



TOWN OF WARE

Planning & Community Development

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Planning Board

Meeting Minutes from

Thursday, February 6, 2020

Select Board Room, Town Hall

Planning Board Members Present:

Rick Starodoj (Chairman), Joshua Kusnierz, Joseph Knight, and Ed Murphy (arrived 7:10)

Staff Present:

Rebekah DeCoursey, Director

Public in Attendance:

Bernie Bergeron, Alex Bergeron, Tom Barnes

PLEDGE OF ALLEGIANCE

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

PUBLIC HEARINGS – Applicant requested continuance of all public hearings until March 12, 2020 (note: not a regular meeting date)

1. The application of Ware Solar III LLC (c/o Melink Solar Development) for Special Permit (SP-2019-07) and Site Plan Review (SPR-2019-06) for a 4.2MW ground-mounted solar energy facility approximately 14.5 acres. The proposed solar installation would commence upon completion of Earth Removal Permit SP-2008-04. Location is Parcel 35-0-12 owned by FT Smith Trucking & Excavating.
2. The application of Ware Solar IV LLC (c/o Melink Solar Development) for Special Permit (SP-2019-06) and Site Plan Review (SPR-2019-05) for a 1.5 MW large ground-mounted solar energy facility encompassing approximately 6.2 acres. Location is Parcel 40-0-79 owned by Richard & Edward Couture.
3. The application of Ware Solar II LLC (c/o Melink Solar Development) for Special Permit (SP-2019-08) and Site Plan Review (SPR-2019-07) for a 1.9 MW ground-mounted solar energy facility encompassing approximately 7.7 acres. The property is located at 278 Osborne Road owned by Joel Harder.

J Kusnierz made a motion to continue the three public hearings of Ware Solar III, IV, and II to March 12th at 7:05, 7:15 and 7:30 respectfully.

he purchased the property from DeSantis. The Town enacted Zoning Bylaws in 1987. At this time his property was in Zoning District was Rural Business 2 (RB2). The property has always supported timber operations and is currently an active sawmill and tree services. In 2012, there were changes to the Zoning Bylaw – a complete re-write and changes to the Zoning Districts. This occurred unbeknownst to Mr. Bergeron; the change in use regulations in his new zoning district of Rural Residential (RR) restricts how he is allowed to use his property. Mr. Bergeron is requesting a reversal of the zoning so he can obtain the uses eliminated with the change from RB2 to RR.

Chairman stated that zoning districts cannot be defined as just one lot, or it would be spot zoning. Spot zoning is not allowed, thus not an option for Mr. Bergeron.

Mr. Bergeron pointed out there are two other larger commercial parcels along Belchertown Road as well, including tank farm. He is interested in a similar business. He has been in communication with Fuel Services that would like to lease his land for a tank farm. He has a letter of commitment for two 30,000 gallon storage tanks and a small commercial building for sales. He is aware that he could petition the change at Town Meeting. He has met with the Town Manager, PCD Director, and Zoning Enforcement Officer. He has also met with the ZBA, with good discussion that led to him being before the Planning Board tonight.

Chairman brought up the topic of a use variance. He brought up that when the zoning districts were changed in 2012, he recalled that the idea was to preserve the rural character of the Route 9 corridor from downtown, past the historic meeting house, and into the Quabbin. A use variance might be a better approach to address this situation along the Route 9 corridor. There would not be time for anything for the next Town Meeting, and Mr. Bergeron understood that. Alex Bergeron stated that the fuel tank farm would not be visible from Route 9, it would not be a nuisance to the character that is already existing. They could also provide a large buffer between Route 9 and the business. Discussion continued around traffic, and the traffic pattern on Route 9 with the wide lanes is more conducive to large trucks turning than at any point down Route 32-West Street.

The Director will do research on the potential of a use variance and possibly have a joint meeting with the ZBA in April. She cautioned the room that use variances are not a common practice in Massachusetts, which means that it most likely has not worked for many communities. She was unsure if the Town could regulate a use variance as an overlay district, and felt that opening up all of RR to tank farms may not be the direction the Town would want to go. Research will need to be done on how to approach this possible change without losing the rural character of RR outside the Route 9 corridor.

TOWN PLANNER UPDATE

- Main Street Improvement Project is planned to begin in April. The WBCA has formed a Construction Mitigation Committee that will meet every other week as the construction project progresses. The group will have a website available for regular updates on the

project, residents are also encouraged to sign up for the town's red alert messaging system. Site plans and renderings will be available on the website.

- Review Rules and Regulations of the Planning Board. The Board had previously reviewed the first ten pages. The remainder of the draft includes the processes for each application. The Director will run through a final procedure check and review with appropriate departments before providing a final copy to the Board. The Board has had questions regarding internal procedure at previous meetings and this is the opportunity to go over those procedures and make sure the regulations are coherent and effective.

