



# TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
(413) 967-9648 ext. 120

## PLANNING BOARD

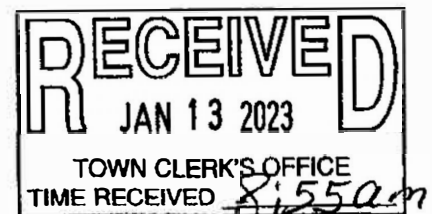
### MEETING AGENDA

Location: Board of Selectmen's Meeting Room  
Town Hall, 126 Main Street, Ware, MA 01082  
Date & Time: Thursday, January 19<sup>th</sup>, 2023 @ 7:00 PM  
Digital Participation: Phone number: 929-205-6099  
Meeting ID: 784 604 1861  
Passcode: 01082

Instructions for call-in option: at or before 7pm call the phone number above and when prompted enter the Meeting ID number. The platform is Zoom Meetings. Join online: <https://zoom.us/join>

- 
- **Pledge of Allegiance**
  - **Administrative**
    - Approval of minutes from January 5<sup>th</sup>, 2023
  - **Public Hearings**
    - 7:05pm: SP-2022-10 (Bond Construction Corporation) [CONTINUED]
      - Applicant is requesting a Special Permit to remove earth materials at 219 Babcock Tavern Road. Deeded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Assessor's Parcel 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).
  - **Old Business**
    - Review of newly proposed Subdivision Regulations
      - Sections 2.4.10 (Evidence of Performance and Release/Partial Release of Performance Guarantee) to Section 2.4.14 (Road Acceptance) [Pages 40-45]
  - **New Business**
    - *Any matters not originally anticipated by the Chair prior to the meeting.*
  - **Town Planner Update**

The next Planning Board meeting will be held February 2nd, 2023.





# TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

**Thursday, January 5, 2023**

Selectboard Meeting Room

126 Main Street, Ware MA 01082

## Planning Board Members in Attendance:

Rick Starodoj	Chair
Nancy Talbot	Vice Chair
Ken Crosby	
Ed Murphy	
Chris DiMarzio	
Elizabeth Hancock	Alternate

## Staff Members in Attendance:

Rob Watchilla	PCD Department Director
Kristen Jacobsen	PCD Dept. Admin. Assistant

## Members of the Public in Attendance:

Jerome Richard	Josh Kusnierz
Donald Dunbar	
Brian Wilson	

## PLEDGE OF ALLEGIANCE

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

## ADMINISTRATIVE

### Approval of Minutes from December 1, 2022 & December 15, 2022

Motion by N. Talbot to approve the December 1, 2022, meeting minutes as submitted. Seconded by E. Murphy.

**Discussion:** None

R. Starodoj		Aye
N. Talbot		Aye
E. Murphy		Aye

K. Crosby		Abstain
C. DiMarzio		Aye
<b>Four in favor. One Abstention Approved 4/0/1.</b>		

**Motion** by N. Talbot to approve the December 15, 2022, meeting minutes with corrections to pg. 11. And areas where E. Murphy was marked as absent. **Seconded** by E. Murphy. **Discussion:** None

R. Starodaj		Aye
N. Talbot		Aye
E. Murphy		Aye
K. Crosby		Abstain
C. DiMarzio		Aye
<b>Four in favor. One Abstention Approved 4/0/1.</b>		

## Public Hearing

### Definitive Subdivision Modification (Strawberry Fields)

R. Starodaj read the legal notice

R. Watchilla gave board a summary of the proposed rescission.

- From 2005
- Two lots have homes
- Road partially begun
- Proponent wishes to combine the remaining lots and sell to neighbor
- Rescinding the subdivision will not affect the built homes
- The home with driveway access on Penny Lane will have access via an easement in perpetuity

J. Richard stated construction would be prohibitively expensive.

R. Starodaj added that the lots that had been sold were frontage lots and would not be affected.

C. DiMarzio discussed the amount of gravel that was removed prior to road construction, though stated he supports the rescission.

R. Starodaj inquired about the HOA . J. Richard stated it was for the 10 lots (on Penny Ln.) and the two frontage lots were not supposed to be included, if they were it was a mistake on the attorney's part. The homes to be located on Penny Lane were to maintain the detention pond whereas the homes with frontage did not have drainage issues.

C. DiMarzio inquired about the usage of the constructed portion of Penny Ln (100'). J. Richard discussed how that portion will be used as driveway access for the property with the easement (217 Greenwich Rd). J. Richard continued by saying he had constructed that driveway to connect to Penny Ln for safety purposes. The board discussed the easement and the frontage of that property.

C. DiMarzio and D. Dunbar discussed what would happen with the land after it was combined. D. Dunbar had not decided on what would ultimately be done with the land.

R. Starodoj discussed the easement on the property which was accepted by the Town and told J. Richards that in order to get rid of that it would need to go before town meeting.

