



TOWN OF WARE

Planning & Community Development

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Planning Board

Meeting Minutes from

Wednesday, October 3, 2018

Board of Selectmen's Conference Room

- Planning Board members present:** Rick Starodoj (Chairman), Josh Kusnierz (Vice Chairman), Chris DiMarzio, Fred Urban, Joe Knight, Ed Murphy (7:04 p.m.)
- Planning Board members absent:** none
- Staff present:** Rubén Flores-Marzán, Director of Planning & Community Development
Judi Barnard Mosso, Assistant to the Director
- Public:** (as taken from the sign in sheet and observation): Keith Kruckas; Brad Wilson, Ecos Energy; Randy Neubauer, Gusto Enterprises; Rodney Neubauer, Gusto Enterprises; Karen Brodeur; Pamela Lukasik; Wendy Gewinner; Dave Lukasik; Michael Supczak; Anna Marques, Building Inspector; John M. Prenosil, JMP Environmental; Stuart Beckley, Jennifer L. Muche; Melissa Martin; Terrance Smith

Chairman R. Starodoj called the meeting to order at 7:01 p.m. Attendees said the Pledge of Allegiance. The Chairman reviewed the public hearing process, asked everyone to sign the Sign In sheet, silence cell phones, practice civil discussion, and to speak only when recognized by the Chairman. Some items were taken out of order.

1. Administrative

- a. Approve minutes from September 5 and 19, 2018 – Motion by J. Knight to accept the minutes from September 5 and September 19, 2018 as presented. Seconded by J. Kusnierz. So voted 5/0/0.

2. **ANR-2018-05, Keith Kruckas, 300 Palmer Road, 10-0-46**; applicant wishes to create two lots. There was brief discussion about the application; the rear section is to be conveyed to another parcel owner; lots have sufficient frontage and area. **Motion** by J. Kusnierz to approve the application as presented and for Rubén Flores-Marzán to sign the plan on behalf of the Board. Seconded by F. Urban. So voted 5/0/0.
3. **7:15 Public Hearing on Ecos Energy, solar on subdivision (SP-2018-04 & SPR-2018-06)** – J. Kusnierz recused himself; Board Alternate E. Murphy was appointed to hear this case.

The Ware Zoning Board of Appeals denied Ecos' variance request for 0' setback between parcel boundaries within the subdivision. B. Wilson of Ecos Energy presented a letter dated October 3, 2018 from Ecos Energy's parent company Allco Renewable Energy Limited offering three options for possible approval since the variance was denied.

In response to E. Murphy's question about DOER input, B. Wilson stated that "DOER is not in the business of siting projects and left it up to local municipalities". E. Murphy stated that, through their "Clean Energy Results" (June 2015), DOER does not promote clearcutting forests and offers guidance regarding deforestation for solar projects.

There was discussion about National Grid and their procedure for upgrading their infrastructure. B. Wilson stated that Ecos was not interested in providing the System Impact Study to the public. R. Starodoj stated that the Study was not germane to the Planning Board's discussion. It is National Grid's responsibility to provide power, infrastructure to upgrades, access to lines and Rights of Way.

Ecos is willing to agree to:

- No additional poles to be installed
- Run connecting lines underground
- no soil removal
- no stump removal
- peer review
- perform research regarding the future & use of the subdivision's frontage lots
- Ecos Energy must own the parcel before construction begins

- *Lots not developed for solar will NOT be sold for other development for the life of the solar project*
- *No additional acreage will be cleared beyond what is proposed*
- *Require National Grid to use Hendrix Spacer Cables for the project*

Current owners (Gusto Enterprises) wish to keep the subdivision in place. C. DiMarzio stated that it is in no one's best interest to authorize a street that will not be built for up to 40 years.

B. Wilson would like to submit an ANR application creating 16 lots off the existing public road, located in the upland area. Discussion about an ANR and whether the lots should go back to one lot after the life of the solar project. The first step is for the subdivision to be rescinded; second step is for an ANR to be considered.

