



TOWN OF WARE

Conservation Commission

126 Main Street, Ware, Massachusetts 01082
413.967.9648

Meeting Minutes from
Wednesday, April 14, 2021
Selectmen's Conference Room, Town Hall

Commission Members Present: Chairman Mark Swett, Thomas Barnes, Dennis Cote, Kristin Rosenbeck, Peter Toper IV

Public in Attendance: Nicole Croteau, Stuart Beckley, John Prenosil, Anna Marques, Richard Fly, Neil Jackson, John Demereck, Mike and Claudia Messier, Wood Verhaegen, John Podkowka, Tyler West, Elise Diemand

Public in Remote Participation: Caitlin McCarthy, Jeremy Chapman, Donald Frydryk, Ana Estien, Brian Califano.

Governor Baker's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, dated March 10, 2020, allows remote participation under this Order due to the Coronavirus State of Emergency.

PLEDGE OF ALLEGIANCE

Chairman called the meeting to order at 6:36 pm and Tom Barnes led the Pledge of Allegiance.

APPLICATIONS

RDA-2021-04 by Sherman & Frydryk for Ana Estien on Doane Road, Parcel 22-39-3

Request for Determination to decide if work depicted on plans is subject to the Wetland Protection Act for construction of a single-family home, septic and well. Work within the 100ft buffer will be resulting from fill associated with the septic system construction.

Donald Frydryk presented the project: single family home, driveway, septic and well including a walking path to three tree houses and a garden area to the west of the wetland area. The nearest construction point is 90ft to the wetlands and will have erosion controls along the north and east side of the proposed septic system. Applicant is seeking a negative determination for the project.

General topic of discussion:

- Stream / Natural Spring nearby. Elise Diemand stated there is a natural spring though the cliffs in the area and drains into the wetland, will this project cause flooding to her property? Reply: During the Agent's site walk there appeared to be no water flow or stream present. Soil samples were completed. There needs to surface water for the Commission to act on drainage issues, it is out of the Commission's control for underground water flow. E. Diemand asked if the Agent can be on site next rainstorm to verify, and the Agent stated that it may or may not still be detectable. E. Diemand stated that if there are enough complaints then the Commission should take that into account for the project determination.

- Abutter asked if the septic system was designed to accommodate the tree houses. Reply: Septic designs are based upon the number of bedrooms and the house plans stated 4-bedrooms, which does not include "tree houses", therefore designed accordingly.
- What are the "tree houses" intentions? Reply by Ana Estien: there are 3 tree houses meant to be designed for her own children's play use, not to be rented out to the public. The local of the tree houses are outside the buffer zones and the size are unknown but meant to be permanent and for personal enjoyment use only.
- There is an outdoor bathroom/shower area indicated on the plans and this would fall under the Board of Health and Plumbing permit requirements.
- Ledge in the area. Reply: not every site in the area where there is ledge, will have ledge. If there is an issue during the building stage, then this will be addressed under the Building Department.
- Chairman Swett asked if there is any reason why this application should have a NOI application and J. Prenosil stated no.
- Grading: will the proposed grading on this site affect abutters with sheet flow or runoff if there is ledge in the area? Reply: Chairman Swett stated if so, then violations may be issued, and owner will have to take action to correct such violations.
- Wildlife and Plants: E. Diemand stated the salamanders, frogs, and the Lady Slipper flowers will all be affected by the construction.
- J. Prenosil suggested to have the owner install permanent boundary markers to prohibit encroachment onto the wetlands.

CONDITION SUGGESTIONS: boundary markers to be shown on the plan and to be installed and to further determine the erosion control measures.

MOTION by Thomas Barnes to continue the meeting until the next public hearing date and request a revised plan showing permanent boundary marker. Seconded by Kristin Rosenbeck. No discussion. All in Favor 5/0/0.

DEP #317-452 by Ecos Energy, Monson Turnpike Road ***Requested a Continuance***

NOI - Proposed construction of a Large-Scale Ground-Mount Solar Array – Wetland Crossing. Applicant requested a continuance until next scheduled meeting.

MOTION by Dennis Cote to continue until next scheduled meeting. Seconded by Thomas Barnes. No Discussion. All in Favor 5/0/0.

DEP #317-463 by Bertin Engineering for Melink Solar LLC (FT Smith) ***Request for Continuance***

NOI - Proposed construction of a Large-Scale Ground-Mount Solar Array on Greenwich Rd. Applicant requested a continuance until next scheduled meeting.

MOTION by Thomas Barnes to continue until next scheduled meeting. Seconded by Kristin Rosenbeck. No Discussion. All in Favor 5/0/0.

[Continue to next page]

DEP #317-465 by Bertin Engineering for Melink Solar LLC (*Couture*) **Request for Continuance**
NOI - Proposed construction of a Large-Scale Ground-Mount Solar Array on Greenwich Rd
Applicant requested a continuance until next scheduled meeting.

MOTION by Kristin Rosenbeck to continue until next scheduled meeting. Seconded by Dennis Cote. No Discussion. All in Favor 5/0/0.