J. Kusnierz asked if he could bring up something of concern. He stated he received a phone call from a distraught resident living on Fischerdick Road. This resident had watched the Board of Selectmen meeting and heard Selectmen Kruckas talk about a large solar project near his house. J. Kusnierz, as Planning Board member and Tree Warden was very concerned he didn't know about the project. He agreed with Selectmen Kruckas that town staff should not be walking a solar site with a moratorium in place. J. Kusnierz stated his concerns against clear cutting large acres of land, impacts to the housing market, and the impact to the community as a whole. He was concerned he could not better answer questions for this resident because he wasn't aware of the project.

R. DeCoursey stated that a moratorium means that no new applications should come in, not that no work is going to occur from an administrative side. She has been actively working on drafting the bylaws, on the four solar projects they have had for special permit approval, as well as various workshops and conferences. It is her job to talk to any developer, walk any project site, talk to anyone that contacts her office about any sort of project – not just solar – and if she is offered to walk a site she will do so, because she has the community's best interest at heart and wants to fully understand what the developer is interested in pursuing.

J. Knight stated he did not recall the project being discussed – nothing in the range of the 240 acres that has been brought up tonight. The Director and Chairman stated there has been no Board meeting discussions about it. R. DeCoursey hasn't brought this project to the Board yet because it is in the conceptual at this time. There is not much information to bring forward. When asked for clarification on what has occurred at this time, the Director informed the Board that developer has met with the Town Manager, herself and the Building Inspector to present the idea of multiple properties owners that would agree to lease the land to the solar developer, build a substation and tap into the high power transmission line. This potential project would produce energy that would go directly into the grid. Many approvals and hurdles are necessary before this would be built. The solar developer had asked the Director to invite the Chair and Vice-Chair to a meeting to introduce them to the project informally. The Chairman responded to the email declining the meeting, stating that the timing was not favorable with the current solar bylaw revisions underway, and with no actually project laid out it wouldn't be appropriate to have a meeting in private. He did invite the solar developer to appear before the Board as an agenda item. Chairman felt this lobbying for the solar project

should occur in an open meeting. He felt meetings with potential developers are not unethical, but in this case when we are in the middle of re-writing the bylaw it is not appropriate for members of the Planning Board to have private discussion.

J. Knight asked about clarification of the process. Who first sees a project in town? The Board or Town Officials? R. DeCoursey used Mr. Bergergon as an example. He has met at least two or three times with town officials before going to the ZBA, and then before going to the Planning Board tonight. There is a lot of internal discussions of preparation for projects and ideas before going to the Board. Chairman stated that this is common with developer to feel out the town and understand the process or challenges that they might see in the process. With this process, there is a level of discretion used with these developers. R. DeCoursey stated that just because there is a moratorium in place, it does not mean that the day after that moratorium is lifted at Town Meeting an application won't end up being submitted. It is in the best interest of the town for town officials to be aware of what the project is before that day. J. Kusnierz restated he felt it was inappropriate for any solar work to be done during a moratorium. Chairman respectfully stated that a moratorium doesn't mean staff can't talk to anyone about solar or can't do any planning for when the moratorium is lifted and he doesn't believe that no discussion or work should occur. Anyone has a right to information and advice from town staff. Nothing has been submitted and town officials have a responsibility to serve our constituents. The property owners interested in this project have a right to ask questions and prepare information.

E. Murphy asked what the moratorium does is people still plan and still come to the town for information. The Director explained that the four solar projects they have seen before the Board got through a zoning freeze exemption under MGL Ch40A Section 6. If they had not filed perimeter plans, they would not have been able to go through the application process. She stated that this loophole hasn't given the Town of Ware a pause in solar development. The AG office already had concern with the long moratorium to solar that was enacted at the last Annual Town Meeting, and unfortunately she felt they would not grant an extension of said moratorium if the Town requested it. J. Kusnierz stated that he just wanted to clarify he didn't miss something that he should have known about, because when a resident calls him he wants to be able to provide all the information possible. Because he didn't have any information and felt he wasn't doing his job. E. Murphy stated he thought nothing new would come during this moratorium. Chairman restated there is not application submitted. Director did ask the developers if they wanted to meet with the Board as an agenda item, and they declined because they didn't want to come forward without something solid.

The Director thanked the Board for having a respectfully conversation about this issue that came to light. Conversation can go a long way in solving a problem. Anyone at any time is welcome to reach to her office with questions.

J. Knight brought up a concern at the intersection of Palmer Road and Old Belchertown Road because tractor trailer trucks are being rerouted due to the problems with the bridge.

Chairman stated that the Board of Selectmen has discussed this, and that section of Palmer Road is regulated by the state which leaves little control for Town regulations.

ADJOURN



J. Kusinerz made the motion to adjourn, E. Murphy seconded, no further discussion, All in Favor 4-0. Adjourned at 8:04 pm.

Next meeting is scheduled for March 12, 2020 at 7:00 pm.

Minutes from February 6, 2020

Respectfully submitted by,

Rebekah DeCoursey, Director

Minutes Approved on:	_____
Starodaj	
Urban	
Kusnierz	_____
Muche	