



# 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

October 28<sup>th</sup>, 2021

Select Board Room, Town Hall

### Board Members Present:

Lewis Iadarola (Chair), Phil Hamel, Chuck Dowd (Remote), George Staiti (Alternate), David Skoczylas (Alternate), Jodi Chartier

### Staff Present:

Rob Watchilla - PCD Director  
Anna Marques – Zoning Enforcement Officer  
Stewart Beckley – Town Manager

### Public in Attendance:

Elizabeth Hancock, Damien Berthiaume, Nicole Costanzo (Remote), William Moryl

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### PLEDGE OF ALLEGIANCE

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

### ADMINISTRATIVE

- Approval of meeting minutes from August 26<sup>th</sup> 2021

Motion to approve made by Jodi Chartier, Seconded by Phil Hamel. All in Favor. Approved 5/0/0.

### POSSIBLE FUTURE TOPICS

- Rob Watchilla discussed the need to change zoning bylaws to address future issues including the vague language used within the cannabis bylaws, the need to define "Parks", and earth removal.
- J. Chartier requested the inclusion of large capacity battery storage systems within the bylaws.
- Stewart Beckley stated that the Planning board is having an information session on battery storage systems in their next meeting on Thursday November 4<sup>th</sup>, 2021 at 7:00 p.m.
- R. Watchilla stated that the Planning & Community Development (PCD) Department were considering adding a section to the zoning bylaw regarding junk yard and auto salvage.
- Anna Marques stated that the PCD Department was discussing adding the definition of "outdoor recreation" to the zoning bylaws.
- R. Watchilla stated that there are multiple uses which are allowed by right which need to be addressed by the ZBA, including certain recreation uses, some of which permit

large scale operations such as amusement parks in residential zones, according to the Zoning Use Table.

- A. Marques stated that there was an inquiry within the past month about having a dirt bike- motorsport race track, in a rural residential area on Route 9.
- Elizabeth Hancock reaffirmed the need to define "Parks" in the zoning bylaw to avoid future issues of clarity and vagueness.
- Lewis Iadarola agreed with this statement and stated himself that "we better define it", and to continue this topic at the next ZBA meeting.

## **PUBLIC HEARING**

- **Appeal-2021-01**

L. Iadarola stated no aggrieved individual has come forward for this public hearing and therefore it is not within the ZBA's jurisdiction to hear this case.

## **New and Old Business**

- **General Discussion**
  - S. Beckley stated that the Massachusetts State law, and subsequent case laws claim that if he is not personally aggrieved by the case at hand, then he cannot be included in the public hearing as an aggrieved party.
  - L. Iadarola stated that he presented this from a jurisdiction standpoint, in which there were no aggrieved parties that came forward, therefore the ZBA had no authority of this case.
  - S. Beckley stated that moving forward, the town should be remaining the aggrieved party so that the zoning bylaws can be altered to address the issues of earth and loam processing.
  - L. Iadarola agreed with S. Beckley, and stated that this might help address other issues within the town, including uses which are grandfathered in.
  - R. Watchilla stated that the zoning bylaws is something which can be reassessed and adjusted through the process of these ZBA meetings and appeals to better define and or clarify any vague definitions.
  - L. Iadarola discussed the issues of the earth processing and loam removal within the context of the zoning bylaw. He stated that he had concerns for the fumes and complaints about noise from neighbors. He stated that would be a nuisance in rural residential zones, and that the main concern is surrounding the definition of "earth processing" in the zoning bylaws. He recalled his knowledge of these processing plants, and how they can take in many different varieties of earth, including; sand, wood, gravel, loam, etc. at various sizes and scales of operation.
  - L. Iadarola stated the importance of defining the scale of processing, and specific materials used in specific zones.

- Damien Berthiaume respectfully stated that if there was a new use not defined in the zoning bylaws that it would require a special permit to be permissible within the identified zone.
- L. Iadarola responded by saying the issue at hand is deciding if that use is going to be valid or not moving forward. I.e., revising the zoning use table to ensure that earth processing may not be allowed in rural residential areas.
- D. Berthiaume stated that the building construction trades use is currently permissible with special permit under the current zoning bylaws.
- L. Iadarola stated that the issue was the definition of construction trades within the bylaw, and how it may not comply with their desired use. Therefore, the issue at hand is not the ongoing processing of earth on the Moryl land parcel, but the zoning bylaw language itself.
- L. Iadarola provided examples of large-scale processing sites and how they don't conform to the ZBA desired definition of earth processing.
- D. Berthiaume stated that there was a need to change the wording in the zoning bylaws to account for the specific scale and type of "earth removal" and "processing" desired in the specific zones.
- S. Beckley reaffirmed this notion made by L. Iadarola and D. Berthiaume that the area which needed to be addressed was the defining language within the bylaws, as well as the inclusion of specific terms uses of earth removal and processing.
- A. Marques reaffirmed this statement, saying that the main issue is the definitions within the zoning bylaws which should be addressed to prevent any unwanted uses within specific areas.
- D. Berthiaume stated that the bylaws require a robust site plan review from the Planning Board depending on the district. The bylaws are significant enough to require strict application processes for new businesses. He agrees that the earth removal section of the bylaws should be reevaluated to be more specific for distinct districts.
- R. Watchilla mentions that there is a need to require a site plan review for large scale earth removal businesses for amounts of over 1000 cubic feet, but for not if it is less than 1000 cubic feet, in which it would only require a special permit.
- G. Staiti stated that in New England it is very common for farmland to cover multiple parcels, usually on either sides of public roads. This could provide difficulty in defining the specific lots used for removal in the permitting process.

**Motion made by J. Chartier for the Zoning Board of Appeals to verify that the Board had no jurisdiction in hearing Appeal-2021-01. Seconded by G. Staiti. Approved 5/0/0.**

NEXT MEETING DATE: Wednesday December 1<sup>st</sup>, 2021 at 7:00 p.m.

ADJOURN

Motion to adjourn made by L. Iadarola. Seconded by J. Chartier. All in favor. Approved 5/0/0

Minutes from October 28<sup>th</sup>, 2021

Respectfully submitted by,

Alex Ziter,

Department Assistant

Planning & Community Development

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

Iadarola \_\_\_\_\_

Chartier J. Chartier

Hamel Philip Hamel

Dowd E. Dowd

Eaton M. Eaton

David Houghs (ALT.)