



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

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Planning Board

Meeting Minutes from

Wednesday, August 7, 2019

Select Board Room, Town Hall

Planning Board Members Present:

Rick Starodoj (Chairman), Fred Urban, Edward Murphy, Joe Knight, Josh Kusnierz and Jennifer Muche (Alternate)

Staff Present:

Rebekah DeCoursey, Director of Planning & Community Development; and Nicole Croteau, Assistant to the Director

Applicants in Attendance:

Steve Broyer, Ecos Energy, Chris Vorlicek, Ecos Energy

Public in Attendance:

Karen Brodeur, Emma Monahan, Diana Hervieux, Atty. John Davis, Jaime Muche, Tom Barnes, Anna Marques, Melissa Martin, Bernie Bergeron, Stuart Beckley

Chairman R. Starodoj called the meeting to order at 7:00 pm and the Board said the Pledge of Allegiance.

Administration:

- Meeting Minutes – postponed until the next meeting.
- ANR – Angeline A. Messier, 15 Old Gilbertville Road – F. Urban made motion to approve the ANR, J. Knight Seconded, Voted 5/0.
- Solar Zoning Bylaw – Revisions starting late August. Chairman requested the draft be posted online for citizens to view.
- Tipping Fee for FT Smith Trucking – R. DeCoursey asked the Board if they knew the current status of the gravel operation. The Board was unsure at the time of the meeting. PCD department will continue to look into collecting Tipping Fees.

7:05 Public Hearing. Canadian Tree Expert. Co., Inc / Forefront Power LLC, 417 Belchertown Road. The applicant is requesting an extension of time to commence the Special Permit (SP-2017-02) and Site Plan Review (SPR-2017-01) project due to delays at the state level. The project had a condition of being completed in one year. The applicant is requesting a twelve-month extension to commence the project. No other changes are being proposed

Chairman opened the Public Hearing. J. Knight read the legal notice.

R. DeCoursey spoke on behalf of the Applicant and explained the request for extension is because the electric company has not approved the connection.

No discussion.

E. Murphy made the motion to approve the twelve-month extension (1-year). J. Kusnierz seconded.

Roll Call: Fred Urban Yes
Joe Knight Yes
Rick Starodoj Yes
Ed Murphy Yes
Josh Kusnierz Yes

2/3 majority vote needed, All in Favor, Approved for the twelve-month extension (1 year).

7:10 Public Hearing (continued). Special Permit and Site Plan Approval. Ecos Energy, LLC for a Special Permit (SP-2018-04) and Site Plan Review (SPR-2018-06) for a large ground-mounted solar energy facility. The project is proposed on the property located on Monson Turnpike Road, also known as Yorkshire Estates, an approved subdivision.

J. Kusnierz recused himself. Chairman appointed J. Muche as an alternate member.

S. Broyer present minor updates to the Board through a slide show presentation and noted:

- There are now 2 enclosed fence areas around the proposed arrays, leaving a gap for wildlife movement
- ANR Plan remains unchanged as presented at the last meeting
 - Lots will remain along Monson Turnpike Road
 - The 63-lot subdivision is now 10 lots
- Grading phasing is the same and the detention basins are proposed the same
- Roadway design is still at 10% or less in grade
- Mulch and wood chips will be utilized for erosion control measures.
- The sub-drain from last plans which extended off the property is now revised to be within the property line
- Adding 3 swales to the basins on the west side of the property to protect any water runoff.
- He showed a photo from a Vermont solar installation of Ecos' for comparison of how quick installation is
 - Approx. 3-week is at the 50% constructed phase
- Adjacent land elevation and flooding for abutters was discussed
 - Abutter K. Brodeur's farm is at an elevation of 580' and the lowest corner of the site is at 570' then the water runoff drains into a basin at elevation 560'.
 - Chairman stated at this point the property line of the hayfield is approximately 20-feet lower in elevation than the project site.
 - K. Brodeur disagreed with those elevation contours and expressed her concerns of her property flooding.
 - R. DeCoursey asked K. Brodeur if she had any supporting documents relating to her concerns. She stated K. Brodeur's field could indeed be wet but it could be from existing unforeseen conditions, poor soils, the abutting wetland, or water runoff from higher elevations. Her property is currently always wet in the back hay field.

S. Broyer continued power point presentation.

- The next step would be to do test pits in order to finalize hydrologic design
- The next level of revisions will be based on Conservation Commission comments

Chairman asked for clarification regarding the future use of the lots along Monson Turnpike Road

S. Broyer is unsure at this time and can't confirm if the company will keep or sell the lots. He understands the Chairman has a desire to remove the lots, but the land holding company has expressed they do not want to that. Chairman asked if the deeds of these lots along Monson Turnpike Road will state there is a proposed/active solar arrays neighboring these lots.

S. Broyer stated the potential buyer of these lots will have to contact Ecos Energy and should know based on the history of the project. That would be due diligence of the buyer.

J. Knight asked for clarification if the proposed fence did have the clearance gap between the ground and the bottom of the fence line.

S. Broyer is aware of the concern for a wildlife corridor but the intention is to have sheep grazing and sometimes the sheep can escape underneath a fence with a gap.

R. DeCoursey stated the sheep grazing was not part of the original application and we shouldn't sacrifice the wildlife corridor. There have been a lot of compromises getting this project to the point it is, and she doesn't feel the town should sacrifice the gap on the "possibility" of Ecos grazing sheep.

