



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext. 186 f. 413.967.9627

CERTIFICATE OF DECISION SPECIAL PERMIT & SITE PLAN

Decision Date: September 19, 2019

Project Name: Ware Solar LLC c/o Melink Solar Development

Location of Project: 45 Greenwich Plains Road

Parcel Number: 22-0-12, 22-12-1

Deed Reference: Book 10506, Page 121; Plan Book 83, Page 25

Zoning District: RR – Rural Residential

Total Acreage: 80.56 total; 19 acres to be developed

Type of Use: ±3.3 MW Ground-mounted solar array

Building Area: n/a

Applicant: Ware Solar, LLC
276 N. Forest Avenue NE, Marietta, GA 30060

Owner: John C. Soper
45 Greenwich Plains Road, Ware, MA 01082
Bertin Engineering

Plans Prepared by: 39 Elm Street, Southbridge, MA 01550
Project No. 18M-230 (See Note 5)

Plans Dated: March 22, 2019

Application Date: Received March 22, 2019

Public Hearings: May 15, 2019; June 21, 2019; July 31, 2019; Sept. 18, 2019

PB Members: Richard Starodoj (Chair), Edward Murphy, Fredrick Urban, Joseph Knight,
Jennifer Muche (Appointed Alternate)

PB Action: Approved with conditions

Application and Project Description Summary:

The applicant seeks to construct, install, and operate a ±3.3 MW ground-mounted solar energy array at 45 Greenwich Plains Road, known as Map 22, Lots 12 & 12-1 on the Ware Assessor Map. The project would utilize approximately 19 acres of the 80.56 total acreage of property.

The following information was submitted as part of the Special Permit application:

The following information was submitted as part of the Special Permit (SP-2019-04) and Site Plan Review (SPR-2019-03) application on March 26, 2019:

- Application for Special Permit and Site Plan Review;
- Filing fee;
- A Certified List of Abutters;
- A plan entitled "Melink Solar Development Proposed Solar Array, located at: 45 Greenwich Plains Road Ware, MA 01082" containing ten sheets (C-1 through C-9 and PV100) prepared by Bertin Engineering 39 Elm Street, Southbridge, MA 01550. Plans dated 3/22/19, Revision N/A, Project # 18M-230.

After receipt of the application, on April 3, 2019 the plan and application were forwarded to the following Departments for review and comment. The following were reviewed:

- Memorandum from Judy Metcalf, Director of Public Health
- Memorandum from Lynne Lack, Historical Commission
- Memorandum from Anthony Swiercz, Proprietors of the Ware Meeting House
- Email memorandum from Shawn, Crevier, Chief of Police
- Person to person meeting with Ed Wloch, Deputy Fire Chief
- Person to person meeting with David Kopacz, Conservation Agent

Additional Information Reviewed:

- Cover letter, dated August 19, 2019
- Project Narrative & Environmental Impact Statement, Revision date August 15, 2019
- Maintenance & Preliminary Emergency Response Plan, Revision date August 15, 2019
- Photovoltaic Solar Filed Decommissioning Plan, Revision date August 15, 2019
- Drainage Report, Revision date August 15, 2019
- Peer Reviews by McClure Engineering, Inc. (119 Worcester Road, Charlton, MA 01507)

Applicable Section of Zoning Bylaw:

Article 4.8.3 – Solar Energy Facilities, Article 7.2 – Special Permits, Article 7.4 – Site Plan Review

Special Permit Findings:

1. 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 4.8.3 and 7.2.4 of the Ware, Massachusetts Zoning Bylaws:
 - A. The construction and operation of a solar energy facility will not be detrimental to the health, safety, or welfare of the neighborhood or town
 - B. 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
 - C. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, or lights

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- D. The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides a safe vehicular and pedestrian circulation within the site
- E. 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
- F. 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
- G. 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
 - Among other considerations, the Applicant is a for-profit, limited liability company, duly registered with the Secretary of the Commonwealth and has proposed that its facility will generate significant tax revenue for the Town over the life of the solar facility. It is the Planning Board's understanding that any future operation will operate in the same entity form.

A motion was made by Edward Murphy and seconded by Fred Urban of the Ware Planning Board to grant the Site Plan Approval for Ware Solar LLC to construct, install, and operate a ±3.3 MW ground-mounted solar energy array at the site as previously described, with the following listed conditions.

