



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, February 16, 2023

Selectboard Meeting Room

126 Main Street, Ware MA 01082

Planning Board Members in Attendance:

| | |
|-------------------|------------|
| Rick Starodoj | Chair |
| Nancy Talbot | Vice Chair |
| Ken Crosby | |
| Ed Murphy | |
| Chris DiMarzio | |
| Elizabeth Hancock | Alternate |

Staff Members in Attendance:

| | |
|------------------|---|
| Rob Watchilla | PCD Department Director |
| Kristen Jacobsen | PCD Dept. Admin. Assistant |
| Anna Marques | Building Commissioner, Zoning Enforcement Officer |
| Stuart Beckley | Town Manager |

Members of the Public in Attendance:

| | |
|---------------------------------|--|
| Karen Hubacz, Bond Construction | |
| Fred Smith | |
| Sadie Milner | |
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PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:07pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of Minutes from February 2, 2023

Motion by N. Talbot to approve the February 2, 2023, meeting minutes as submitted. **Seconded** by E. Murphy. **Discussion:** None

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|-----------------------------------|--|--------|
| R. Starodoj | | Aye |
| N. Talbot | | Aye |
| E. Murphy | | Aye |
| K. Crosby | | Absent |
| C. DiMarzio | | Aye |
| Four in favor. One Absent. | | |
| Approved 4/0/1. | | |

New Business

Updates to State Housing Code

R. Watchilla and the board discussed the updated state housing code going into effect in April 2023. A new type of housing “Alternative Housing” is added which gets approved by the Health Department and Board of Health and is exempt from electrical, plumbing, heating, and water.

C. DiMarzio inquired if the new housing code had anything to do with the federal plan to add 1.5 million more affordable housing units.

The board discussed the potential impact the new housing code could have on rural communities.

R. Watchilla and the board discussed whether there needed to be any additions to the towns zoning language for the new code.

C. DiMarzio discussed the sustainability aspects and that larger homes should have access to the same regulations.

R. Watchilla proposed inviting the Heath Director to the next Planning Board Meeting. N. Talbot proposed reaching out to legislative representatives. R. Starodj suggested making sure the Selectmen were aware.

K. Crosby arrived.

Public Hearing

R. Watchilla read the legal notice

7:05pm: SP-2023-01 (Frederick T. Smith III)

Applicant is requesting a one year extension on an existing earth removal special permit at Greenwich Road. Deeded in the Hampshire County Registry of Deeds, Book 10396, Page 108. Assessor’s Parcel 35-0-12. Zoned: Rural Residential (RR).

F. Smith spoke discussing his request. N. Talbot asked if anything in the application was different. F. Smith had a request involving one of the monitoring wells which was supposed to be drilled. Originally, they were supposed to remove 470,000 cubic yards which was scaled back to 70,000 cubic yards. F. Smith stated the test pits which were dug have remained dry and for right now the only material being removed is from the ridge and they wouldn’t be cutting into the earth.

Motion: C. DiMarzio to extend SP-2023-01 for one year. **Seconded** E. Murphy. **Discussion: None**

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| R. Starodj | Aye |
| N. Talbot | Aye |
| E. Murphy | Aye |
| K. Crosby | Aye |
| C. DiMarzio | Aye |

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| All in favor. Approved 5/0/0. | |
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SP-2022-10 (Bond Construction Corporation) [CONTINUED]

Applicant is requesting a Special Permit to remove earth materials at 219 Babcock Tavern Road. Deeded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Assessor's Parcel 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).

Public hearing portion of this Special Permit is closed. The Board will address conditions and make their decision.

E. Hancock recused herself.

The board discussed the conditions for the Special Permit.

Monday – Friday 7am-4pm
Saturdays maintenance only. Hours 8am-2pm
No operations on federal holidays

The board discussed the findings.

Special Permit Findings:

- After the public hearing duly noticed and held, the Ware Planning Board found, as required by MGL Chapter 40 A., Sec. 9, that the proposal is consistent with the terms of section 7.2.4 of the Ware, Massachusetts, Zoning Bylaws. These findings are based on the application documents presented.
- The proposal is in harmony with the general purpose and intent of this Bylaw and it will not be detrimental to the health, safety or welfare of the neighborhood or the Town.
- The proposal is compatible with existing uses and development patterns in the neighborhood and will be harmonious with the visual character of the neighborhood in which it is proposed.
- The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, or lights.
- The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
- The proposal ensures adequate space onsite for loading and unloading of goods, products, materials, and equipment incidental to the normal operation of the establishment or use.
- The proposal will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the proposed use or any existing use will be unduly subjected to hazards affecting health, safety, or the general welfare.
- The proposal minimizes environmental impacts including erosion, siltation, changes to ground and/or surface water levels (quantity), or changes to ground or surface water quality.