Chairman also agreed the 6-inch gap under the fence makes sense.

S. Broyer stated that when the fence is installed the gap could range from 4 to 18-inches on the nature of installation of the fence. They will find a constructive way to get the gap to an appropriate height.

K. Brodeur asked the Board how many more changes will be allowed before the Board says to the Applicant to stop and follow proper procedures. The plans which are before the Board now are not the same plans that were denied in the fall and she feels the subdivision should be rescinded since there are significant changes.

R. DeCoursey disagreed with K. Brodeur. A lot of work went into positive changes in the plans, and that is why the plans are different. She will personally follow through the permitting process to the end of this project to be sure all concerns are properly addressed.

Chairman stated if there is an issue created, then the remedy is a civil action.

K. Brodeur feels the development is on her property line and will negatively impact her business.

Chairman replied the development has substantial distance from K. Brodeur's property line to the project.

K. Brodeur disagreed.

Chairman stated the Court findings were to find a decision workable from both sides.

J. Muche asked S. Broyer if the two individual lots along Coffey Hill Road are owned by Ecos.

S. Broyer stated he researched the deeds and clarified Ecos does not own those two lots. Ecos has no intentions of harming neighbors in anyway.

J. Muche asked for clarification of why there was a skinny section of the parcel abutting Coffey Hill Road then.

S. Broyer was unsure why the prior developer/engineer would have done so.

J. Muche asked if we have come to agreement after decommissioning regarding the wildlife corridor.

R. DeCoursey stated that the Conservation Restriction condition was one she was willing to compromise on with the Ecos Lawyers, because a wetland is self-protected and not buildable.

S. Broyer confirmed that there are no intentions of developing in that area.

Both parties discussed points between the appeal and the current decision with conditions.

E. Monahan asked for clarification of how close K. Brodeur's property line actually is to the development.

S. Broyer stated in the 600-610-foot range to the closest detention pond and solar panel installation.

R. DeCoursey stated the portion abutting her property is not being developed.

S. Broyer confirmed in AutoCAD the distance is 628-feet.

J. Knight asked what can be done for the Board not have to worry about any water coming off the proposed site.

Chairman stated can't do anything to assure everything will work exactly right. The permit process should work to address everything we can think of. If something comes up after the fact, then it will be addressed then.

General discussion was made about:

- ✓ the length of proposed fence lines
- ✓ confirming the 6-inch fence gap as S. Broyer agreed
- ✓ how sheep are herded and grazed on other sites and the pros, cons and likelihood it will occur

- ✓ the ANR lot sizes, location, legal notes and legal frontage
- ✓ SWPPP guidelines and site inspections
- ✓ Court Documents are public record

Motion by Chairman to close the Public Hearing regarding Ecos Energy at 8:07pm.

General discussion by the Board Members:

- ✓ Environmental Specialists
 - R. DeCoursey expects Conservation Commission will handle Inspections
 - Chairman stated State DEP and local Conservation Commission will inspect
- ✓ Court decision
- ✓ Agreement of the 6-inch gap in fence
- ✓ Better overall feeling of the project especially the stormwater design
- ✓ Still concerns of water runoff
- ✓ Effective date of the current Decision
 - Attorney Davis had two comments:
 - Referencing Note Number 4 at the end of the Decision (length of permit approval), M.G.L says special permits are good for 3 years.
 - R. DeCoursey stated M.G.L. language states "up to 3 years" and would like the permit to be valid for 2 years, as that is what the Board has traditional done for solar approvals. As seen at this meeting, and the Planning Board's previous meeting, the Board has no objection is granting an extension of time for solar permits.
 - The Board decided on the 2-year validation and the Applicant will request the extension at that time if needed
 - Referencing the effective date of the permit.
 - Attorney Davis wanted the Board to be aware that the applicant had asked for the date the Special Permit is granted back to 2018, when the original public hearings were held.
 - Board feels the current date be the effective date, too much has changed with the project.
 - If the Judge tells the Board to have the effective date to 2018, then the Board will be open to date being adjusted.

F. Urban made a motion to approve the Special Permit with the Conditions as presented at this Public Hearing and with the agreement of the 6" fence gap. Second by J. Knight. Proceeding with Role Call:

Roll Call:	Rick Starodoj	Yes
	Fred Urban	Yes
	Ed Murphy	Yes
	Joe Knight	Yes
	Jennifer Muche	Yes

2/3 majority vote needed, All in Favor, Approved for the Special Permit with Conditions.

Old Business:

- ✓ Upper Church Street Solar Status
 - R. DeCoursey stated construction has started with cleaning debris and planting trees on the south side and the trees should be in by the end of month
 - Chairman asked if the Company is following the Special Permit conditions regarding meeting with neighbors regarding schedules.






Adjourn:

F. Urban made a motion to adjourn, E. Murphy second, all in favor. Adjourned at 8:25pm.

Next meeting is August 21, 2019 at 7:00 pm.

Minutes from *Aug 7, 2019*
Respectfully submitted by,

Nicole Croteau
Assistant to the Director

Minutes Approved on:	<u>8/21/19</u>
Starodoj	
Kusnierz	
Urban	
Murphy	
Knight	
Muche	