



Board of Selectmen

Ware Town Hall, Meeting Room, 126 Main Street

Regular Meeting Minutes – Tuesday, November 24, 2020 at 7:00 p.m.

Instructions for call in option: at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.

Join online: <https://us02web.zoom.us/j/7846041861> (the online option will require a download).

Meeting ID: 784 604 1861

Passcode: 01082

Phone: 929-205-6099

Present at Town Hall: Selectman Keith J. Kruckas, Selectman Nancy J. Talbot, Selectman John J. Morrin, Town Manager Stuart B. Beckley, Clerk Mary L. Midura, DPW Director Gibby St. George-Sorel, Fire Chief Chris Gagnon, Charles Niedzwicki, Carol Zins, Assessor Devin Peterson

Present via Zoom: WRN Editor Eileen Kennedy, Treasurer Erica Brunelle, Ken Willette

Absent: Selectman Alan G. Whitney, Selectman Thomas H. Barnes

Meeting Opened at 7:00 p.m. by Vice-Chairman Kruckas

Opening Remarks, Announcements, and Agenda review by Chair

Selectman Kruckas wished a speedy recovery to Selectman Barnes.

Consent Agenda

- **Special Event Permit Application: Main Street Stroll, December 5, 2020**
- **Special Event Permit Application: Holiday Flair, December 12, 2020**

Carol Zins spoke about the Main Street Stroll, with specials, raffle basket, and Santa at Veterans Park.

Selectman Talbot made the motion to approve the Special Event Permit for Main Street Stroll. Selectman Morrin seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 2 Absent (Selectman Whitney, Selectman Barnes).

Selectman Talbot made the motion to approve the Special Event Permit for Holiday Flair. Selectman Morrin seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 2 Absent (Selectman Whitney, Selectman Barnes).

- **Reconsider Creation of Safety Zone and 20 MPH, Beaver Lake Road (Vote of October 20, 2020)**
Mr. St. George-Sorel would like the Board to reconsider the vote. He stated the area does not conform to requirements for a safety zone. Selectman Morrin noted this is a vulnerable road. Selectman Kruckas requested verification from town counsel and Mass DOT. The Board took no action.

Scheduled Appearances

- **7:10 p.m. Tax Classification Hearing**
Assessor Devin Peterson presented the handout and noted a split rate would drive business away. The Board of Assessors recommend a single tax rate, factor of 1.

Selectman Talbot made the motion to Approve a Single Tax Rate, Factor of 1. Selectman Morrin seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 2 Absent (Selectman Whitney, Selectman Barnes).

Old Business

Ms. Marques presented a packet with information on legal efforts on 92-104 Main Street (attached). Selectman Kruckas questioned the Town's ability to attach the insurance. Selectman Kruckas also asked if Code Enforcement funds can be used toward this and 114 Main Street. Mr. Beckley noted those funds may be repurposed to downtown by the CDA.

Mr. St. George-Sorel noted that the Main Street project will be stalled further if Article 25 is not approved at the Special Town Meeting. Selectman Kruckas noted that town counsel did not recommend the Town pay for this and taxpayers should not be burdened. Selectman Morrin asked what the plan would be, as it must be assumed this will not pass at town meeting.

Ms. Marques stated other communities establish a fund for such issues. Selectman Kruckas and Morrin both stated that the owners are responsible. Ms. Marques noted she can only suggest that the owner get an engineering report. The Board discussed the need to have town counsel at the Special Town Meeting to address these concerns.

Ms. Marques noted she is actively working on the building issues based on CMR and State guidelines. Selectman Kruckas noted this Board inherited these issues, and needs correct and detailed information to take before the taxpayers.

Resident Carol Zins asked to speak regarding Shop Small on November 28 and 29. There will be tickets sold for a raffle basket and stores and restaurants will participate.

New Business

- **Review of November 30, 2020 Special Town Meeting Warrant Articles**

Selectmen reviewed each article and voted to recommend articles as presented and recommended by Town Manager Beckley. Selectman Talbot abstained from Article 19. Article 25, regarding funds to remove 114 Main Street, was changed from \$300,000 to \$425,000. Selectman Talbot did recommend Article 25, Selectmen Kruckas and Morrin **did not** recommend Article 25.

