



# TOWN OF WARE

Planning & Community Development

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## Planning Board Minutes August 19, 2015

- Planning Board members present:** Rick Starodoj (Chairman), Fred Urban, Chris DiMarzio, Joe Knight, and John Chabot (Alternate)
- Planning Board members absent:** David Kopacz (health reasons)
- Staff present:** Karen Cullen, Director of Planning & Community Development, Maggie Sorel
- Public:** As taken from Sign -in sheet: Ed Zawada, Jon Ricker, Joan Gay, Winthrop Gay, Danielle Taylor, Beatrice Barlow, William Barlow, Paul Opalinski, Bill Cooper, Gevork Anderyassian, Greta Reo-Anderyassian, Donald Pulchtopek, Cathy Hayward, Peter Roberts, Gennady Solodar, James P. Troupes, Todd Marion

Chairman R. Starodoj called the meeting to order at 7:04 p.m.

1. Administrative
  - a. Approve minutes from July 15, 2015 – **Motion** by F. Urban to approve minutes as presented, seconded by C. DiMarzio. So voted 4/0/0.
2. SP-2015-02 – Special Permit for Seaboard Solar for a One Year Extension to SP-2013-02 for installation of solar array on Gilbertville Road.

Chairman R. Starodoj opened the public hearing at 7:05 pm and appointed John Chabot, Alternate to be a voting member on this Special Permit request. Clerk J. Knight read the public hearing notice into the record.

Danielle Taylor represented the applicant and provided a brief update on the site conditions and construction schedule. She explained they had problems with their first contractor and are in the process of hiring a new one. They expect silt fence and finish grading to be completed in September or early October, and then work will begin on the

solar array. She noted the erosion and sedimentation control on the site seems to be working.

R. Starodoj asked about the stumps that are in the berm along the road; Ms. Taylor stated that is temporary cover. The Board requested a letter signed by the project engineer stating there are no stumps in the berm, it should be clean fill and topsoil suitable for growing the trees and other vegetation that will be planted on it.

C. DiMarzio asked if there was a surety bond in place; R. Starodoj stated the surety is not required for construction, only for the operation of the facility and it will be in place prior to operations commencing. It was noted that normally solar array construction is a fast project and this one has been very atypical.

Abutter Gay at 45 Gilbertville Road stated that a vinyl fence is not acceptable, they want the berm planted with vegetation and not a vinyl fence to shield the solar array from their house. Ms. Gay requested a letter explaining how they will be impacted during and after the construction; Ms. Taylor said she will send a letter to her.

Abutter Allard at 16 Gilbertville Road submitted photos of the detention basin on the site, noting that it has repeatedly flooded to a level of 6 feet high on the trees. Discussion of the causes of this and whether it was a problem; was the culvert (under Gilbertville Road) clogged with sticks that had come off the site, with the West Brookfield portion of the site having been logged it has created problems with runoff. R. Starodoj noted that if the project went bust at this point, DEP will likely be involved and if restoration work needs to be done, liens would likely be placed on the property to recover such costs if the owner did not take care of it. [Note, the owner of the property is not the developer of the solar array.]

Discussion regarding establishing a bond to cover costs of site reclamation before winter if the construction has not progressed to the point where the site is stabilized to minimize runoff. Have applicant return to the Planning Board at the first meeting in October for an update on progress.

**Motion** by C. DiMarzio to grant the special permit for a one year extension to SP-2013-02, reaffirming the findings and conditions of that special permit and adding three new conditions:

2. The earthen berm along Gilbertville Road (Route 32) shall be free of stumps and other debris and shall consist solely of earth material and soil sufficient for the growth of plant materials of the sizes and types indicated in the plans (buffer plantings to consist of ten spruce trees, mountain laurel, and wildflower mix).
4. All buffer vegetation shall be maintained and any plants that die are to be replaced within six months.

10. A review of this project shall take place at a Planning Board meeting in October 2015 and the Planning Board reserves the right to require at that time that a bond or suitable surety be established for the remediation of the disturbed area of the site (topsoil and vegetative cover) if steps have not been taken to construct this project by that time.

Seconded by F. Urban. So voted by roll call vote 5/0/0.

Chairman R. Starodoj closed the public hearing at 7:33 pm.

3. SP-2015-03 – Special Permit for Greta Reo-Anderyassian to establish a small scale retail establishment (Pricilla’s Again) at 26 South Street

Chairman R. Starodoj opened the public hearing at 7:34 pm and appointed John Chabot, Alternate to be a voting member on this Special Permit request. Clerk J. Knight read the public hearing notice into the record.

The applicant gave a brief presentation on the application, noting that it will be a high-end market with local produce and food products, will be take-out only selling breakfast and lunch products and some local artisan products as well. They plan to do some catering and will make deliveries as well. Area residents and businesses have indicated strong interest in having this available within their neighborhood. Parking will be available on site to the side of the market and behind one of the residential buildings; there is sufficient parking on the site to accommodate the market as well as the existing residential units on the site. They plan to make some façade improvements, including new canopies. There will be no outdoor refrigeration units.

Brenda and Bill Cooper, property owners and partners in this business, added that it would bring an “old world flair” to the neighborhood, and provide an outlet for local artisans to market their wares. It will help to reinvigorate this area of town, close to the western end of Main Street and the Millyard.