R. Watchilla confirmed that it was not chapter 61A land.

**Motion** made by C. DiMarzio to approve rescission of the Strawberry Fields Subdivision at the request of the applicant in conformity with the submitted plan. **Seconded** by E. Murphy. **Discussion:** None

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Aye
<b>All in favor. Approved 5/0/0.</b>	

## **ANR**

- ANR-2022-13 (Penny Lane)
- Board will make the determination of whether or not this plan requires their approval under the Subdivision Control Law

**Motion** made by E. Murphy to accept ANR-2022-13 as presented. **Seconded** by K. Crosby. **Discussion:** C. DiMarzio and R. Starodoj discussed the shared driveway, and that it would not become a Private Way.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Aye
<b>All in favor. Approved 5/0/0.</b>	

## **SP-2022-10 (Bond Construction Corporation) [CONTINUED]**

Applicant is requesting a Special Permit to remove earth materials at 219 Babcock Tavern Road. Deeded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Assessor's Parcel 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).

**Motion** made by N. Talbot to continue the Public Hearing at the January 19, 2023 Planning Board Meeting at 7:00pm. **Seconded** by E. Murphy. **Discussion:** None

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Aye
<b>All in favor. Approved 5/0/0.</b>	

### **Old Business**

- Review of newly proposed Subdivision Regulations
- Sections 2.4.10 (Evidence of Performance and Release/Partial Release of Performance Guarantee) to Section 2.4.14 (Road Acceptance) [Pages 37-45]

R. Watchilla and the board discussed previously raised questions for Town Counsel (noted as comments in the document)

R. Watchilla read through section 2.4.10.

- R. Starodoj discussed partial release and milestones to be used as indicators.
- C. DiMarzio and R. Starodoj discussed grading and how over excavation could trigger a major modification.
- K. Crosby spoke of inspections and road construction.
- R. Starodoj discussed the possibility of having a periodic review to determine project compliance. R. Starodoj and R. Watchilla discussed how other towns handle that. R. Watchilla stated it is through the Inspection Dept.
- N. Talbot suggested changing 'Highway Superintendent' to DPW Director/Designee
- R. Starodoj discussed at what point cash funds could be forfeit, personal guarantees, and forms of surety.
- The board discussed 1 in 5 lots would be retained and chosen by the Planning Board. (pg. 39)
- K. Crosby discussed the As Built and felt it was premature
- R. Starodoj spoke of the lack of durability of roadways in subdivisions

### **New Business**

Right of First Refusal: Lot 3, Osborne Road, Ware, MA.

Board will discuss their recommendation for the Selectboard

R. Watchilla summarized the letter. The board discussed the property with R. Watchilla.

**Motion** made by C. DiMarzio that the board recommends to the Select Board not exercising its Right of First Refusal. **Seconded** by N. Talbot. **Discussion:** None

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye

C. DiMarzio	Aye
<b>All in favor. Approved 5/0/0.</b>	

### **Town Planner Update**

R. Watchilla discussed the possibility of scheduling a joint meeting with the Historic Commission to discuss the Scenic Road Bylaw. The Historic commission seeks a meeting designated for that specific topic. The board discussed the possibility of attending a Historic Commission meeting or designating an hour at the start of a Planning Board meeting.

The board discussed meeting recordings and ideas to have them posted for longer periods of time.

R. Watchilla spoke of the proposal received for the Mary Lane Project. The hospital committee will meet with the architects to discuss the proposal.

The LED sign has been installed and will be activated next week.

**Motion** made by C. DiMarzio to **ADJOURN at 8:40. Seconded** by E. Murphy. **Discussion:** none

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Aye
<b>All in favor. Approved 5/0/0.</b>	

### **NEXT PLANNING BOARD MEETING DATE:**

**Thursday, January 19<sup>th</sup>, at 7:00pm.**

Minutes from Thursday, January 5<sup>th</sup>, 2023.

Respectfully submitted by,

Kristen Jacobsen  
Administrative Assistant  
Planning & Community Development

**Minutes Approved on:** \_\_\_\_\_

Starodoj \_\_\_\_\_

Murphy \_\_\_\_\_

Talbot \_\_\_\_\_

Crosby \_\_\_\_\_

DiMarzio \_\_\_\_\_



**SHERMAN & FRYDRYK**  
Land Surveying and Engineering

A division of Hancock Survey Associates, Inc.

January 17, 2023

Town of Ware  
Planning & Community Development  
Ware Town Hall  
126 Main Street  
Ware, MA 01082

Re: Earth Removal Operations Special Permit Application  
Babcock Tavern Road, Ware, MA

Dear Board Members

Enclosed please find seven full size copies and ten reduced size copies of the updated plans for this project (three sheets each).