Comments and Concerns of Citizens - none

Town Manager Report

Upcoming meetings:

November 30, 6:30 Special Town Meeting, High School

December 10, 7, Public Forum #3 Water Filtration Plant, Senior Center

Concrete was poured on Friday for the Main Street sidewalks. This will continue in the coming week.

The Old Belchertown Road bridge is complete, and the Town is waiting to hear from Mass DOT about removing the barriers.

The legislature is moving steadily through the State budget process. Both the Senate and House Ways and Means Committees have proposed budgets with similar revenues and expenses proposed in the revised Governor's budget. This provides a level of confidence for Town Meeting to move forward.

Grants: The State announced the award of three grants to the Town recently. The PARC grant will improve drainage at Grenville Park along the entrance lawn and the first ball field. The Remote Learning Services Support grant provides funds to agencies and home care providers that are assisting with remote learning during school hours. The MassWorks grant will provide funding for the sidewalk lighting along Main Street.

114 Main – The Town Attorney and Building inspector have been in contact with the property owner and are discussing options for removal.

Town Hall – last Sunday's wind blew off a significant section of copper flashing. The Fire Department (thank you) was able to remove the flapping section and tack down the other half. On Friday, a roofing company repaired the roof with new copper and tightened up the ridgeline.

Water Forum. Andy Lalashius and Tighe and Bond are moving forward with the rate study that will analyze consumption and the funds needed to fund the Water Filtration Plant. They will do cost analysis comparing the use of water rates versus the use of taxes. This information will be the focus of the next forum on December 10.

As seen in the Special Event packet, the Holiday Decorating Committee is working to install decorations on Main Street AND to create a drive through display at Grenville Park scheduled for December 12. There will be no contact as people will remain in cars, even when passing Santa. The Parks Department and Town are assisting on the COVID plan.

Wood for residents. The DPW is planning to remove a good number of trees this winter and will make the wood available according to the Town's wood policy. Residents interested in receiving a truck load of wood of various sizes and lengths should contact the highway department at 967-96233.

Solar Lease – The Town's lease is for \$500 for each of the two parts of the project, so \$1000 per month. Annual cost is approximately \$7,000.

Two new firefighters have joined the Fire Department. The town hall audit will begin in January 2021. Food distribution served 283 families. Selectman Morrin requested minutes of the school reopening committee. Selectman Kruckas questioned the DPW ability to plow; Mr. Niedzwicki noted there are four subcontractors at this time.


Selectman Kruckas wished Happy Thanksgiving to residents, and a swift recovery to Selectman Barnes.

Adjournment

~~Executive Session: M.G.L. Chapter 30A, Section 21 (a) #2 Conduct Strategy Sessions for Negotiations with Non-Union Personnel~~

Selectman Morrin made the motion at 9:05 p.m. to Adjourn the Regular Meeting to go into Executive Session: M.G.L. Chapter 30A, Section 21(a) #2 Conduct Strategy Sessions for Negotiations with Non-Union Personnel, NOT TO RECONVENE IN OPEN SESSION. Selectman Talbot seconded the motion. The motion passed on a roll call vote of 3 Yes, 0 No, 2 Absent (Selectman Whitney, Selectman Barnes).

Selectman Alan G. Whitney	Absent
Selectman Keith J. Kruckas	Yes√
Selectman Thomas H. Barnes	Absent
Selectman Nancy J. Talbot	Yes√
Selectman John J. Morrin	Yes√

Attest: 
Mary L. Midura, Executive Assistant to
Town Manager

Report

Town of Ware – Building Department

To: File, 92-104 Main Street

By: Anna S. Marques, Local Inspector / Zoning Enforcement Officer

CC:

Date: November 24, 2020

Re: 92-104 Main Street

- Update on status of unsafe structure violation

Since our last meeting on November 10, 2020, I have reached out to Mr. Ha on the status of his actions on his building. A violation had been issued on 9/15/2020 per 780 CMR 115 Unsafe Structures and called to secure the building for public safety. The owner had not received the certified copy and though the regular mail was never returned, an email was forwarded with the violation. The owner has been answering my calls and though will not be hiring an engineer in the near future, he has plans to do so in the early spring and will plan on acting on the engineer's recommendations in the summer. He expressed his willingness to work towards solving the issue. He verbally stated tonight he would be securing the building as called for in the violation next week.

