



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext. 120

Zoning Board of Appeals

Meeting Minutes from

January 13, 2022

Select Board Room, Town Hall

Board Members Present:

Lewis Iadarola (Chair)
Jodi Chartier (Vice Chair)
Greg Eaton
David Skoczylas (Alternate)

Board Members Absent:

Chuck Dowd
Phil Hamel
George Staiti (Alternate)

Staff Present:

Rob Watchilla (PCD Director)
Laura White (PCD Admin. Assistant)
Anna Marques (Zoning Enforcement Officer)

Public in Attendance:

PLEDGE OF ALLEGIANCE

Chairman Lewis Iadarola called the meeting to order at 7:06 pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of meeting minutes from October 28, 2021

The Board discussed changes made to the meeting minutes from October 28, 2021. L. Iadarola requested further changes to the wording be made before minutes can be approved.

Approval of meeting minutes from December 1, 2021

Motion to approve meeting minutes from December 1, 2021 made by J. Chartier. Seconded by G. Eaton.

L. Iadarola	Aye
J. Chartier	Aye
G. Eaton	Aye

All in favor. Approved 3/0/2.

NEW AND OLD BUSINESS

Zoning Bylaw Changes

L. Iadarola requested to discuss the Earth Removal section of the Town Bylaw first.

- **Earth Removal (§4.8.5)**

Exceptions (part C)

R. Watchilla informed the Board that the changes to the Bylaw suggested by the Planning Board were highlighted and asked for any input they had.

L. Iadarola stated that section 2a does not seem necessary.

The part in question states, "Excavation and grading needed for construction of a structure, septic system, leech field, or well, may be completed within 100' of proposed principal structure and for any roadway necessary to access the structure."

A. Marques stated that section 2a may not be necessary, as it would be covered by the original permit, but the added clarification may be helpful for some.

The Board discussed removing this section to mitigate future confusion.

The Board discussed removing subsection "i" from part 2b of §4.8.5.

L. Iadarola raised concerns over whether the Planning Board should have the authority to make final decisions regarding Earth Removal.

J. Chartier inquired about the reasoning for the proposed removal of section 1 under "Exception." J. Chartier stated that a special permit may be needed when moving earth across the street between two pieces of properties owned by the same party. She made the point that very different topography may exist across the road and this amendment could create a conservation issue.

A. Marques stated conservation would still need to approve site plans for Special Permits.

R. Watchilla added that in order for a landowner to apply for a Special Permit, they would need to show all land owned by the party, where the operation would take place.

A. Marques stated that, when the Planning Department receives an application for an Earth Removal Special Permit, the Department then notifies the other departments, who have to sign off on it as well. R. Watchilla clarified this also includes Conservation.

L. Iadarola made the point that the original intent of this section was most likely to prevent trucks from driving back and forth on roads, for safety reasons, traffic, noise, and other considerations.

The Board suggested leaving this statement in, and removing section 2a and subsection "i" in section 2b.

Operational Standards (part D)

R. Watchilla informed the Board that part 2 of this section is intended to prevent an “egg carton” pattern.

L. Iadarola raised concerns about this section, which states, “No excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary. If an abutting property is conducting an earth removal operation, a waiver of the 50 foot buffer on the shared property boundary may be granted by written agreement of the involved parties and super-majority vote of the Planning Board.”

L. Iadarola suggested that this section of the Bylaw should not be decided by the Planning Board, and should instead be black-and-white, either allowed or not across the board.

J. Chartier added that future tenants would have to deal with the consequences of the decisions made by the involved parties and the Planning Board.

A. Marques stated that buyers have the right to view properties and would know what they were buying.

D. Skoczylas stated this should be up to the involved parties only, and that the Planning Board should not have a say in the matter.

L. Iadarola stated that the 50’ buffer is a dimensional requirement, so this would technically need to go to a hearing with the Zoning Board for a variance determination. Though, he added that the 50’ buffer should either be waived for everyone, or for no one across the board, as too much is left up to interpretation or error.

The Board discussed the 150’ buffer from the road as well as the 50’ buffer from the property boundary that is mentioned in the Bylaw and how the wording could be confusing.

The Board discussed the original intent of this section of the Bylaw.

The Board discussed adding a requirement in the Special Permit, that the final project should be “aesthetically” pleasing.

D. Skoczylas again made the point that this should be an agreement between the involved parties only, adding that it should not be up to the Town to make this decision for the property owners.

The Board discussed leaving the final decision up to the involved parties only and discussed examples of properties this could apply to in Town.

The Board agreed to table this section until the next meeting.

The Board discussed part 6 of this section which currently reads, “No excavation shall be made at less than 10 feet above the annual high water table, as established from test pits, soil borings, and monitory wells which are installed and gauged quarterly.”