These plans and the following information have been prepared to address items discussed at the December 1, 2022, public hearing for this project:

1. An updated round of measurements were taken on the four monitoring wells on January 5, 2023. Wells 1, 2 & 3 were still dry to the bottom of the well. Groundwater in Well 4 was noted at an elevation of 369.47. As shown on the plans, the proposed excavation still maintains a minimum of 10 feet of separation to the bottom of the wells/groundwater level.
2. The limit of work has been changed on the southerly side of the project to maintain a 50 foot offset from the northerly property line of the southerly abutter. Proposed grading has been revised as shown on the attached plans.
3. Based on the revised plans, the estimated volume of removal has been reduced to approximately 189,000 cubic yards.
4. The line type for the limit of work has been changed and labeled to avoid any confusion with the linetype.
5. The erosion control has been proposed on the easterly side limit of work as shown on the attached plans.
6. Four cross sections showing the existing grades, proposed grades and interpolated bottom of well/groundwater elevations have been added to the plan set.
7. The well and septic system for 240 Babcock Tavern Road have been added to the plans.
8. The house for the southerly abutter has been added to the plan based on Mass GIS data. There was no record information on the southerly abutters well or septic system on file at the Board of Health.
9. Additional topography has been added to the plan outside the proposed limit of work and along Babcock Tavern Road.



**SHERMAN & FRYDRYK**  
**Land Surveying and Engineering**

A division of Hancock Survey Associates, Inc.

10. The applicant proposes to fuel the on-site equipment at the northerly end of the proposed limit of work. The fuel trucks used at the site are all equipped with spill kits and all drivers/operators are trained on addressing and reporting any spills.
11. For sites that do not have stormwater leaving the sites to waters of the USA, no EPA filings are necessary. If an EPA filing is needed for this site, the applicant will prepare and submit the required filing and deliver a copy to the Board when completed.

We look forward to meeting with you to discuss this information in detail.

Very truly yours,

Donald J. Frydryk, P.E., P.L.S.

Enc

C      Bond Construction Corp.  
Kathleen Knight



Planning Board  
Zoning Board of Appeals

Robert A. Watchilla  
Director of Planning &  
Community Development

## Town of Ware

### Planning & Community Development

### Application for Special Permit



126 Main Street  
Ware, MA 01082  
413.967.9648 ext. 120  
www.townofware.com

SP-20 22 - 10

**Applicant**  
Name of Applicant (primary contact): Karen Hubacz, Bond Construction Corporation  
Address: 98 North Spencer Road, Spencer, MA 01562  
Phone: 508-885-6100 Cell: 508-847-1592  
Email Address: karenhubacz@bondsandandgravel.com

**Owner**  
Name of Owner (primary contact): Kathleen Knight/Kulas Irene Life Estate  
Address: 240 Babcock Tavern Road, Ware, MA 01082  
Phone: \_\_\_\_\_ Cell: 413-374-7431  
Email Address: \_\_\_\_\_

**Request**  
Choose applicable Zoning Bylaw Section: 4.8.5 - Earth Removal  
Will the project require a: **Site Plan Review:** ☐ Yes\* ☒ No **Variance:** ☐ Yes\* ☒ No \*Explain in narrative

**Property**  
Location of Property: 219 Babcock Tavern Rd on easterly side Including & behind #240 Babcock Tvrn.  
Assessor's Tax Map/Parcel Number: Map 4, Parcels 0-14 & 14-2  
Deed Reference - Hampshire District Registry of Deeds Book/Page Number: 12833/207 & 07177/314  
Plan Reference - Hampshire District Registry of Deeds Book/Plan Number: Plan Bk 95/Pg 60  
Zoning District: RR - Rural Residential Acreage: 168 acres total  
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

**Proposal**  
Brief description of the proposal: Applicant proposes removal of earthen products (gravel) behind #240 Babcock Tavern Road.

**Sign**  
Applicant's signature: [Signature]  
Owner's signature: [Signature]  
Date: \_\_\_\_\_

**Official Use Only:** Preliminary Review By: RW Date 10/14/22  
Fee: \$ 757.00 Date Paid: 10/13/22 Check #: \_\_\_\_\_  
Date of Public Hearing: \_\_\_\_\_  
Decision of Board: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Town Clerk's stamp:

**RECEIVED**  
OCT 14 2022  
TOWN CLERK'S OFFICE  
TIME RECEIVED 11:50 AM



**TOWN OF WARE**  
Planning & Community Development  
126 Main Street, Ware, MA 01082  
t. 413.967.9648 ext. 120

## PERMIT SUMMARY REPORT

To: Planning Board  
From: Robert A. Watchilla, Director of Planning & Community Development  
Date: November 3, 2022  
Permit: **Special Permit Request (SP-2022-10) for  
Bond Construction Corporation – Earth Removal at 219 Babcock Tavern Road**

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The applicant is requesting a special permit to remove earthen products (gravel) from the land behind 240 Babcock Tavern Road (known as 219 Babcock Tavern Road). The following materials were submitted to the Planning & Community Development Office on October 14, 2022:

