



TOWN OF WARE

Planning & Community Development

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Planning Board

Meeting Minutes from

Wednesday, September 19, 2018

Board of Selectmen's Conference Room

Planning Board members present: *Rick Starodoj (Chairman), Josh Kusnierz (Vice Chairman), Chris DiMarzio, Fred Urban, Joe Knight, Ed Murphy*

Planning Board members absent: *none*

Staff present: *Rubén Flores-Marzán, Director of Planning & Community Development
Judi Barnard Mosso, Assistant to the Director*

Public: *(as taken from the sign in sheet and observation): Brad Wilson, Ecos Energy; Peter J. Berte, Larry Rusiecki, Doucet & Assoc.; Kelly Hudson; Fran Sinclair; Karen Brodeur; Daniel Veale; Dena Brayson; Jerry Brayson; Pamela Lukasik; Wendy Gewinner; Dave Lukasik; Mike Supczak; Garrett Keegan; Debra Keegan; Chantel Bleau; Richard Cadarette; Jennifer L. Muche; Melanie Hensel; Victor D. Hensel, III; Brandy Bruso; Gina Wilson; Eric Dane; Deborah Morrin; Krystine Viess; Vladimir Viess; Melissa Martin; Ed Gardner; Loretta Gardner; Ed Kowynia; Kevin McClure; Dennis Cote; Kristin Rosenbeck; Jennifer McMartin; Devin Peterson;; Clifford Heaton; Terrance Smith, other unidentified gentleman; MEDIA: Jim Russell, The Republican; 22 News*

Chairman R. Starodoj called the meeting to order at 7:00 p.m. Attendees said the Pledge of Allegiance. The Chairman reviewed the public hearing process, asked everyone to sign the Sign In sheet, silence cell phones, practice civil discussion, and to speak only when recognized by the Chairman.

1. **Administrative**

- a. **Approve minutes from September 5, 2018** – Board has not had sufficient time to review minutes. **Motion** by J. Kusnierz to table approving the minutes until the October 3 meeting. Seconded by F. Urban. So voted 5/0/0.

- b. **Appoint PVPC delegate (alternate is appointed by Select Board)** – After brief discussion, **Motion** made by J. Knight to nominate J. Kusnierz as the delegate to the Pioneer Valley Planning Commission. Seconded by F. Urban. So voted 5/0/0.

J. Knight expressed interest in serving as the alternate. **Motion** by J. Kusnierz to recommend to the Board of Selectmen that Joe Knight be appointed as alternate. Seconded by F. Urban. So voted 5/0/0. Per PVPC, the commissioner is a member of the planning board and the alternate commissioner must be a resident, appointed by the town's chief elected official.

2. **7:05 Public Hearing on Ecos Energy, Solar on Yorkshire Estates subdivision parcels (SP-2018-04 and SPR-2018-06)**

The Chairman opened the hearing at 7:05; J. Knight read the legal notice into record. J. Kusnierz recused himself from the hearing as he is an abutter to the subject property. R. Starodoj appointed E. Murphy to hear the case. Chairman again explained procedure for public hearing.

PRESENTATION BY PROJECT PROPONENT

Brad Wilson of Ecos Energy presented the proposal. Major points of presentation:

- Located between Coffey Hill Rd and Monson Turnpike Rd
- Ecos is a "utility scale" solar company
- Property owner is Gusto Enterprises, LLC; Ecos will purchase the property if they receive all the necessary permits
- Introduced Larry Rusiecki of Doucet & Associates
- Handout of PowerPoint presentation
- Under current zoning bylaws, use is allowed by special permit and site plan review
- Have applied to ZBA (9/26/2018 hearing)

- *Have applied to Conservation Commission (CC) (10/10 hearing)*
- *Introduction to Ecos as a company; they do not sell their projects as many other solar companies do*
- *Location of proposed project including maps*
- *8 MW project*
- *After useful life, the parcels(s) would revert to residential development (as approved by a recorded subdivision)*
- *Discussion of solar array structures and components*
- *Only fenced in area will be the 16 equipment pads*
- *Will install a gravel access road*
- *Presented other existing projects*
- *Blue shaded area on map is the proposed solar; green area will remain undeveloped*
- *Project will not be visible to the public as it will be in the middle of the parcel*
- *Project aligns with the state's energy goals to displace fossil fuel use and support renewable energy*
- *Although there is an approved subdivision for this property, and is recorded at the Registry of Deeds, there is not a current demand for housing so the market does not support development of a subdivision*
- *Town currently receives taxes for property only; after solar project, it will receive approximately \$112,000/year in taxes on the solar components as well*
- *The state has strict stormwater control regulations that Ecos is required to meet before state and local conservation approval*
- *Discussion of operations and maintenance (O&M) procedures*
- *Discussion of decommissioning bond*
- *Have received comments from police and fire departments*
- *The point of connection to the grid at Coffey Hill Road then becomes part of the public utility infrastructure that is owned and operated by National Grid (NG) (Wires and connections for the project are no heavier than the 3-wire arrangement for residences)*
- *Board wants to see a rendition of the route for the lines up to Route 9 so they can examine impacts; Mr. Wilson will follow up with NG*
- *Larry Rusiecki (engineer) stated that the stormwater plans are required to show that proposed drainage systems will serve at least as well as they drain today; Ecos is also required to provide specific documentation to DEP/Ware CC including the 401 Water Quality Certificate*