On the topic of demolition, an order may be issued after a Board of Survey – which is typically at a higher expense and takes a longer amount of time (the method used on the Casino building on Main St). It is preferred by some because it less political. The other option is to issue an order to demo upon adjudging a property to be nuisance by the Board of Selectmen. This is a quicker process (but more political) and was suitable for 114 Main St (next door) at Town Counsel's recommendation.

A hearing by the BOS cannot have a foregoing conclusion and needs to be acted on with an open mind. When there's a failure of due process, there is more of a case for an appeal. Town Counsel stressed the importance of following correct process.

Marques, Anna S.

From: Marques, Anna S.
Sent: Monday, November 23, 2020 4:41 PM
To: Beckley, Stuart
Subject: FW: Structural Engineer Reports

Stuart,

92-104 Main St

As an update to my correspondence with Duc Ha – owner of 92-104 Main St, please find this email with additional phone conversations.

I spoke with Mr. Ha last week. He did not call me on Friday. I reached out to him today. He has been reached out to by Mr. Barenboym about entertaining the option to purchase 114 Main. I explained to him the requirements and the order that was issued by the Selectmen. I further clarified that if he were to acquire the property, it would not allow him additional time in consideration. He is open to combining efforts to see if demo could be coordinated but he does not foresee that happening in the near future. We reviewed the violation I issued and that he is required to make the structure safe per 780 CMR 116. He is to secure the building as directed and I advised him to do so right after he attains the structural review of the property. (I repeated the importance of him attaining the engineering services and to supply the date it is scheduled for along with the name of the engineer. This information would be helpful to him to decide what, if anything is salvageable. However, I reiterated that my opinion was that the building is unsafe and should be secured.

I believe further action should be run by Town Counsel.

114 Main St

This morning, Mr. Barenboym called to inquire about an update on trying to combine efforts to fund the demo of the building. I informed him we are awaiting additional info from Town Counsel.

I hope to have more to add for Tuesday evening's meeting.

-Anna

From: ducha275 <ducha275@comcast.net>
Sent: Thursday, November 19, 2020 4:46 PM
To: Marques, Anna S. <amarques@townofware.com>
Subject: Re: Structural Engineer Reports

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you so much, Anna.

Sorry, I got stucked in an appointment longer than I thought. I will call you tomorrow.

Best,
Duc

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Marques, Anna S." <amarques@townofware.com>

Date: 11/19/20 10:47 AM (GMT-05:00)

To: ducha275 <ducha275@comcast.net>

Subject: Structural Engineer Reports

Good morning Duc,

It was good to speak with you this morning. Attached are copies of the reports submitted regarding the property 114 Main St. It is required to have the same report done for your property, 92-104 Main St. The Board of Selectmen would like a formal update on the status of your building for their meeting on Tuesday, November 24, 2020. They are expecting a similar report to these addressing the feasibility of repair for your property, 92-104 Main St, as opposed to deeming your property structurally unsound and unfeasible for repair.

In addition to requesting an engineering report, your property must be secured per 780 CMR 116 – please see the third attachment for a reference of the violation issued to you on 9/15/2020.

Though the registered mail was undeliverable, the regular mailed copy was never returned. If you would like to request the complete report with all 54 photos, that can be emailed to you in a separate email.

Let's talk again this afternoon as agreed in this morning's conversation.

Anna Szmyd Marques

Building Department

Local Inspector, Zoning Enforcement Officer

Town of Ware | 126 Main Street | Ware, MA 01082

t. 413.967.9648 x114

Town Hall hours are M-F 8-4.

www.townofware.com

MASSACHUSETTS NON-CRIMINAL BUILDING CODE VIOLATION NOTICE
(Issued pursuant to M.G.L. c. 148A and 780 CMR)

Ticket #
B051-00911

OFFICER I.D. NUMBER
B0 2124

BUILDING OFFICIAL (PRINT NAME)
ANNA S. MARQUES

ISSUED BY: BUILDING COMMISSIONER (OR DESIGNEE)
 STATE BUILDING INSPECTOR (OR DESIGNEE)

DEPARTMENT ISSUING NOTICE
BUILDING DEPARTMENT

(MI)
STATE MA ZIP CODE 02459
STATE MA ZIP CODE 01082

(FIRST)
DUC

CITY/TOWN
NEWTON

NAME OF OFFENDER (LAST)
HA
ADDRESS
275 JACKSON ST.