- **Special Permit Application**
  - Applicant is listed as “Karen Hubacz of Bond Construction Corporation”
  - Owner is listed as Kathleen Knight/Kulas Irene Life Estate of 240 Babcock Tavern Road
  - Zoned as Rural Residential (RR)
  - Two parcels (4-0-14 & 4-14-2) combined to be approximately 168 acres
- **Application Packet which includes**
  - Land Owner Authorization Form (signed by Kathleen Knight)
  - Background and project narrative
    - *Continuation of the earth removal activities progressing southerly to the property line*
      - *Including earthen products east of the residence located at 240 Babcock Tavern Road*
    - *Considered an improvement of the agricultural lands by removal and regrading of steep slopes to permit an increase in tillable land area on the property*
    - *Access to the removal site will be through an existing paved driveway that serves the barns and out buildings*
    - *Stated Best Management Practices (BMP’s) including:*
      - *Silt Fences and Waddles at down-stream limit of work*
      - *Water quality swale along toe of the work toward the proposed infiltration basin*
      - *An infiltration basin is proposed at the south east corner of the work*

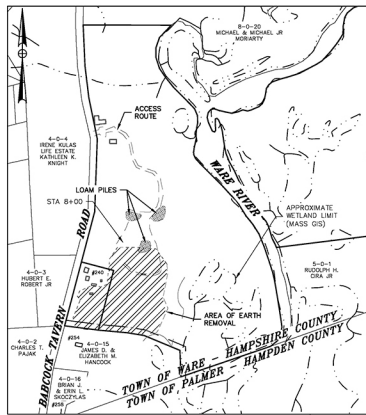
- All disturbed surfaces will be loamed and seeded once they meet final elevation for stabilization
  - Proposed earth removal area is approximately 10 acres of land area
  - Estimated earth volume to be removed is 194,500 cubic yards
    - Rate of removal from the site will vary based upon market needs for earthen products
- Existing Conditions
  - Area is undeveloped, with active earth removal activity to the north
  - On site testing performed by the applicant has shown stratified sands and gravels to the limit of the test holes
  - Ground water observation pipes have been installed and do not show any indication of ground water
  - Proposed location lies above the 100 year flood plain
  - There is an existing wetland to the east of the project area and an isolated wetland to the south of the project area, but no work will occur within the 100 foot buffer zones
  - Proposed location is outside of the priority habitat area
  - There are no vernal pools within 1,000 feet of the proposed work area
  - Not located in the aquifer protection overlay district
- Requested Waivers and Explanations for non-conformance with Operational Standards
  - No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 150' to such road.
    - ***Minor grading to shape the slopes within the 150-foot offset. The applicant is matching the elevation of the kettle hole on the south west portion of the property. This will also permit for an even 5% slope to the limit of work to the east.***
  - No Excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary
    - ***Applicant is proposing minor shaping within 50 feet of the property line to the south. The top of the slope for the earth removal being 50 feet from the property line.***
  - No slope created by the removal operation shall be finished at a grade in excess of two feet horizontal to one-foot vertical (2: 1).
    - ***The applicant states that no finished slope will be greater than 3:1.***
  - The installation and gaging of groundwater monitoring wells at a frequency established by the planning board.
    - ***Applicant had not mentioned this in their memo.***
- Supporting documents include:
  - Certified Abutters List
  - FEMA Flood Map
  - Ware River Flood Study
  - Mass GIS showing Priority Habitats
  - Excerpt from USDS Soils Maps and Soil Descriptions

- **Site Plans of the Proposed Project**
  - Prepared by Andrew R. Baum, P.E.
  - Site plans show the existing and finished grades
  - Property boundaries as well as earth removal boundaries are identified
  - Drawn at a scale of 1 inch equals 50 feet
  - Identifies existing structures and proposed locations of erosion control, wattles, and silt fences
  - Shows wetland boundaries and groundwater testing well locations

#### **Comments from Other Departments**

- **Conservation Department**
  - John Prenosil (Conservation Agent) sent the PCD Director the following statement on November 1, 2022:
    - *I met Don Frydryk and Karen Hubacz yesterday afternoon and walked a portion of the proposed project area. Based on the proposed project limits, topography, and existing conditions, I have no further concerns relative to wetland impacts.*
- **Health Department**
  - Andrea Crete (Health Director) has stated on November 1, 2022, that she has no health concerns arising from the proposed project.
- **Planning & Community Development**
  - The PCD Department is concerned with the project area to the south sitting up along to the property line, and infringing within the 50 foot buffer area.

END OF REPORT

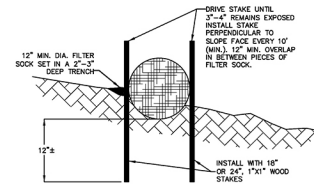
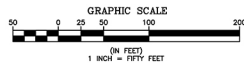
LOCUS MAP  
SCALE 1"=400'