DEP #317-468 by Bertin Engineering for Melink Solar LLC (*Harder*) **Request for Continuance**
NOI - Proposed construction of a Large-Scale Ground-Mount Solar Array on Osborne Rd

Applicant requested a continuance until next scheduled meeting. Although general discussion regarding the peer review quote for the drainage portion of the NOI application BSC Group provided services for was discussed. J. Chapman stated Melink is willing to pay whatever the quote total was from BSC Group. A. Marques stated that the current neighbors have drainage complaints and/or runoff concerns, the peer review for the drainage report would be best to have completed by BSC Group at this time. T. Barnes asked if the catch basins have been cleaned by the DPW this year on Osborne Road yet.

MOTION by Thomas Barnes to continue until next scheduled meeting. Seconded by Peter Toper. No Discussion. All in Favor 5/0/0.

DEP #317-469 by J & P Engineering for MRT Development, 28 Coldbrook Drive, Parcel 14-9-26
NOI – Proposed construction of a single-family home, septic system, well, driveway and associated site work in the 100-ft buffer to a BVW. No work within the 50-ft buffer.

Neil Jackson presented the project: single family home with septic, well and driveway and associated grading. Portions of construction will be within the 100ft buffer to a BVW but not within the 50ft buffer to a BVW. There is an existing catch basin near the property and no water will flow towards the wetlands. Agent suggested to have permanent boundary markers installed every 20ft along the limits of disturbance line as shown on the plan. Chairman Swett requested not to leave the well drilling shavings on site.

MOTION by Thomas Barnes to approve the project as presented and issue an Order of Conditions with the standard appendix and to include permanent boundary markers to be installed as stated above and shown on the plan and to remove well drillings from the property. The markers to be recorded with the Registry of Deeds. Seconded by Kristin Rosenbeck. No discussion. All in Favor 5/0/0.

DEP #317-470 by J & P Engineering for Coffey Hill Properties, Coffey Hill Road, Parcel 19-0-43
NOI – Proposed construction of a single-family home, septic system, well, driveway and associated site work in the 100-ft buffer to a BVW. No work within the 50-ft buffer.

Neil Jackson presented the project: single family home with septic, well and driveway and associated grading.

[Continue to next page]

Portions of construction will be within the 100ft buffer, could not maintain the 100ft buffer on the site design. T. Barnes stated this is in a resource area and N. Jackson stated it could not be avoided. Agent again suggested to have boundary markers installed and remove the well drillings from the site.

MOTION by Dennis Cote to approve the project as presented and issue an Order of Conditions with the standard appendix and to include permanent boundary markers to be installed as stated above and shown on the plan and to remove well drillings from the property. The markers to be recorded with the Registry of Deeds. Seconded by Kristin Rosenbeck. No discussion. All in Favor 5/0/0.

DEP #317-471 by J & P Engineering for MRT Development, 12 Coldbrook Drive, Parcel 14-9-34
NOI – Proposed construction of a single-family home, septic system, well, driveway and associated site work in the 100-ft buffer to a BVW.

Neil Jackson presented the project: single family home with septic, well and driveway and associated grading. Construction will be within the 100ft and 50ft buffer. There is already a replication area already established on site.

Michael Messier has concerns with the culvert under the road near 16 Coldbrook Drive. M. Messier stated he had to install a French drain on his property and once the construction on 12 Coldbrook Drive starts, the stream will now become a river. Chairman Swett stated that if this was to happen, then the Commission should be alerted, and at this point the Agent or Commission will require additional erosion control measures.

MOTION by Dennis Cote to approve the project as presented and issue an Order of Conditions with the standard appendix and to include permanent boundary markers to be installed as stated above and shown on the plan and to remove well drillings from the property. The markers to be recorded with the Registry of Deeds. Seconded by Thomas Barnes. No discussion. All in Favor 5/0/0.

DEP #317-472 by J & P Engineering for MRT Development, 14 Coldbrook Drive, Parcel 14-9-33
NOI – Proposed construction of a single-family home, septic system, well, driveway and associated site work in the 100-ft buffer to a BVW.

Neil Jackson presented the project: single family home with septic, well and driveway and associated grading. Construction will be within the 100ft and 50ft buffer, but the well is within the 50ft buffer zone.

MOTION by Kristin Rosenbeck to approve the project as presented and issue an Order of Conditions with the standard appendix and to include permanent boundary markers to be installed as stated above and shown on the plan and to remove well drillings from the property. The markers to be recorded with the Registry of Deeds. Seconded by Thomas Barnes. No discussion. All in Favor 5/0/0.

[Continue to next page]

ADMINISTRATION

A. Approval of Minutes February 10, 2021, and March 10, 2021

MOTION by Kristin Rosenbeck to approve the minutes for February 10th and March 10th, 2021, as presented tonight. Seconded by Dennis Cote. No Discussion. All in Favor 5/0/0.