DATE OF VIOLATION
8/5/2020
TIME
12:00
LOCATION OF VIOLATION (INCLUDE #, ST, CITY, TOWN)
92-104 MAIN ST., WARE

VIOLATION(S): Building Code 780 CMR (Code of Massachusetts Regulations) Check One:
 A. Warnings of violations(s) only
 B. Violation(s) 780 CMR (1st offense=\$100. 2nd offense=\$500. 3rd or subsequent=\$1000.)

C. No specific conditions to be corrected
 Continuing conditions to be corrected within 24 hours
 Conditions to be corrected by: (date) Sept 30, 2020

Description	Assessment
Blocked or Impeded Egress	\$
Emergency Lighting and/or Signage	\$
Occupant Load Exceeded	\$
Interior Finish	\$
Occupant Notification Devices	\$
Fire Detection Devices	\$
Sprinkler System	\$
Occupying a building without an appropriately issued certificate of occupancy	\$
Occupying a building beyond the expiration date of a temporary certificate of occupancy	\$
Proceeding with construction work without proper inspections	\$
Beginning work without applying for and receiving a building permit	\$
Failing to submit amended plans to reflect a change in the scope of work	\$
Failing to maintain a property in a manner safe for occupancy	\$
Sec: 116	\$

Description of Condition:
 Utilities - Power to be disconnected.
 Window opening, Door openings stair opening from exterior to be secured per Section 116.
 Excessive Vegetation to be removed.

Report Attached Yes No
 Total Amount Due: \$

This is a 2nd or subsequent offense Date(s) of prior Offense(s) _____
 OFFICER CERTIFICATION: I certify that I am authorized to issue this Massachusetts Building Code Violation Notice in accordance with the provisions of M.G.L. c. 148A. I further certify that (check one):

I have delivered a copy of this violation to the offender, or the offenders agent at the time and place of the violation.
 Signature of offender or agent of the offender upon receipt:
 Name: _____

Check here if offender refused to accept delivery (Note: Whoever upon the request any local or state code enforcement officer refuses to state his/her name and address shall be punished by a fine of not more than \$200.00 (M.G.L. C.148A).)

I have mailed a copy of this violation notice to the offender at the offender's last known address.
 I have delivered a copy of this violation at the offender's last known address.

Address of mailing or delivery: 275 JACKSON ST., NEWTON, MA 02459
 Officer Signature: [Signature]

D. MAKE PAYMENT OR REQUEST AN APPEAL TO: Town of Ware, Hearings Officer
 126 Main Street
 Ware, MA 01082
 MAKE CHECKS PAYABLE TO: TOWN OF WARE

SEE REVERSE SIDE FOR IMPORTANT INSTRUCTIONS

SECTION 115 STOP WORK ORDER

115.1 Authority. Whenever the building official finds any work regulated by 780 CMR being performed in a manner either contrary to the provisions of 780 CMR or dangerous or unsafe, the building official is authorized to issue a stop work order.

115.2 Issuance. The initial stop work order may be verbal, but shall be in writing within 48 hours and shall cite the time and date of the verbal order and be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

115.3 Unlawful Continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by M.G.L. c. 143, § 94(a). Each day during which a violation exists shall constitute a separate offense.

SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

116.1 General. The provisions of this section are established by and work in conjunction with the requirements of M.G.L. c. 143, §§ 6 through 12.