## LEGEND

BUILDING	■
SILL LOCATION SHOT	○
CONTOUR (INDEX)	—100—
CONTOUR (INTERMEDIATE)	—102—
OVERHEAD ELECTRIC	—OC—
EDGE OF VEGETATION	—V—
EDGE OF WEDGE ROW	—W—
FLAGGED WETLAND	—W—
IRON FENCE	—X—
WOOD FENCE	—W—
CHAIN LINK FENCE	—C—
STONE WALL	—S—
GUARD RAIL	—G—
EDGE OF PAVEMENT	—P—
EDGE OF GRAVEL	—G—
PROPERTY LINE	—P—
ADJUTER LINE	—A—
UTILITY POLE W/DUY	—U—
UTILITY POLE	—U—
SIGN	—S—
MAILBOX	—M—
CONIFEROUS TREE	—C—
DECIDUOUS TREE	—D—
TREE STUMP	—T—
MONITORING WELL	—M—
TEMPORARY BENCH MARK	—B—
FOUND	—F—
STONE BOUND	—S—
CONCRETE BOUND	—C—
IRON PIPE	—I—
REINFORCING BAR	—R—
DRILL HOLE	—D—

## NOTES

- LOCATIONS OF UTILITIES SHOWN HEREON ARE THE RESULT OF SURFACE EVIDENCE AS LOCATED BY FIELD SURVEY, PLANS OF RECORD, AND OTHER AVAILABLE SOURCES. THIS PLAN DOES NOT NECESSARILY DEPICT THE EXACT LOCATIONS OF ALL UTILITIES WHICH MAY EXIST AT THIS TIME WHEN THE PREMISES SURVEYED.
- THE CONTRACTOR SHOULD VERIFY THE EXISTING CONDITIONS TO HIS SATISFACTION PRIOR TO BEGINNING ANY EXCAVATION. "NO SHOT" SHALL BE NOTICED AT LEAST 72 HOURS PRIOR TO BEGINNING ANY WORK.
- ALL DISTURBED SURFACES SHALL BE STABILIZED WITH LOAM 4" & SEED AT THE COMPLETION OF WORK IN ACCORDANCE WITH MASSDOT STANDARDS.
- CONTRACTOR IS RESPONSIBLE FOR MAINTAINING INTERIM EROSION CONTROLS DURING REMOVAL PROCESS.

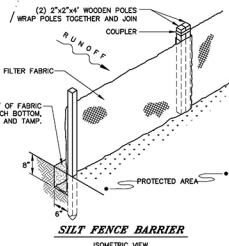


## NOTES

- SOCK SIZE DEPICTED IS FOR GENERAL USE. GREATER SLOPES MAY REQUIRE LARGER SOCK.
- COMPOST MATERIAL MAY BE APPLIED ON SITE AT THE DISCRETION OF THE APPROVING AUTHORITY.
- PRIOR TO SETTING THE SOCK REMOVE LOOSE LITTER, BRANCHES AND OTHER MATERIAL THAT MAY PREVENT THE SOCK FROM DIRECT CONTACT WITH SOIL.

WATTLE  
N.T.S.

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NO.	DATE	BY	REVISIONS
1	1/17/23	DJF	PLANNING BOARD COMMENTS

**SHERMAN & FRYDRYK**  
Land Surveying, Engineering & Scientists  
A DIVISION OF HANCOCK SURVEY ASSOCIATES, INC.  
3 Converse Street, Suite 203  
Palmer, MA 01089

DESIGN: ASB/RMD  
DRAWING: KTT/RMD  
CHECKED: JP  
APPROVED: DJF



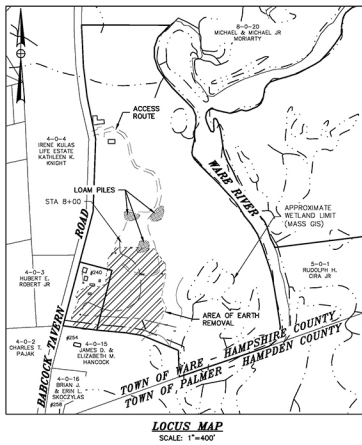
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HORIZ: 1"=50'  
VERT: N.A.  
DATE: 10/7/2022

CLOSE OUT GRADING  
MONITORING WELL SKETCH &  
EARTH REMOVAL PLAN

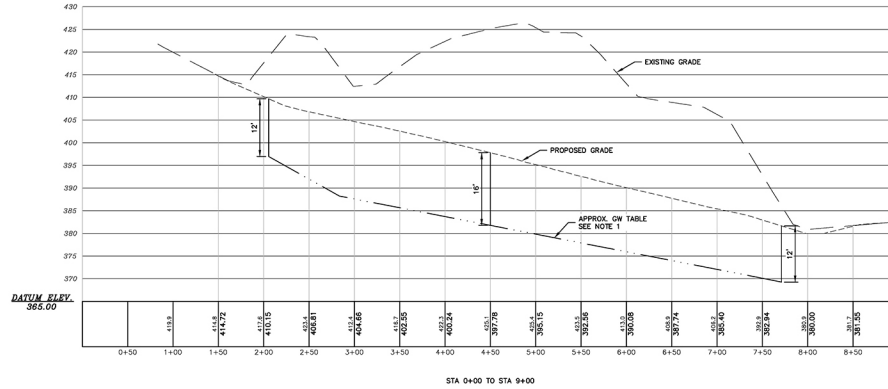
PLAN OF LAND IN  
WARE, MA  
PREPARED FOR  
BOND CONSTRUCTION CORP.