The Board read through the findings in the draft decision and concurred with all as written.

**Motion** by C. DiMarzio to grant SP-2015-03 with the following conditions:

1. That the hours of operation be limited to 6:00 am to 8:00 pm as described in the application.
2. That all signage, including that on the awning, not exceed 16 square feet in area, and anything in excess of this is subject to review by the Planning Board but does not require an amendment to this Special Permit.
3. That failure to comply with all applicable statutes and regulations shall be deemed cause to modify or revoke this Special Permit.

Seconded by J. Knight. So voted by roll call vote 5/0/0.

Chairman R. Starodoj closed the public hearing at 7:52 pm.

4. ANR Request for Micheller Enterprises, LLC to subdivide the parcel at 16 Main Street into two parcels – Jim Troupes, surveyor, and Peter Roberts, real estate agent, gave a brief presentation of the proposal, noting that the applicant (Gennady Solodar) was planning to purchase the majority of the site as well as the vacant parcel under the same ownership adjacent to this parcel in the millyard. The applicant plans to move his business (restoring and refinishing antique furniture) to this site. The proposal is to subdivide the damaged buildings from the larger part of the site which has several good buildings on it. Kathy Hayward, real estate agent for the seller (Micheller Enterprises, LLC) stated the owner (Atilla Micheller) understands and accepts responsibility of the damaged buildings. She added that the buyer has done his due diligence and understands what he is getting into; he is ready to renovate the buildings and plans to continue renting to the current tenant and add his own business.

C. DiMarzio stated he is concerned about this proposed split since there is an appearance that there will be no value left in the property (where the damaged buildings are) and the current owner will walk away, leaving the Town with the responsibility of this unsafe building which, with no value, will mean the Town will have to incur the cost to clean up the site. R. Starodoj added that in the DEP filings the owner has indicated he will be filing paperwork for an inability to pay which seems like there is no intention of the owner to complete the DEP process. We understand the contaminated materials have been removed from the site and properly disposed of, but the DEP case remains open and is under a Notice of Noncompliance.

Discussion about the potential for the proceeds of the sale of the property to be put into an escrow account to be used to demolish the building per the Building Inspector's order and to complete the DEP process (although DEP will likely have their own procedures). Potential for an agreement to be put in place to accomplish this; the owner's attorney needs to discuss with owner to determine if he is willing to do this. If so, then the attorney needs to prepare a draft executable document which Town Counsel will review and approve.

Discussion about the lack of a good faith effort on the part of the owner, as evidenced by the lack of response to the Building Inspector's order to demolish the unsafe building at the site as well as the indication of lack of resources to pay for the required filings with DEP. Board members noted that the Town has worked well in the past with property owners but the owner must be willing to work with the Town. The Town is looking for acceptance, acknowledgment, and a plan to move forward. The Board has several options: determine that the ANR does not meet the criteria for endorsement as an ANR (due to lack of frontage as required in MGL c. 41 §81L as well as provisions of MGL c. 21E regarding a scheme to evade 21E responsibility); to continue this item to the next

Planning Board meeting to give the applicant time to prepare the requested escrow document; or vote to direct Karen Cullen to endorse the plan if said escrow document can be produced prior to the next meeting.

**Motion** by C. DiMarzio: The Planning Board cannot endorse the ANR plan due to the existing enforcement order from the Ware Building Inspector; however if Town Counsel is satisfied that there is a surety in place to cover the costs of demolition of the subject building at the site, then the Planning Board instructs Director of Planning & Community Development Karen Cullen to endorse the ANR.  
Seconded by F. Urban. So voted, 4/0/0.

5. Lot Release Request – Todd Marion of MRT Development for release of Lot #4 of the Pennybrook Estates subdivision, Coldbrook Drive. T. Marion updated the Board on progress on road construction this year; mostly waiting for the Town to hire a new DPW Director. T. Marion will have his engineer, Tom Hogan, prepare a written report on what needs to be done to complete the road to meet the approved subdivision plans and specifications. That will be submitted to the DPW Director and once both sides agree on it, work will commence to complete the road. T. Marion said he intends to do this before winter this year. **Motion** by C. DiMarzio to release Lot #4 of the Pennybrook Estates subdivision from the covenant. Seconded by J. Knight. So voted 4/0/0. **Motion** by C. DiMarzio to direct Karen Cullen to sign the release document. Seconded by F. Urban. So voted 4/0/0.

6. Communications – Karen gave a number of abutting town’s notices to the Board for review; nothing of note that has potential to impact Ware in this batch. One letter of note from CHA, engineering firm working on the Main Street TIP project, asking for comments on design of the project as soon as possible; after discussion Karen said she would see if she could get the current draft of the plans and send it to the Board members for review; we can discuss it at the next meeting and send comments from the Board after that.

7. Next meeting scheduled for September 2, 2015. We may have a minor site plan for an addition at Guzik Motors, depending on the outcome of the ZBA variance hearing scheduled for August 26.

8. Adjourn – **Motion** by C. DiMarzio to adjourn at 9:13 pm; seconded by J. Knight.

<i>Minutes Approved on:</i> _____	
Starodoj	_____
DiMarzio	_____
Urban	_____
Kopacz	_____
Knight	_____

*Respectfully submitted by Karen Cullen  
Director of P&CD*