



TOWN OF WARE

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 / f. 413.967.9642

Zoning Board of Appeals

Meeting Minutes from

August 19, 2020

Select Board Room, Town Hall

Board Members Present: Chairman Lewis Iadarola, Jodi Chartier, Chuck Dowd, George Staiti, Phillip Hamel, Greg Eaton, David Skoczylas
Staff Present: Rebekah DeCourcey-PCD Director, Jack Carolan-PCD Assistant
Public in Attendance: Elizabeth Hancock

PLEDGE OF ALLEGIANCE

Chairman Iadarola called the meeting to order at 7:00 pm and led the Pledge of Allegiance.

APPROVAL OF MINUTES

Approval of minutes from June 17, 2020 postponed until following meeting

DISCUSSION OF ZONING BYLAW AMENDMENTS

L. Iadarola led a discussion regarding the definitions of structures and fences. There was concern that based on current wording in the bylaw, all fences would be considered structures meaning they would require a permit. Because of this L. Iadarola stated that he believes there needs to be a better definition for fences and structures as well as defining what an auxiliary accessory structure is.

D. Skoczylas agreed that the current definition of structure is not adequate. L. Iadarola went on to say it did not make sense for a wall to be considered a structure and therefore requiring a permit. R. DeCourcey countered by saying that there are examples of retaining walls that do require permits. This led to a further discussion on the need for a definition of auxiliary/accessory structures. L. Iadarola discussed the need to include both "fixed" and "moveable" into the definition of auxiliary/accessory structure. R. DeCourcey recommended looking into how other towns define structures. D. Skoczylas raised an issue with the inclusion of pole, sign, and fence in the current definition of a structure and asked if it would be possible to remove them from the definition. L. Iadarola commented that in his view there are three levels of what a structure is and they are Buildings, Accessory Structures, and Structures. He said fences should fall under the structure level.

E. Hancock presented a definition of structure from another town in which they define it as "any combination of materials located upon a lot and requiring pilings, footings, or a foundation for support." The town's definition also included all recreational facilities as structures such as swimming pools, tennis courts, basketball courts, etc...

R. DeCourcey raised the issue of developing a better definition for corner lots to protect sight lines. This would include regulating the setback for fences on corner lots. L. Iadarola proposed involving a safety officer in these discussions so as not to put all of the burden on the building inspector to determine safety regulations. L. Iadarola proposed including a part of the definition that states that

the setback for fences on corner lots should be 25 ft., or less with approval from the building inspector. The issue also came up that fences can be either man-made or natural such as plantings and hedges furthering the idea that there may need to be a definition of fence.

R. DeCoursey proposed adding the definition of "Estate Lot" into the zoning bylaw. She proposed the definition be "a lot created with less than the required frontage in exchange for increased square footage for the purpose of construction of a single family dwelling and/or conservation of open space."

R. DeCoursey also raised the issue that there is currently no clear definition for "town line" or "town boundary". She proposed a definition that says that the town of Ware boundary line shall also be treated as the property line. This proposal is in relation to an ongoing project in Osborne Road in which the town line bisects the parcel.

R. DeCoursey went on to discuss solar identified as an accessory use. There is currently a 100 acre property with a house on it and they want to lease out 50 acres for solar. The current town bylaws do not allow for two primary uses on one parcel in the Rural Residential zoning district. The proposal would be to include solar as an allowed accessory use. Two uses are currently allowed in the Rural Business zoning district.

L. Iadarola raised the topic of earth removal. The primary issue revolves around having a simultaneous permit open for earth removal as well as a use such as solar. R. DeCoursey stated she did not see an issue with a property pursuing earth removal and then switching to solar once the earth removal operation is completed, but both should not be allowed at the same time. D. Skoczylas asked a question regarding if there is a timeframe for a situation where someone agrees to pursue an agricultural use after an earth removal operation but then decides to pursue solar instead of agriculture. R. DeCoursey responded by saying she didn't think there is any way to regulate someone changing proposed uses.

A discussion followed regarding whether or not a special permit or site plan can be required for agriculture. L. Iadarola asked if earth removal on an agricultural property could require a site plan review. He then asked if there would be any way to include a requirement in the bylaw which states any earth removal operation that removes over a certain amount of material require a site plan review. He also discussed some of the ways that Belchertown attempts to regulate earth removal through different exceptions.

R. DeCoursey proposed requiring a site plan review for agriculture but not requiring it to be renewed each year like the earth removal site plan reviews. E. Hancock noted that there is a check box on the site plan review application for agriculture. She also noted the town of Monson's Right to Farm Bylaw. R. DeCoursey proposed looking into better defining and regulating agricultural earth removal.

Accessory dwelling units were brought up specifically regarding the aging population in town. L. Iadarola mentioned that the town of Dennis had a very successful accessory dwelling bylaw passed recently and recommended looking into what they did.

R. DeCoursey mentioned the overlay district she is proposing for the Rout 9 corridor and how that topic will be discussed at the next meeting. L. Iadarola asked if it would be easier to just rezone that portion of the Route 9 corridor to Rural Business instead of pursuing an overlay district.

Motion by G. Eaton to adjourn the meeting. Seconded by C. Dowd. All in favor. Approved 5-0

Next meeting is scheduled for Wednesday September 16, 2020 at 7:00 P.M.

Minutes from August 19, 2020

Respectfully submitted by,

Jack Carolan

Department Assistant

Minutes Approved on: _____

L. Iadarola _____

P. Hamel _____

G. Staiti _____

G. Eaton _____

D. Skoczylas _____

J. Chartier _____