PROJECT NUMBER  
22009  
SHEET NUMBER  
1 OF 3



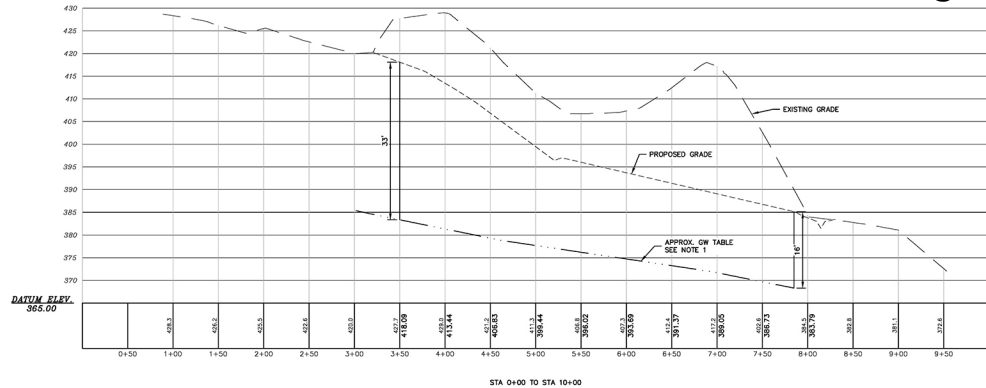


**Alignment - (3) PROFILE**  
SCALE: HORIZ. 1"=50'  
VERT. 1"=10'



NOTES:  
1. APPROXIMATE GROUND WATER TABLE AS INTERPOLATED FROM BOTTOM OF DRY WELLS AND GROUNDWATER MEASURED IN WELL #4 BASED ON MEASUREMENTS TAKEN ON 1-5-2023

**Alignment - (4) PROFILE**  
SCALE: HORIZ. 1"=50'  
VERT. 1"=10'



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NO.	DATE	BY	REVISIONS
1	1/17/23	DJF	PLANNING BOARD COMMENTS

**SHERMAN & FRYDRYK**  
Land Surveying, Engineering & Scientists  
A DIVISION OF HANCOCK SURVEY ASSOCIATES, INC.  
3 Converse Street, Suite 203  
Palmer, MA 01089

DESIGN: ASB/RMD  
DRAFTING: KTT/RMD  
CHECKED: JP  
APPROVED: DJF

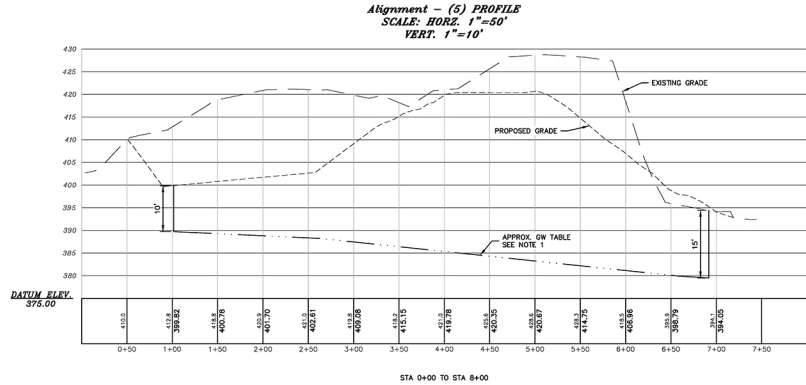
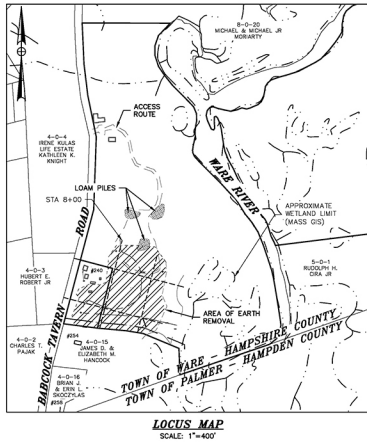


SCALE:  
HORIZ: 1"=50'  
VERT: N/A  
DATE: 10/17/2022

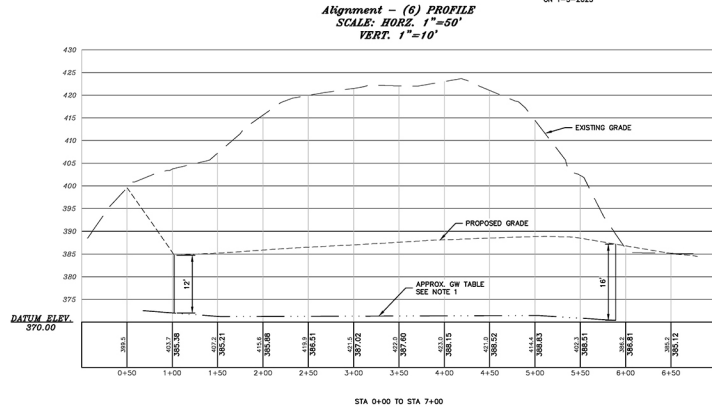
**CLOSE OUT GRADING**  
**MONITORING WELL & EARTH REMOVAL PROFILE**