L. Iadarola suggested adding the clarification, “For projects requiring a Special Permit for Earth Removal projects,” to the beginning of this section.

Decision (part F)

R. Watchilla informed the Board that, section 1d which states, “The removal will not violate section 4.3.24 of this zoning bylaw in regard to vibration and noise,” refers to the industrial standards for industrial uses.

The Board discussed section 4.3.24 and the industrial standards set for noise and vibration and discussed adding clarifying information directly to section 1d instead of referring to another section of the Town Zoning Bylaw.

The Board discussed section 2c, which states, “Hours of operation to be set by the SPGA (Special Permit Granting Authority) on a case by case basis.”

L. Iadarola suggested changing “case by case basis,” to “Zoning District basis.”

The Board discussed section 2h, which states, “An updated topography map of the project site showing the current grade with volume calculations shall be sent to the SPA every 5 years.” The Board agreed with this wording.

The Board then discussed section 2i, which states, “The SPGA may request as a condition that the applicant furnish a performance bond, of cash certified check or a surety company to the Town as oblige in a penal sum to be fixed by said SPGA as it shall deem sufficient to cover the cost of the performance of all the conditions, limitations, and safeguards may be imposed by said SPGA in connection with the removal of the particular earth substances for which the permit has been issued,” and subsection “i,” which states “The bond, check or cash deposit shall be held by the Town Treasurer for (1) one year after termination of the earth removal project or until all conditions of the permit have been completed to the satisfaction of the SPGA. If after (18) eighteen months from the issuance off the permit all conditions as required in the permit have not been completed (especially grading and seeding), the SPGA will use the monies to restore the site to its natural state.” The Board agreed with this wording.

The Board agreed to meet again before the end of the month to finalize the amendments to the Town Zoning Bylaw. The date was set for Wednesday, January 26 at 7:00pm.

- **Article 1 - General Provisions**

Adoption of Rules and Regulations (§1.9)

The Board agreed to the addition of this section which states, “The Town of Ware shall allow the Planning Board and the Zoning Board of Appeals to adopt rules and regulations for procedural and substance matters directly, provided they are not inconsistent with the Town’s current Bylaws. They shall be made and adopted by majority vote and filed with the Town Clerk. Rules and regulations with penalties attached must be filed with the town Clerk within ten (10) days from the date of adoption.”

- **Article 7 - Administration**

Enforcement - Zoning Enforcement Officer (§7.5.1)

A. Marques and R. Watchilla asked for the Board's thoughts on the addition to this section stating, "For any uses not specifically listed in §4.2 (Use Table), the Zoning Enforcement Officer shall make a determination as to the closest appropriate applicable category, or to determine that the proposed use does for appropriately in any category and deny with a written explanation."

A. Marques stated that the involved parties always have the right to appeal her decisions.

The Board agreed with this addition to the Bylaw.

A. Marques discussed a recent decision by the Supreme Judicial Court regarding short-term rentals, such as Aibnb, which legally does not fall under the same category as a lodging house, boarding house, or bed and breakfast. There is currently no category in our Use Table, or definition in the Town Bylaw, for short-term rentals. The current Bylaw also states that a property may have one principle use, and a single family home is already a principle use. So, a single family home, also being used as a short term rental, could be detrimental to the residential character of the neighborhood it's in.

The Board discussed leaving it to the Zoning Enforcement Officer to make a decision on those matters as they arise.

J. Chartier left the meeting at 8:40pm

- **Article 2 - Definitions (§2.2)**

Junkyards

R. Watchilla read the addition of the definition of Junkyards in the Town Bylaw which states, "A yard, field or other parcel of land used as a place for disposal or long-term storage of: Discarded, worn-out or junked plumbing or heating supplies or household appliances or furniture; Discarded, scrap or junked lumber; or Old or scrap copper, brass, rope, rags, batteries, paper, rubbish, debris, waste and all scrap iron steel and other ferrous or nonferrous material. A junkyard shall also include garbage dumps, waste dumps, sanitary landfills and automobile graveyards."

The Board discussed amending this definition further, after consulting with the Director of Public Health, and discussing it at the next meeting.

The Board discussed a local recycling center and regulations that may apply to it.

ADJOURN

Motion made by L. Iadarola to adjourn at 8:50pm. Seconded by G. Eaton.

L. Iadarola Aye
G. Eaton Aye
D. Skoczylas Aye

All in favor. Approved 3/0/3

NEXT MEETING DATE: Wednesday, January 26 at 7:00pm

Minutes from January 13, 2022
Respectfully submitted by,

Laura White
Administrative Assistant
Planning & Community Development

Minutes Approved on: _____
Iadarola _____
Chartier *Jodi Chartier*
Hamel *Philip Hamel*
Dowd *E. Dowd*
Eaton *Eaton*
Janae Shoyler (ALT.)