The subdivision and ANR process was explained to the public. Chairman clarified that the parcel is not "commercial vs. non-commercial"; that it's the use that is allowed in our bylaws and that the use would be primary, not secondary.

K. Brodeur asked about a power pole and light that she pays for. National Grid (NG) will connect using their own infrastructure; Ms. Brodeur's pole and light is business between her and NG; it is on her private property and not a part of Ecos's project. M. Martin and K. Brodeur discussed the high potential for seeds from the project's ground cover to contaminate Ms. Brodeur's hay and negatively impact her business which proved "zero-waste hay". B. Wilson is willing to address the issue using a landscape architect and to use favorable seed. B. Wilson stated that he and Ecos want to be good neighbors and would like to keep the lines of communication open.

Drainage, wildlife, and water well questions were directed to the Conservation Commission; B. Wilson restated that the state requires that stormwater plans show that drainage systems will serve at least as well as they drain today. After the life of the project, drainage would be left in place in order to be useful. Chairman stated that the total impervious surface is relatively small because the only part of the solar project actually on the ground are the ballast bases.

Building Inspector A. Marques sent written comment today after a site visit to the property last week. She observed existing drainage concerns and further impact post-development; she recommended peer review for the storm water plans

specifically to how the surrounding public ways would be affected; perhaps roads need to be regraded in order to better pitch flow toward drainage on the project side. She also stated that there were additional issues from the site visit that will warrant design changes under Conservation Commission's purview.

There was discussion about decommissioning bond and that it's a bond company that takes the responsibility for the work; Board would like to keep the Town out of that process.

Chairman recognized Ms. Brodeur's letter about the history of her family farm and her concern about its future and economic viability; the letter was entered into record and not read aloud.

Police Chief Shawn Crevier submitted written comment that the project should be fenced in and that the Police Department will not be used as a security firm to police the project. The Chairman stated that it is not safe to not have fencing installed. B. Wilson stated that they do not intend to have the interior of the project policed; their security cameras would be sufficient. There was discussion about entering on private property, landowner permission, and liability. Board members suggested a raised fence to allow some wildlife access but prohibit others; there needs to be some reasonableness to allow some access.

Gusto Enterprises owner stated that impacts would be much greater if homes were built and that this proposed solar project was a "honey pot". Many residents in attendance strongly disagreed with his assessment.

The Board suggested continuing the public hearing so that Ecos could submit a revised layout. B. Wilson asked for conditional approval because their sale agreement will expire in a few days. The Board was not interested in taking a vote this evening and was still considering a peer review. If the Conservation Commission ordered additional changes, the Planning Board would need to re-review plans again. The Board also needed to draft and examine possible conditions for the project, and that the Board requires time to evaluate the merits of the project. The Chairman reiterated that the Town is business friendly and that an applicant's other deadlines are inconsequential to the Board. Gusto Enterprises owners agreed that they would be willing to extend the sale agreement.

Motion by E. Murphy to continue the public hearing, with the applicant's permission, to October 17. Seconded by C. DiMarzio. So voted 5/0/0.

8:56 p.m. – The Board took a recess.

9:04 p.m. – The Board reconvened.

4. **Discussion of possible zoning amendments** (Definitions; Use Table; Ground-mounted Solar; Cannabis). J. Mosso handed out 3 documents: draft amendment language for cannabis cultivation in Rural Residential (RR) zone, general housekeeping changes for bylaw, and use table change (1 change).

The Board would like to include new buildings as well as existing buildings for cannabis cultivation in the RR zone; the size of the buildings should limit the amount of marijuana that can be cultivated.

The PB agreed to loosen the lighting hours to "18 hour light cycle with 6 hours off between 9:00 p.m. to 3:00 a.m."

Board agreed with housekeeping changes and the one change to the Use Table. The Board expressed that they did not want to write too much detail into the bylaw, including definitions, because it restricts the document from serving as a guide. Zoning bylaws cannot predict all uses and development so the zoning bylaws should be maintained as a broad document that guides and manages growth and use in Ware, as opposed to a constricting document that controls in great detail.