**PLAN OF LAND IN WARE, MA**  
**PREPARED FOR BOND CONSTRUCTION CORP.**

**PROJECT NUMBER 22009**  
**SHEET NUMBER 2 OF 3**



NOTES:  
APPROXIMATE GROUND WATER TABLE AS INTERPOLATED FROM BOTTOM OF DPT WELLS AND GROUNDWATER MEASURED IN WELL #4 BASED ON MEASUREMENTS TAKEN ON 1-5-2023



NO.	DATE	BY	REVISIONS
1	1/17/23	DJF	PLANNING BOARD COMMENTS

**SHERMAN & FRYDRYK**  
Land Surveying, Engineering & Scientists  
A DIVISION OF HANCOCK SURVEY ASSOCIATES, INC.  
3 Converse Street, Suite 203  
Palmer, MA 01089

DESIGN: ASB/RMD  
DRAFTING: KTT/RMD  
CHECKED: JP  
APPROVED: DJF



SCALE:  
HORIZ: 1"=50'  
VERT: N.A.  
DATE: 10/17/2022

**CLOSE OUT GRADING**  
**MONITORING WELL & EARTH REMOVAL PROFILE**

**PLAN OF LAND IN WARE, MA**  
**PREPARED FOR**  
**BOND CONSTRUCTION CORP.**

**PROJECT NUMBER**  
22009  
**SHEET NUMBER**  
3 OF 3

- Such a covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board. The Planning Board shall turn over the covenant to the Town Counsel who shall review its contents **prior to approval.**

3. All requests for a partial release of the performance guarantee must be accompanied by:

- A revised Construction Cost Estimate (see Section 2.4.8.1.i) for all of the work remaining to be completed in accordance with the approved plans.
- A certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.
- Proof that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
- ~~"As-Built" plans for that portion of the roadway for which a partial release is being requested.~~

b) **Procedures for full/final release.**

The developer may, upon completion and installation of required improvements in a subdivision, the completion of record plans and street acceptance plans, as specified in these rules and regulations, and the completion of a one-year labor and materials warranty period make formal application, in writing either by hand delivery or certified mail, to the Planning Board for full release of any outstanding performance guarantee.

1. Before the Planning Board releases the full interest of the Town in said performance guarantee, the Planning Board shall:
  - i. Receive a certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.



The sanitary sewer and public water systems must be pressure tested and videotaped and comply with the municipality's standards. Documentation of such testing and videotaping must be submitted.

In no instance shall bonding or covenants be released for the final road course and sidewalks until said work has withstood one full winter season. Partial or final release for this work may be requested of the Planning Board no sooner than April 1st of the calendar year subsequent to completion of way and walks.

- ii. That the streets and drainage system have functioned as designed and intended and been in use for through one full winter.
- iii. Obtain in writing from the Director of Public Works, or from a registered professional engineer chosen by the Planning Board (and paid for by the applicant), a certificate of statement that all work and systems required by these rules and regulations has been constructed in conformance with the approved construction plans. In the case where roadways will remain under private ownership, the above-mentioned certificate or statement shall be supplied by the project's registered professional engineer.
- iv. Receive from the applicant written evidence from the electric, telephone, gas and cable TV companies and all other public and private utilities stating that their respective underground systems have been installed and are functioning to their satisfaction.
- v. Receive from the applicant written evidence from a Registered Land Surveyor that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved Definitive Plan.
- vi. Find that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
- vii. Obtain from the applicant a set of record "as-built" construction plans. Approval of said plans by the Planning

Board shall take place after review of the former by the Director of Public Works.

- viii. Receive from the applicant street acceptance plan or plans and necessary documents. Said plans and documents, after approval by the Planning Board and the Director of Public Works, shall be presented by the Planning Board to the Town Meeting for a formal street acceptance in accordance with the Town Street Acceptance Policy.
  - ix. Copies of all of the recorded lot deeds showing that the applicant has retained their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his rights to the right-of-way(s).
  - x. All "as-built" Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format acceptable to the Town using drawing interchange files (AutoCAD compatible files). Horizontal and vertical control shall have at least two (2) points tied (in feet) into the most recent Massachusetts State Plane Coordinate System using municipal GIS monuments stationed throughout the Town. Horizontal control shall have a closure of 1:12,000 or better. Vertical control must be of second order D Class 2 accuracy or better and be tied to USGS datum. All records of control shall be delivered to and reviewed by the Town.
  - xi. All "as-built" Definitive Subdivision Plan, Record and Street Acceptance Plan information shall also be submitted in pdf and AutoCAD compatible format or in another digital format acceptable to the Town.
- 2. If the Planning Board determines that all improvements as shown on the endorsed definitive plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.
  - 3. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said

construction or installation fails to comply with these rules and regulations, the Planning Board shall send by registered mail to the applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.