QUESTIONS & COMMENTS FROM THE BOARD (answers in parentheses)

- *Has there been a study on the impact to wildlife? (has been approved as a residential subdivision; no protection requirements; no protected species present)*
- *There is strong evidence of bears and many other animals (wildlife will have relatively free access since the perimeter is not fenced in; will be much lower impact than a fully built-out residential subdivision; CC and DEP are reviewing)*
- *Some Board members stated last year that the approved subdivision should be withdrawn first before a solar project can be considered; greatest concern is the existing subdivision*
- *Board is working to rewrite the Town's subdivision control bylaw to include a "sunset clause" so that if a subdivision is not built by a certain time, the approval expires. This will allow for the most up-to-date best management practices since they improve constantly*
- *Board member recognized the benefits of solar but not at the cost of removing pristine trees and deforestation*
- *How can the Board protect the Town on a 40-year project? Really wants to see subdivision withdrawn before they review it*
- *With the subdivision in place, the applicant also needs a variance; brief discussion about limited variance criteria provided in Chapter 40A, and does not include financial*
- *The fact that they are seeking variances for only the parcels that abut ones in common ownership (owned by Gusto Enterprises), indicates that Ecos is steadfast in not wanting to remove the approved subdivision*
- *After the 25-40-year useful life of the potential solar project, the future use of the land should be reviewed based upon regulations at that time and not revert back to an old subdivision approval (as long as Ecos owns the property, they want the option to develop as they see fit; separate parcels allow Ecos to participate in the state's SMART program but it is not the only way)*
- *A formal hearing is required to rescind the subdivision*
- *Would like to see a condition that the subdivision is rescinded before final approval*
- *What are the offsite impacts; can you install lines underground; move poles farther south such as lot 20-1-34? (Width to be cleared is about 25')*
- *Board members confirmed that whether the property is a solar facility or a residential subdivision, the town has already approved the development of it*

and that it no longer belongs to the town; it would certainly be less impact than residential.

- *Abutter would like to see NG's System Impact Study; Board is not interested in the details of electrical paperwork (NG would not allow the connection if the project was not safe and viable)*
- *What comments have been offered by the Department of Energy Resources (DOER) regarding clearcutting forests for solar facilities? (B. Wilson will explore that answer)*
- *After the project, would the owner just unload the frontage lots? (Ecos is willing to consider a condition of the permit that no other parcels will be developed or sold or further subdivided for the life of the solar project; All other parcels will be left "as is" for the life of the project)*

QUESTIONS FROM THE PUBLIC (Ecos answers in parentheses)

There were many questions about wildlife, wetlands, and stormwater management; these questions were answered and people were encouraged to attend the Conservation Commission public hearing for more details and input.

- *How will power lines be run; seems to be more clearing than initially proposed (Area for power lines and poles at northwest portion of project is approximately 25' wide and 1,800 feet long; Ecos is willing to consider running the lines underground and at a more southerly position)*
- *Board should consult Brimfield Assessors who have recently dealt with valuation of individual lots for solar. Brief discussion about increase in tax revenue as solar array vs. full built-out residential subdivision; schools would soon operate at a deficit. MA is the third most densely forested state, we should focus on the loss of agricultural land, not forests; would like the Board to consider the tax advantages of a solar project.*
- *R. Starodoj discussed Assessor's data; compared yearly taxes to the 2 most recent subdivisions and concluded that if Yorkshire was built out, the Town would receive \$295,200 in taxes annually. Approximate cost per student is \$5,000/year; town pays some and the state pays the balance; cost does not include additional services such as transportation*
- *How long ago was the subdivision approved? (January 2007, recorded in Book 215, Page 68)*
- *B. Brusso submitted a list of questions (see attached); Board and applicant responded to questions*
- *Why was Beaver Lake selected for the proposed solar facility? (The property was not considered because it is Beaver Lake. Due to the fact than most*

people prefer to have solar fields out of sight, the Yorkshire Estate site offered natural screening from public view

