposal or long-term storage of: Discarded, worn-out or junked plumbing or heating supplies or household appliances or furniture; Discarded, scrap or junked lumber; or Old or scrap copper, brass, rope, rags, batteries, paper, rubbish, debris, waste and all scrap iron, steel and other ferrous or nonferrous material. A junkyard shall also include garbage dumps, waste dumps, sanitary landfills and automobile graveyards." The Board discussed the removal of the last sentence of this definition as well as the terms "disposal," "rubbish," and "waste." A. Marques also suggested the Board consult with the Board of Health Director regarding state regulations on Junkyards. K. Crosby stated that many items listed in the definition can also be considered recyclable materials. The Board discussed the special permit and the condition that all town, state, and federal regulations would be applicable to it.

- **Marijuana Delivery Operator**
R. Watchilla informed the Board that the definition for Marijuana Delivery Operator in the Town Zoning Bylaw is, "An entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, and Microbusiness, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license."

- **Microbrewery**
R. Watchilla informed the Board that the definition for Microbrewery in the Town Zoning Bylaw is, "An establishment that produces less than 15,000 barrels of beer / malt beverages per year and sells at least 25 percent or more of its beer / malt beverages for on-site consumption. This includes brewpubs, taprooms, and craft breweries." R. Watchilla also informed the Board that, as previously discussed, more research is needed for this definition and it will be revisited at another time.

- **Marijuana Microbusiness**
R. Watchilla informed the Board that the definition for Marijuana Microbusiness in the Town Zoning Bylaw is, "A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana per year from other Marijuana Establishments."

- **Park**

R. Watchilla informed the Board that the definition of Park in the Town Zoning Bylaw, has been expanded and now states that a Park is "A municipally, state, or privately owned area that is used principally for active or passive recreation, which may include equipment and facilities for active recreation and play such as playfields, play structures, swings, slides, dog parks, pools, splash parks, public assembly and accessory uses such as restrooms. A park may also serve as an area for formalized sanctioned events, accommodate related municipal uses such as educational facilities, and facilities for storage and maintenance of equipment used in the park."

Junkyards § 4.3.25

The Board further discussed requirements for a Junkyard, including site plan approval and special permit as well as yearly inspection. A. Marques proposed adding the requirement of a site plan approval for all new special permits in the future, if it is not already a requirement.

Earth Processing § 4.3.27

The Board discussed doing more research on Earth Removal and Earth Processing, then expanding upon and further clarifying the summary in the Town Zoning Bylaw. The Board also discussed adding the clarification that Earth Processing, on sites of Earth Removal where there is no construction is occurring, should be allowed, in conjunction with an existing special permit on that site. The Board agreed this will be discussed further at the next Planning Board Meeting.

NEW BUSINESS

The Board discussed sending a letter of thanks to former Planning Department Assistant, Alex Ziter, for all of his help in his time with the Planning Department. J. Kusnierz asked R. Watchilla to send out a letter out on behalf of the Board.

TOWN PLANNER UPDATE

- **New PCD Assistant**

R. Watchilla introduced the new Planning Department Assistant, Laura White, to the Board.

- **Right to Farm Surveys**

R. Watchilla informed the Board that 17 of the 36 Surveys have been returned. He will begin his analysis over the next few weeks, and will report his findings to the Board when he is finished.

- **Shared Streets and Spaces Grant**

R. Watchilla informed the Board that the 2022 application cycle for the Shared Streets and Spaces Grant is now open, and that the Town will likely apply with a focus on improving sidewalks, wayfinding signage, and other shared spaces. The Department of Housing and Community Development (DHCD) created a report for the Town to use when applying for this grant.

- **West Street**

Request for Qualifications (RFQ) for West Street to do a build-out analysis, as part of the Fiscal Year 2020 Planning Assistance Grant Fund, to see what the Planning Department would be able to do for West Street. The former Planning Department Assistant, Alex Ziter, conducted the Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis and produced a 20 page document to use, so the Planning Department will now need to hire a consultant for the Build-Out Analysis to find out what the development capabilities are for West Street, in terms of land use and infrastructure.

R. Starodoj stated that something may need to be done regarding the light at the intersection of Main Street and West Street, as there have been concerns about the possibility of an accident due to the blinking yellow light.

ADJOURN

Motion made by E. Murphy to adjourn at 8:58pm, Seconded by R. Starodoj.

J. Kusnierz	Aye
R. Starodoj	Aye
E. Murphy	Aye
K. Crosby	Aye

Approved. All in favor. 4/0/1

The next meeting is scheduled for Thursday, January 20th, 2022 at 7 pm.

Minutes from January 6th, 2021

Respectfully submitted by,

Laura White
Planning Assistant
Planning & Community Development

<i>Minutes Approved on:</i> <u>1/20/22</u>	
Kusnierz	_____
Starodoj	_____
Knight	_____
Murphy	_____
Crosby	_____