4. The applicant shall have 30 days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said 30 days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
5. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Ware, as provided in MGL c. 41, § 81, upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

#### 2.4.11 Recording of plan

The developer shall, within 10 days after the definitive plan has been endorsed, record said plan, required forms and, whenever applicable, the Planning Board's order of conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the Hampshire County Registry of Deeds, and in the case of registered land with the Recorder of the Land Court. Within seven (7) days of said recording the applicant shall provide the Board with a copy of the Registry's receipt of said recording including the book, page number, and date of recording. The cost of said recording shall be borne by the developer.

#### 2.4.12 Rescinding Approval of the Plan

Failure of the applicant to record the Definitive Plan at the Hampshire County Registry of Deeds within six (6) months of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient cause for the Board to rescind such approval, in accordance with the requirements of section 81-W of Chapter 41 of the General Laws as amended.

**Commented [WR8]:** Going back to the earlier question, is there better language to use here than "rescinding approval of the plan"?

#### 2.4.13 Preconstruction Conference

Prior to commencement of construction, the developer and the contractor must meet with the Director of Public Works and other relevant Town officials

(preferably at a single meeting) to review the subdivision permit and conditions. The applicant must provide evidence that all required documents have been recorded and all required fees paid. Subsequent to said recording and prior to any building permit being issued, the project applicant shall file within seven calendar days one print of the definitive plan with the Building Inspector. Further, in accordance with the statute, where approval with covenant is noted thereon, the Inspector shall issue no permit for the construction of a building on any lot within the subdivision, except upon receipt from the Planning Board of a copy of the certificate of performance releasing the lot in question.

#### 2.4.14 Road Acceptance

**Commented [WR9]:** See earlier question regarding generic transfer of title deed for private roadways.

When a road or way in a subdivision has been completed in a manner fulfilling the requirements of the Planning Board, the Applicant may request the Planning Board or their designee to inspect the road or way in order to give a recommendation to Town Meeting, on whether the road or way should be accepted.

Process for road acceptance can be found in the Town of Ware Road Acceptance Policy.

The Planning Board shall require the following information before making a recommendation to the Town Meeting:

- a) Two (2) copies of a plan of the road or way "as built," at a scale of one inch equals forty (1" = 40') feet to the inch at size 24" x 36". Said plan to show a center line profile (4 feet per inch on the vertical scale and 40 feet per inch on a horizontal scale) taken at fifty (50) foot intervals along the road or way as it has been completed. All utilities, public and private, above and below grade shall be shown on the plan as they exist. Said plan shall also be submitted in an electronic format acceptable to the Planning Board.
- b) Two (2) copies of the description by metes and bounds of each road and easement considered for acceptance by the Town. After acceptance by the Town Meeting of a road or way in an approved subdivision, the "as built" plan referred to above, the vote of the Town Meeting and the description of the road or way shall be recorded with the Hampshire County Registry of Deeds by the Town Clerk.

- c) A release of liens under oath from all contractors and subcontractors approved for work on the road or way, attesting to the fact that all payments due them for labor and materials have been received, and that payments for all materials have been rendered.
- d) A plan for maintenance of the subdivision right-of-ways, easements, roads, and sidewalks for the time after acceptance by the Town and continuing for 20 years. The maintenance plan should include provision for the maintenance of road pavement, sidewalks, soil settling problems, street sweeping, snowplowing, maintaining vegetative stabilization of all rights-of-way and easements, erosion controls, Fall leaf cleanup, catch basin and drainage system cleaning and maintenance, all stormwater management systems, and other provisions as determined to be necessary by the Board.
- e) A Roadway Conveyance Plan showing the overall boundary of the proposed roadway to be conveyed to the Town. This plan must include the bearing and distance descriptions of the roadway right-of-way.
- f) A Roadway Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the roadway at Town Meeting. This instrument must include a legal description of the right-of-way and include reference to any easement documents.
- g) An Easement Conveyance Plan showing overall boundary of any proposed easements to be conveyed to the Town. This plan must include the bearing and distance description of the easement tied to the roadway right-of-way.
- h) An Easement Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the easement at Town Meeting. This instrument must include a legal description of the easement as well as a description of the Town's rights within the easement

## Town Planner Update: January 19<sup>th</sup>, 2023

- The Hospital Committee will be meeting with HKT Architects to discuss their proposal for the Mary Lane Hospital Feasibility Study.
- The new LED Message sign has been powered on and is now fully operational.
  - There are a few message displays that are on at the moment
  - The hired consultant will return in the Spring to touch up a few things, such as the rusting corner on one of the sign posts
- The Town was recently awarded a FEMA Hazard Mitigation Plan Grant
  - This grant will help us hire a consultant to assist with updating the Town's Hazard Mitigation Plan
  - Pioneer Valley Planning Commission will be the most likely candidate to assist the Town with this endeavor
- West Street Pedestrian Blinker Signs
  - The sign bases and posts have been delivered to the Town
  - The signs themselves are expected to arrive around February
  - Geoff McAlmond, DPW Director, has been taking the initiative in ordering the equipment