- *Is the project 70 acres or 55? (The proposed site plan is to clear 56 acres; if more acres were cleared, Ecos would be out of compliance with any permitting; Solar equipment is guaranteed for 25 years, a decommissioning bond would support the end of the project if Ecos left for any reason; the intention of the bond is to tear down the project, not to return the land to its original condition)*
- *J. McMartin stated that comparing solar to a built out subdivision is moot because subdivisions are not being developed and homes are not selling in the current market. She supports green energy but only on existing impervious surfaces (the fact that the subdivision had not been developed was what attracted them to the parcel; fenced in equipment pads would not offer significant impediment to wildlife; it is against state regulations for a solar project to be repowered with new equipment if it is worn out at the end of its useful life)*
- *The power line section [e.g. 1,800 foot section with poles] will affect property values (no credible reason to believe it will affect values)*
- *R. Starodoj stated that there is always an impact; abutting solar is a matter of preference as some people prefer to live next to a solar array because it serves as a quiet neighbor; there is no guarantee what your neighbor will do with their property*
- *C. Heaton stated that the sheer size of the project is like the Holyoke mall; would Ecos consider scaling down the size by 30-40%? (Ecos has had preliminary conversations with multiple town boards and is not considering any more major revisions such as scaling it down by 30-40%).*
- *C. Cronin, community liaison for Beaver Lake, had questions about stream testing, retention ponds, impact from significant rain events, and stormwater standards (Ecos is open to working with her group; they can talk after the meeting)*
- *M. Hensel stated that she was not notified of project. (R. Starodoj stated that per MGL, the applicant is required to notify abutters within 300' of the subject parcel and she was probably beyond the 300'; residents are advised to read the Ware River News and the Legal Notices section for matters that may be important to them)*

- *M. Hensel stated that Ecos should put solar on houses (B. Wilson stated that Ecos does not own abutters' homes and that they are not a residential solar developer)*
- *P. Berte stated that vernal pools are at the end of Beach Road which in turn feed area wells; he spoke about how trees filter water for wells and that he was concerned about runoff into Beaver Lake due to tree removal (L. Rusiecki stated that the topography and watersheds would remain the same; the array is mostly at the top of the hill; anything downgradient would be kept intact; Ecos cannot get approval unless they can demonstrate that the project has adequately designed water controls; R. Starodoj recommended that if any residents were concerned about the future quality of their well water, that they should establish baseline documentation now so that each resident could track any effects over time)*
- *E. Dane asked if a bond could be set for the stormwater (Not familiar with bonds related to stormwater; stormwater controls must be approved by state and CC; if it fails, they would be in violation and required by DEP and CC to repair/modify at that time)*

8:58 p.m.: R. Starodoj called for a brief recess

9:11 p.m. called to order

- *G. Mead asked if sheep could be used instead of herbicides to keep weeds down (B. Wilson stated that they let the grass grow substantially high before it is mowed; that information is available in the O&M plan)*
- *M. Martin inquired about actual acreage vs. proposed acreage; there are wetlands there (the estimate includes the 1,800' of lines going out to Coffey Hill Road; NG is aware of the site conditions)*
- *C. DiMarzio suggested that the power lines go down the center of one of the Gusto Enterprises parcels and away from an abutter*
- *B. Wilson asked for conditional approved tonight. R. Starodoj declined stating that conditional approval is problematic.*
- *D. Brayson stated that Ware's motto of "Somewhere worth seeing" won't hold true much longer if more solar is installed in town (B. Wilson stated that most people do not want to see solar panels so to put this project in the woods is better than putting on fields where it is highly visible to the public)*
- *J. Brayson stated concern over wildlife and water runoff*

- *C. DiMarzio asked if Ecos is willing to put the mountain portion of the property into a Conservation Restriction after the project ends - may be considered as a fair trade off for the community and to co-exist with wildlife (B. Wilson will ask the project owner and get back to the Board)*
- *B. Wilson stated that he hears abutters' concerns. The essence of people's comments tonight is not that the property "should not be developed for solar" but that the property "should not be developed". With conditions set by the Planning Board, approximately 80 acres would be conserved for 25-40 years because Ecos' is not developing the entire parcel.*
- *Solar does not support a direct customer; the energy gets pushed to the grid and then redistributed*
- *D. Peterson asked if there would be a Payment In Lieu Of Taxes (PILOT) agreement (that goes through the Board of Selectmen but there has been no indication of one)*
- *M. Martin submitted a magazine article from a VT publication quoting Mr. Wilson (B. Wilson stated that the quote was related to a completely different site outside of MA, that different states have different regulations, and the article is irrelevant to his application before the Board tonight)*
- *T. Smith stated that although he is hearing a lot of anti-solar comments, the Board is considering a project that will have less of an impact than a built-out subdivision*
- *Abutter asked why NG is not at this meeting (B. Wilson stated that NG is not the applicant, proponent or owner; they are a state utility. The onus is on the applicant to seek comment from NG and make those comments part of the application; the Impact Study is not an environmental one or community one, it is essentially a yes or no for project viability for NG)*
- *Additional questions were referred to the Conservation Commission*