A motion was made by Edward Murphy and seconded by Fred Urban of the Ware Planning Board, as Special Permit Granting Authority pursuant to Section 7.2 of the Ware Zoning Bylaw, to grant the Special Permit for Ware Solar LLC to construct, install, and operate a ±3.3 MW ground-mounted solar energy array at the site as previously described, with the following conditions:

GENERAL

1. Developer will be held to all applicable state and local requirements
2. Before any site work commences or building permits are issued, landowner shall meet his obligations for Chapter 61A. The landowner shall follow proper procedures to remove the property from Chapter 61A, including but not limited to, notifying the Ware Board of Selectmen regarding right of first refusal and being current on taxes paid based on the Board of Assessors review of the Chapter 61A status
3. Prior to applying for a construction/building permit, the performance bond, in an amount agreed upon, shall be paid; proof to be submitted to the Planning Board
4. Prior to building, applicant shall meet with all applicable boards and commissions for a preconstruction meeting to determine current best practices
5. All third party inspections and reviews will be at the applicant's expense including during the construction phase, and for erosion and sedimentation controls
6. The Ware Planning Board reserves the right to conduct site visits during construction and upon completion of the project scheduled with the developer. The Planning Board reserves the right to modify the screening within reason, at the cost of the applicant
7. During construction, at the cost of the applicant, a third party inspector shall submit monthly reports to the Board; inspector shall go to site after significant storm events to confirm compliance with Stormwater Prevention Pollution Plan (SWPPP)
8. Any changes to the plans approved by this permit must be reviewed by the Director of Planning & Community Development (PCD), prior to implementation, to determine if they constitute a significant change and require additional Planning Board approvals

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9. Town of Ware officials (Town Manager and Planning Board via the PCD Department) shall be notified by certified mail thirty (30) days prior to any change of ownership of the property, lease holder and/or plant operating company. Within thirty (30) days of such notice, or at a mutually-convenient time, the new party shall arrange to meet with the Planning Board to review the operating conditions of the Special Permit, or as soon as convenient to both parties
10. The Special Permit is not valid until 1) recorded at the Hampshire District Registry of Deeds and 2) a certified copy of the recording is provided to the PCD Department
11. The Special Permit must be recorded at the Hampshire District Registry of Deeds within 30 days after the appeal period has ended, or 30 days after the decision on any appeal, or the permit shall become void
12. All work must commence within three (3) years of date of approval by the Board or an extension request must be filed with the PCD Department explaining good cause for the need of extension
13. All applicable local, state, and federal permits and approvals must be in place prior to the start of construction and operations
14. Applicant will 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
15. Applicant shall submit a proposal for approval by Town Meeting and the Board of Selectmen within one (1) year of approval to enter into a PILOT (Payment In Lieu Of Taxes) agreement with the Town of Ware
16. Before issuance of building permits, the dam improvements proposed at Flat Brook shall be stamped by an engineer certified by the State of Massachusetts, and inspected by an engineer, at the expense of the applicant, at the time of completion

BONDS/SURETIES

17. Prior to commencing operation, a financial surety in the amount of one percent of the project construction costs (as submitted on the building permit application) shall be provided as required in §4.8.3.H.5 of the Ware Zoning Bylaw
18. Satisfactory completion of construction shall be a project that has all major components in place, all site work completed and all construction permits (conservation, building, electrical, etc.) properly closed out or in compliance with all regulations and requirements

SITE CONDITIONS

19. Top soil will not be left without sedimentation controls for a period of longer than fourteen (14) days
20. Conditions permitting, hydroseeding will include a tackifier in order to ensure that the seed media adheres to the soil particles; or, if hydroseed is not used, straw bales (NOT hay), or other comparable, approved controls will be used and maintained as sedimentation controls
21. No chemical herbicides or fungicides shall be used on site other than those approved by the Ware Conservation Commission; the Planning Board, via the Planning & Community Development Department staff, shall be copied on approved uses
22. The property owner shall be responsible for restoring the property to a stable condition should the solar lessee, construction entity, operator, or any other operator on the property, fail to complete the project
23. No continuously-on lights should be present. Motion detector lights at gate and equipment are permitted, provided they can be prevented from mis-cycling caused by wildlife

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24. All fencing, gates, etc. shall be a dark, earth tone color such as dark green, black, dark red, etc. on the sections of fence on the western side of the site, closest to Greenwich Plains Road, as well as the gate and partially along the adjacent southern fence. The fencing along the eastern most portion of the site shall also be earth tone color, as noted on the plans
25. Glare impacting any abutters shall be mitigated by the applicant (or current operator) to the maximum extent practicable in cooperation with state and local officials. This shall include adjusting the tilt of the panels if necessary, as determined by independent professional review, paid for by the current operator, to substantiate any glare complaint (as necessary)
26. All plantings are to be maintained for the life of the solar project
27. Any new poles to be installed will be at the discretion of National Grid
28. There will be no soil removed from site
29. All equipment refueling should occur in designated areas. A spill kit including adsorbents must be present at the site at all times for all equipment Operators must be trained to report and respond to fuel, lubricant, or other releases
30. Other than the proposed area of construction, there will be no deforestation
31. Battery storage container installation and operation must comply with all relevant codes and regulations and must be reviewed by the Fire Department and Building Department before installation
32. The applicant shall notify the PCD Department, Fire Department, Building Department, and Board of Health prior to exchanging retired batteries for new. Old batteries shall be removed from site and properly disposed of