R. Flores-Marzán stated that the APA definitions were not as explicit as what the Board was searching for. There was discussion about the language in Article 4.1.1.D and 4.7.1 about uses not listed in the Use Table. The Board wants the language in 4.7.1 included at the bottom of the Use Table.

There was lengthy discussion about setbacks for large ground-mounted solar facilities. In general, the Board would like to increase setbacks to 100' (currently 50'), and that number can change depending upon feedback received at the public hearing. There was a brief mention of capping solar projects in the RR zone. The Board of Selectmen asked the Planning Board to consider a moratorium but the Board disagreed, citing the fact that we already have a bylaw in place; the Board did not want to outright deny these projects since it is already allowed in the current bylaw.

Since the amendment language is still in the draft phase, the public hearing cannot be held on October 24 as previously discussed.

5. **Discussion of unfinished subdivision roads and winter maintenance** – J. Kusnierz reported on the September 21 site visits to the unfinished subdivision roads. The Board discussed conditions and findings and reiterated the fact that the Town is under no obligation to plow and sand private roads. J. Mosso prepared and distributed a table of roads, conditions, recommendations, and notes, as well as a table showing recommendations from previous years. The Board would like a representative from Hampden Bank to attend a meeting so we can discuss the subdivision including road condition, possible road acceptance, drainage, homeowners' association, etc. Recommendations to the Select Board whether to plow and sand these roads were as follows:

DO NOT recommend: Belair Drive, High Meadow Lane, King George Drive,
Recommend: Coldbrook Drive, Hillside Terrace, Lee Road, Walter Drive, Williston Drive

With regards to Wildflower Drive and Briar Circle, the Board recommends treating these two roads only after significant brush has been cleared, and include the following caveats:

- If the water continues to run onto the road and create ice problems at any time, then Town plowing and sanding (and ice removal) shall stop immediately, the owner so notified, and all snow and ice removal shall become the responsibility of the owner of the private roads. The Town shall not be held liable for any problems associated with snow or ice removal in this subdivision should this occur
- The Town accepts no responsibility nor liability with regard to the modified drainage structure located by 12 Wildflower Drive

Motion by J. Knight to make the above recommendations to the Board of Selectmen. Seconded by J. Kusnierz. So voted 5/0/0.

6. **Discussion of earth removal operations and road conditions** – Mass DOT has inspected the bridge over Beaver Brook. It was closed today and the Town is working with an engineer to design repairs to the closed bridge. J. Knight raised questions about earth removal operations in the area; how will this affect trucking? This is not in the Board's purview.
7. **Discussion & Updates**
- a. **PVPC Delegate update** – none.
 - b. **Alternate appointee by Board of Selectmen** – Joe Knight was appointed; congratulations, Joe!
8. **Other** - J. Kusnierz will be discussing scenic road designations at a future meeting.

9. **Adjourn** – Motion by C. DiMarzio to adjourn at **9:51 p.m.** Seconded by J. Kusnierz.

Documents reviewed:

- Minutes from September 5, 2018
- Minutes from September 19, 2018
- ANR-2018-05, Keith Kruckas, 300 Palmer Road
- SP-2018-04 and SPR-2018-06 Ecos Energy application and related documents
- Letter from K. Brodeur about history of family farm
- Handout from R. Flores-Marzán re marijuana cultivation regulations, Use Table
- Handout from J. Mosso re zoning amendments
- Handout from J. Mosso re summary of subdivision site visits
- Handout from J. Mosso re history of subdivision recommendations

Documents received:

- letter dated October 3, 2018 from Ecos Energy’s parent company Allco Renewable Energy Limited regarding their application

Minutes Approved on: _____	
Starodoj	_____
Kusnierz	_____
DiMarzio	_____
Urban	_____
Knight	_____

Respectfully submitted by
Judith P. B. Mosso, MPA
Assistant to the Director