Motion by E. Murphy to continue the hearing until the October 3 meeting at 7:15 p.m. Seconded by J. Knight. So voted 5/0/0.

The applicant asked for conditional approval of the applications this evening. R. Starodoj informed him that conditional approvals have been problematic in the past and the Board would like to avoid them.

3. **Discussion of possible zoning amendments**

- a. **Definitions of storage** – Board generally agreed on the suggested definitions of storage as discussed at the last meeting.

- b. Use Table – J. Mosso and R. Flores-Marzán distributed handouts with suggested changes to the Use Table including marijuana cultivation in the Rural Residential zone. R. Flores-Marzán explained that he adapted language from Monterey, California. Historically, Monterey is an agricultural town and much of their economy is based on agriculture; they also have experience with cultivating a large amount of marijuana.

Board discussed:

- Including information from Rick's handout
- Need to establish setbacks, size of greenhouses, 300-600' between actual physical structures
- Indoor cultivation ONLY
- Requiring on-site energy generation (e.g. solar) helps to off-set the cost of indoor cultivation; maximize to the extent possible on an existing roof; solar, as related to a marijuana cultivation, should be a separate special permit application from the marijuana cultivation special permit application.
- Medical community wants it referred to as "cannabis" as opposed to "marijuana" because the plant is used as alternative medicine
- Ask building inspector if either a plastic covered "hoop house" or cold frame are considered permanent greenhouses
- Do not add definitions for freight terminal and trucking terminal because that should be the determination of the Building Inspector (BI), and BI can refer to 4.3.24 of the current zoning bylaw
- Per 4.1.1.D of the current zoning bylaw: For specific uses which are not listed, but are clearly within a category listed in the Table, the Building Inspector shall make the determination as to whether the proposed use is permitted, and if so, which category it will be classified in

c. Other

- i. Large Ground-mounted Solar Facilities – The Board does not support a moratorium on solar. A temporary moratorium would not be productive because the Town already has provisions for solar. Instead, aspects of the solar bylaw should be modified such as increasing setbacks to 100' with as much natural vegetative buffer as possible.

Discussion about:

1. Limiting how many trees are removed [the MA Department of Energy Resources' publication Clean Energy Results states several times that removing a large number of trees is discouraged]

2. **Requiring a higher performance bond vs. putting the responsibility squarely on the property owner**

Board will review changes and amendment language again at October 3 meeting; would like to set public hearing for zoning amendments for October 24, time permitting.

4. **Discussion & Updates**

- a. **Wildflower Drive** – no update
- b. **Subdivision Control Bylaw rewrite** – should be starting up next month; no firm date from consultant yet.
- c. **Unfinished subdivision road review** – scheduled for Friday, September 21.

5. **Other** (any discussion and action may be postponed until next meeting)

- a. **Melink Solar Facilities** – The Board inquired about 2 Melink projects since they have sold the projects to other solar project operators. J. Mosso will research whether or not the new owners must appear before the Board or just communicate in writing that the project has transferred owners. [Conditions for both Melink projects require 30-days' notice before project is transferred and then to meet with the Board within 30 days after transfer to review conditions].
- b. **Palmer Motor Sports racetrack** – The company wants to lift the noise restrictions.

6. **Adjourn** – Motion by J. Kusnierz to adjourn at **11:06 p.m.** Seconded by J. Knight.

Documents reviewed:

- **SP-2018-04 and SPR-2018-06 Ecos Energy application and related documents**

Documents received:

- **"Ware Solar Project" printed PowerPoint slides from B. Wilson of Ecos**
- **"List of Questions/Concerns" submitted by Brandi Bruso**
- **"Vermonters for a Clean Environment" submitted by Melissa Martin**
- **Handout from R. Flores-Marzán related to marijuana cultivation regulations**
- **Handout from J. Mosso re zoning amendments**

Minutes Approved on: _____	
Starodoj	_____
Kusnierz	_____
DiMarzio	_____
Urban	_____
Knight	_____

Respectfully submitted by
Judith P. B. Mosso, MPA
Assistant to the Director