Based on these findings, the Ware Planning Board, acting as Special Permit Granting pursuant to Section 7.2 of the Ware Zoning Bylaws, voted 5/0/0 to grant the Special Permit for the earth removal operation at 219 & 240 Babcock Tavern Road, as previously described, with the following conditions:

- The Special Permit (SP-2022-10) shall take effect on the first date after the expiration of the 20 day appeal period, and shall expire one year after such date. Thereafter, the applicant must file a yearly extension with the Planning Board prior to the expiration of this Special Permit;
- Hours of Operation shall fall between 7 AM to 4 PM, Monday through Friday, and 8 AM to 2 PM on Saturdays solely for maintenance, with observance of all **nine (9)*** Federal Holidays;

- No processing of earthen materials (soil, loam, peat, sand, gravel, and/or stone) shall occur on site, with the exception of screening loam;
- A fifty (50) foot natural buffer shall be allowed to grow between the southernly portion of the earth removal site and the property line of 254 Babcock Tavern Road, Ware, MA (property now or formerly owned by James D. and Elizabeth M. Hancock). This natural buffer is to not be disturbed with the exception of emergency situations or if a legitimate explanation is given to the Planning Board;
- The fifty (50) foot natural buffer shall be permanently marked (throughout the duration of the earth removal operation) along the southernly portion of the earth removal site and the northern most boundary of the fifty (50) natural buffer with fence posts (spaced out every 50 feet). The sole purpose of the fence posts are to delineate the fifty (50) foot buffer between the property line of 254 Babcock Tavern Road and the Fence Posts themselves;
- No fuel shall be stored on site;
- The specifications of the plans dated October 7, 2022 and revised on February 2, 2023, drawn by Donald J. Frydryk, P.E., shall be adhered to. Any deviation from this plan must be approved by the Planning Board;
- Any boulders shall be removed from the site or buried underground;
- Tree stumps shall be removed from the site or ground up on site. In-active earth removal areas where tree stumps are removed shall be mitigated in order to be properly stabilized;
- Areas no longer active in earth removal operations shall be restored to their natural condition with proper loaming, seeding, and planting of proper vegetation;
- Updated volume calculations shall be given to the Planning Board at the same time the applicant requests an extension of this Special Permit (SP-2022-10);
- Updated topography maps shall be given to the Planning Board after every 25,000 cubic yards of earthen material removed (as indicated in the volume calculations), or at the discretion of the Planning Board;
- A performance bond shall be furnished by the applicant starting in the amount of \$50,000. Such bond shall be renewed and adjusted annually to account for inflation and consumer price index (CPI), or at an amount determined by the Planning Board. The applicant shall provide an active copy of such bond at the same time the applicant requests an extension of this Special Permit (SP-2022-10);
- No buildings shall be allowed on site throughout the duration of the earth removal operation;
- The existing entrance for trucks and larger vehicles shall continue to be the only ingress/egress point used throughout the duration of the earth removal operation;
- The Applicant shall comply with all laws, regulations and requirements of the Town of Ware, Commonwealth of Massachusetts, and the United States of America, the strictest of which shall prevail.

***corrected as per Planning Board Meeting 03/02/2023**

Motion: C. DiMarzio to approve SP-2022-10 (Bond Construction Corporation) with the conditions as discussed
Seconded N. Talbot. **Discussion:** None

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| R. Starodoj | Aye |
| N. Talbot | Aye |
| E. Murphy | Aye |
| K. Crosby | Aye |
| C. DiMarzio | Aye |
| All in favor. Approved 5/0/0. | |

Old Business

Motion made by N.Talbot to table discussion of Subdivision Regulations until March 2, 2023. **Seconded** E. Murphy. **Discussion:** None

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|---|-----|
| R. Starodoj | Aye |
| N. Talbot | Aye |
| E. Murphy | Aye |
| K. Crosby | Aye |
| C. DiMarzio | Aye |
| Four in favor. One Absent. Approved 5/0/0. | |

Motion made by E. Murphy to **ADJOURN at 8:13pm. Seconded** by N.Talbot. **Discussion:** none

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|---|-----|
| R. Starodoj | Aye |
| N. Talbot | Aye |
| E. Murphy | Aye |
| K. Crosby | Aye |
| C. DiMarzio | Aye |
| Four in favor. One Absent. Approved 5/0/0. | |

NEXT PLANNING BOARD MEETING DATE:

Thursday, March 2, 2023 at 7:00pm.

Minutes from Thursday, February 16, 2023.

Respectfully submitted by,

Kristen Jacobsen
Administrative Assistant
Planning & Community Development

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|---|--------------------|
| Minutes Approved on: <u>3/2/23</u> | |
| Starodoj | <u>[Signature]</u> |
| Murphy | <u>[Signature]</u> |
| Talbot | <u>[Signature]</u> |
| Crosby | <u>[Signature]</u> |
| DiMarzio | <u>[Signature]</u> |