B. Closure Certificate #11-390-10, Ware Farm Equipment, 200 West Street

An email from DEP stated the annual third-party inspection was completed in Dec 2020 and noted, *"CEA, Inc. recommended that vegetation around and within the perimeter of the landfill fence should be moved, that trees that have fallen on the fence be cut and removed, and that the trees of greater than 6-inch diameter be removed in accordance with the landfill's November 2011 post-closure permit approval."*

S. Beckley wanted the Agent's interpretation of the approved Conditions and to verify if the work recommended would require additional paperwork or filing with DEP and/or Conservation. J. Prenosil stated, *"It is my interpretation that the proposed activities, limited only to the removal of the trees greater than 6-inch in diameter, is allowed and adequately addressed under the Post Closure Maintenance Program. No additional filings related to the Ware Conservation Commission are required for this activity."*

N. Croteau wanted to provide an update to the Commission on this matter. No action required from the Commission.

C. RDA-2020-01, New England Power Company, Transmission Line ROW, Update #3

N. Croteau presented a letter from National Grid, dated March 12, 2021, providing a general update status of the project. No action required from the Commission.

D. Right of First Refusal, Estate of Kenneth Root, 150 Old Gilbertville Road, Parcels 36-2-1, 36-0-2, 36-0-55.

N. Croteau presented the attorney's packet to the Commission to review and discuss and was determined that the Commission has no interest to act on the parcels listed above.

MOTION by Thomas Barnes to not act on this matter. Seconded by Peter Toper. No Discussion. All in Favor 5/0/0/.

E. RDA-2020-10, Peter Martowski, 21 Shady Path, Revised Plan

The applicant would like to revise the layout of the proposed addition to have a square layout rather than having a portion being cut out as approved. The house addition is being built on piers and this minor revision would still follow the approved RDA and have no impact to the wetlands.

MOTION by Kristin Rosenbeck to accept and approve the addition plan modification as a minor change and does not require additional conservation filings. Seconded by Thomas Barnes. No Discussion. All in Favor 5/0/0.

[Continued to next page]

F. DEP 317-449, Dynamic Energy for Ware Palmer Road Solar, 313 Palmer Road, Revised Plan

Anna Marques presented an updated site plan to the Commission. The Applicant is requesting the Commission to approve extending the gravel access road to the fence line and to allow for a utility parking area as a minor revision with no further applications needed. Chairman Swett stated if it is not paved, it should not be an issue. J. Prenosil had another concern – felt the detention basin should have been designed in a different location because the area above the basin is not really is not being controlled. Water is not flowing into the resource area, but it is tearing down the section of the gravel road. B. Califano stated the interceptor trenches are to the north of the detention basin and the grading of the site was designed for the water to go into that basin. The basin is installed, and a site clean-up is needed which will include making sure the basin is completely functional. B. Califano also pointed out that there is a one-foot berm on the back side of the trenches which will help with the flow of water into the trench.

MOTION by Thomas Barnes to accept the plan changes for the gravel road extension and utility parking as presented on the plans tonight as a minor change. Seconded by Kristin Rosenbeck. No discussion. All in Favor 5/0/0.

G. Millyard - Update

Anna Marques stated there are two activities coming up on the property:

A. Cleaning up the area where the building use to stand before the fire to visually appeal to investors.

- There is discussion about if the site was accepted as a Historical Millyard Complex. DEP believes it is not, but recent research stated the site is indeed listed in the *State Registered of Historic Places 2020*.
- Since the site is listed, it allows activities within the 200-ft Riverfront buffer to be reduced to a 25-ft buffer if activities as listed in 10.58.6(k) allows exemption.
- Owner wanted to start clean-up work this weekend and Chairman Swett has no issued but if it interferes with what DEP says, then it is best to wait. J. Prenosil stated he will follow up with DEP (M. Stinson).
- Chairman asked about the car in the middle of the building. How are they going to get the vehicle out, by crane? Unsure currently.
- If activities are exempt, then it is suggested the Applicant write a letter to the Commission stating what activities will be done and cite the exemptions.

B. By the bridge on South Street, the Applicant would file a NOI to create retaining walls for mechanical spaces in between the stairs on both sides of the building for the proposed cultivation use.

- J. Prenosil asked if the buildings are in the 100-yr flood elevation? Chairman Swett stated after the historical fire, the river changed paths. This would need to be verified on the FIRM maps.

In conclusion, A. Marques will follow up with DEP (M. Stinson) regarding the status of the complex being registered as a historic place and will be in contact with the Commission. No action required from the Commission.

[Continued to next page]

H. DEP 317-422, Town of Ware, Railtrail, Request for Certificate of Compliance

Town Manager has requested a partial Certificate of Compliance for the installation of two prefabricated pedestrian bridges over Flat Brook and an unnamed stream, within the area of Longview Ave and Malboeuf Road.

MOTION by Kristin Rosenbeck to approve the partial Certificate of Compliance for the work described above. Seconded by Dennis Cote. No discussion. All in Favor 5/0/0.

ADJOURNMENT

MOTION to adjourn at 8:17 pm. All in Favor 5/0/0.

Next scheduled meeting is on May 12, 2021.

Minutes from April 14, 2021

Respectfully submitted by,

Nicole Croteau

Conservation Commission Administration

Minutes Approved on: June 9, 2021

Swett

Barnes

Cote

Rosenbeck

Topor, IV