116.2 Standards for Making Buildings Safe or Secure. Any owner of a building who has been notified that said building shall be made safe or secure under Section 116 shall:

1. Remove all materials determined by the head of the fire department or building official to be dangerous in case of fire.
2. Secure all floors accessible from grade utilizing one of the following methods so long as such method is approved by the head of the fire department and building official in writing:
 - a. Secure all window and door openings in accordance with the *U.S. Fire Administration, National Arson Prevention Initiative Board up Procedures* found here: <http://www.interfire.org/pdf/USFA%20Board%20Up.pdf> continuously until such time as the building is reoccupied; or
 - b. Provide 24 hour watchman services continuously until such time as the building is reoccupied; or
 - c. Provide a monitored intruder alarm system at the perimeter of all floors accessible from grade continuously until such time as the building is reoccupied.
3. Maintain any existing fire alarms or sprinkler systems unless written permission is obtained from the head of the fire department in accordance with M.G.L. c. 148, § 27A to shut off or disconnect said alarms or systems.
4. Maintain utilities unless written permission is obtained from the building official to disconnect said utilities. Permission to disconnect utilities shall not be granted if it will result in inadequate heat to prevent freezing of an automatic sprinkler system or inadequate utilities to maintain any other protection systems.
5. The requirements of Sections 116.2.1. through .4. do not prevent a building official from ordering or taking expeditious, temporary security measures in emergency situations pending the completion of the requirements of Sections 116.2.1. through .4.

For the purposes of Section 116, an "emergency situation" shall be defined as: an unexpected incident, which by its very nature may present a threat to public safety personnel who may be required to affect a rescue effort or conduct fire extinguishment operations.

Upon refusal or neglect of said owner to comply with such notice, any building official acting under the authority of M.G.L. c. 143, §§ 6 through 12 shall enforce Section 116.2.a. or other equivalent procedure approved by the head of the fire department, continuously until such time as the building is reoccupied.

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS

1.00: continued

Any building which has been made to conform to the provisions of Section 116.2 during vacancy may be reoccupied under its last permitted use and occupancy classification, provided that any systems which were disconnected or shut down during the period of vacancy are restored to fully functional condition and subject to Section 105 and M.G.L. c. 40A. The local building official shall be notified in writing prior to re-occupancy. If said building is changed in use or occupancy or otherwise renovated or altered, it shall be subject to the applicable provisions of 780 CMR 34.00: *Existing Building Code*.

116.3 Marking or Identifying Certain Buildings That Are Especially Unsafe in the Case of Fire. Any building official who determines that a building is especially unsafe in case of fire under Section 116 shall notify the head of the fire department about the existence of said building. The building official, in cooperation with the head of the fire department, shall cause said building to be marked in accordance with the marking requirements in 527 CMR: *Board of Fire Prevention Regulations*.

Report

Town of Ware – Building Department

To: File, 92-104 Main Street

By: Anna S. Marques, Local Inspector / Zoning Enforcement Officer

CC: Town Manager, Fire Department, Town Clerk, DPW, Police Department

Date: September 15, 2020

Re: 92-104 Main Street

- Refer to 54 photos dated August 5, 2020

This report is in response to concerns over the condition of 92-104 Main Street, Ware, MA. On Wednesday, August 5, 2020, the Fire and Building Departments, accompanied by the owner, were able to access the property. Some of the concerns from the visit are as follows:

- It was observed that the structure had more than one fire as evidence of the charred structure was visible throughout.
- Holes in the floors were seen in several locations.
- Beams are left unsupported in some areas. A permit for a temporary roof was obtained by the previous owner.
- The temporary roof was to serve the purpose of protection while work was to be done. It was not intended to be the structural replacement to the damaged roof.
- Some areas seemed vulnerable to break-in, more so in the rear of the property.
- Excessive vegetation needed to be addressed.
- A stairway entrance (exposed to the exterior) in the rear, between the buildings was especially concerning due to the combustible materials.
- Evidence of dumping
- Power did not seem to be shut off
- Missing masonry walls without accommodation for the openings
- Foundation compromised in some areas with missing stone/brick – letting daylight in
- Excessive variance in the floor pitch on all levels

The concerns are over the inactivity on the attention needed for this structure as it continues to deteriorate. Immediate items to address are:

- Cutting of power to the structure
- Securing the structure

Concurrently, the owner should acquire the services of a structural engineer to determine the feasibility of the renovation/restoration of this structure in compliance to code.