HOURS OF OPERATION

33. Hours of construction and maintenance operations shall be:

Monday through Friday: 7:00 AM to 5:00 PM

Saturday 9:00 AM to 5:00 PM

No operations on Sunday; No operation of machinery for warm up or maintenance outside of the above hours. No construction operations to occur on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day. Emergency repairs and maintenance, including snow plowing, may occur at any time

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The following members of the Board voted to Approve the site plan and grant the Site Plan Approval, subject to the above-stated terms and conditions:

Richard Starodoj	AYE
Fred Urban	AYE
Edward Murphy, III	AYE
Joseph Knight	AYE
Jennifer Muche	AYE

Site Plan Approval passes with vote 5-0.

The following members of the Board voted to Approve the site plan and grant the Special Permit, subject to the above-stated terms and conditions:

Richard Starodoj	AYE
Fred Urban	AYE
Edward Murphy, III	AYE
Joseph Knight	AYE
Jennifer Muche	AYE

Special Permit passes with required super-majority vote 5-0.

Notes:

1. A copy of this decision is on file with the Town Clerk of the Town of Ware, Town Hall, 126 Main Street, Ware, MA 01082.
2. This decision is subject to appeal in accordance with MGL c. 40A §17 within 20 days after this decision is filed with the Ware Town Clerk.
3. This Special Permit shall not become effective until it has been recorded at the Hampshire District Registry of Deeds.
4. This Special Permit shall be valid for a period of three (3) years from the date it is available for filing at the Hampshire District Registry of Deeds.

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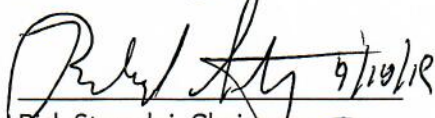
5. Plans approved entitled: "Preliminary & Final Site Plan, Proposed Solar Array, Tax Map 22, Lots 12 & 12-1, 45 Greenwich Plains Road, Ware, County of Hampshire, Massachusetts."

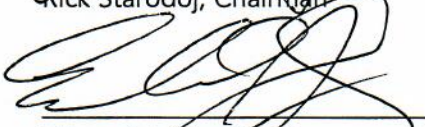
Drawing Set includes:


DWG #	Drawing Title	Revision Date	Revision #
C1.1	Cover Sheet	8/7/19	2
C1.2	Existing Conditions	8/7/19	5
C1.3	Overall Site Plan	8/7/19	5
C2.1	Soil Erosion & Sediment Control Plan	8/7/19	4
C2.2	Soil Erosion & Sediment Control Plan at Crossing	8/7/19	0
C2.3	Site Layout (1 of 3)	8/7/19	5
C2.4	Site Layout (2 of 3)	8/7/19	5
C2.5	Site Layout (3 of 3)	8/7/19	5
C2.6	Grading Plan (1 of 3)	8/7/19	1
C2.7	Grading Plan (2 of 3)	8/7/19	1
C2.8	Grading Plan (3 of 3)	8/7/19	1
C2.9	Vehicle Circulation Plan	8/7/19	4
C2.10	Roadway Profile	8/7/19	4
C2.11	View Impact Plan	8/7/19	0
C2.12	Wetlands Disturbance Area Plan	8/7/19	2
C3.1	Detailed Crossing Plan	8/7/19	4
C3.2	Crossing Details	8/7/19	0
C4.1	Soil Erosion & Sediment Control and Landscape Details	8/7/19	4
C4.2	Site Details – 1	8/7/19	1
C4.3	Site Details – 2	8/7/19	0
C4.4	Drainage & Utility Details	8/7/19	0

[Signatures on next page]

Ware Planning Board:


Rick Starodoj, Chairman

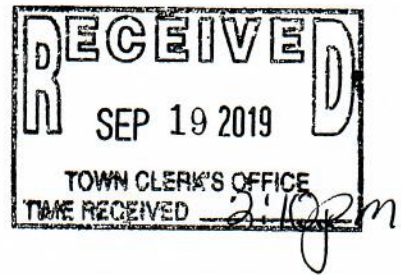

Edward J. Murphy, III


Fred Urban


Joe Knight


Jennifer Muche, Alternate

Date filed with Town Clerk:



Decision to be endorsed no earlier than:

October 9, 2019

Certificate of No Appeal

No notice of Appeal was received by the Town Clerk during the 20-day appeal period.

Town Clerk

Date