



# TOWN OF WARE

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

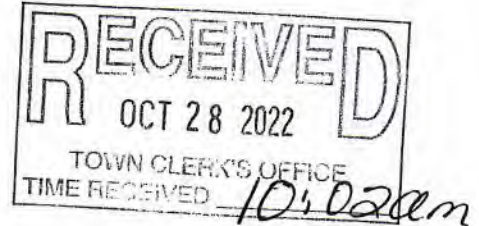
## PLANNING BOARD

### MEETING AGENDA

Location: Ware Junior/Senior High School Auditorium  
237 West Street, Ware, MA 01082  
Date & Time: Thursday, November 3<sup>rd</sup>, 2022 @ 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>

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- Pledge of Allegiance
  - Administrative
    - Approval of minutes from October 20<sup>th</sup>, 2022
    - ANR-2022-11 (Campbell Road)
  - Public Hearings
    - Zoning Public Hearings
      - Rural Business Overlay District
        - Proposed overlay district along the route 9 corridor to allow for limited commercial uses. Recommendation for vote before Town Meeting.
      - Residential Business (RB) District Boundary Adjustment
        - RB District Boundary Adjustment at 256 West Street. Recommendation for vote before Town Meeting.
      - Urban Fill Prohibition
        - Prohibition on the use of contaminated soils and sediments as fill material. Recommendation for vote before Town Meeting.
    - SP-2022-10 (Bond Construction Corporation)
      - Applicant is requesting a special permit for earth removal under section 4.8.5 of the Zoning Bylaws, and pursuant to MGL Chapter 40A. Site located at 219 Babcock Tavern Road. Deed recorded in the Hampshire County Registry of Deeds Book 12833, Page 207, and Book 07177, Page 314. Assessor's Parcel ID 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).
  - Town Planner Update

The next Planning Board meeting will be held November 17<sup>th</sup>, 2022.

At the time of posting, the agenda items listed above are what is reasonably anticipated by the Chairman to be discussed at this meeting. Other items not listed may be brought up for discussion to the extent permitted by law. The general public is invited to this and all meetings of the Ware Planning Board.



# TOWN OF WARE

## Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

### Planning Board

Meeting Minutes from

**Thursday, October 20, 2022**

Board of Selectmen's Meeting Room, Town Hall

#### Planning Board Members in Attendance:

Rick Starodoj, Chairman  
Nancy Talbot, Clerk  
Ed Murphy, Vice-Chairman (Remote)  
Ken Crosby (Remote)  
Chris DiMarzio  
Elizabeth Hancock, Alternate

#### Staff Members in Attendance:

Rob Watchilla, PCD Dept. Director  
Kristen Jacobsen, PCD Dept. Admin  
Anna Marques, Building Commissioner

#### Members of the Public in Attendance:

Jeff Lindquist, Attorney for Forty Pine LLC  
Kenneth Chatel (Bird Hill Farm)  
Peg Trim (Remote)  
K.Mongeau Ring (Remote)  
Russel Prouty  
Don Ouimette  
Janice Ouimette

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## PLEDGE OF ALLEGIANCE

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

## ADMINISTRATIVE

### Approval of Minutes

Approval of minutes from September 15th, 2022

**Motion** made by N. Talbot to approve of the minutes as submitted from Thursday, September 15, 2022. Seconded by K. Crosby. There was no additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Aye
C. DiMarzio	Absent

**All in favor. Approved 4/0/1.**

C. DiMarzio arrived 7:05pm

ANR's (Vote to determine that Planning Board approval is not required under the Subdivision Control Act)

**ANR-2022-06 (Pine Street) [Continued from 9/15/2022 meeting]**

J. Lindquist summarized that 40 Pine was seeking the ANR to move a lot line and facilitate the sale of a piece of the parcel to Gillespie Manufacturing.

R. Starodoj asked if any of the board members had any questions.

K. Crosby stated he sought clarification as to why this as an ANR. He stated that as per the new Zoning Bylaws there are requirements the property does not meet. R. Starodoj spoke stating there is no frontage requirement for that lot in that area. K. Crosby asked R. Watchilla to clarify the bylaw. R. Watchilla stated that the frontage was required for lots created after 2013. K. Crosby asked if this would be constituted as creating a lot after 2013. R. Watchilla explained that this would not be creating a lot, it would be adjusting boundary lines of an existing lot. R. Starodoj stated it is physically impossible to create the 200' frontage and in this zone there is no frontage requirement.

C. Dimarzio explained the reasoning behind the lack of frontage requirement for the zone.

**Motion** made by C. DiMarzio to approve ANR-2022-06. Seconded by E. Murphy. There was no additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Aye
K. Crosby	Nay
C. DiMarzio	Aye

**Four in favor, One Nay. Approved 4/1/0.**

**ANR-2022-07 (Campbell Road)**

R. Watchilla stated the purpose of this ANR was to section off a piece of land. It meets the area and frontage requirements for the Rural Residential Zoning District.

N. Talbot asked if the applicant had applied for other ANR applications. R. Watchilla stated they had but approximately 11 months ago.

The board reviewed the well lot and asked if there were any structures on the lot.

**Motion** made by C. DiMarzio to approve ANR-2022-07 due to the plan having sufficient area frontage and not leaving the balance of the land unbuildable. Seconded by N. Talbot. There was no additional discussion.

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

**All in favor. Approved 5/0/0.**

#### **ANR-2022-10 (North Street)**

R. Watchilla explained that the Diocese of Springfield MA. Sought to adjust lot lines of 17 North Street 'All Saints' Catholic Church. Currently, the property line intersects the church building. The adjustment leaves both lots with adequate frontage. The change would help the property conform as best it can to zoning regulations and correctly address the nonconformity. The change would make each building a conforming structure.

The board discussed the parcel and if the change would lead to zoning issues. R. Watchilla stated that this change would make both lots conform.

**Motion** made by C. DiMarzio to approve ANR-2022-11. Seconded by N. Talbot. There was no additional discussion.

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

**All in favor. Approved 5/0/0.**

#### **PUBLIC HEARING**

##### **7:10 pm : SP-2015-04 Modification (Bird Hill Farm BNB)**

Applicant is seeking to amend an existing special permit to allow for small events of 50 people and fewer on the premises. Property located at 145 Church Street, Ware, MA 01082. Recorded in the Hampshire County Registry of Deeds Book 11044, Page 169. Assessor's Parcel ID 30-0-30. Zoned: Rural Residential.

R. Starodoj read the legal notice.

R. Watchilla read the summary report, a letter from Geoff McAlmond, and the memo from A. Marques.

K. Chatel spoke stating he had spoken with a conservationist and would have no issue accommodating the 15-foot buffer and by doing so he could accommodate the larger parking spaces required. He stated there

would be no pavilion at first and that he would be using a tent. K. Chatel also addressed the concerns about the wetlands on his property and he said he would be placing the tent more than 100-feet from the wetland area. He mentioned that ADA parking could be in the space in the driveway nearest the house. He also inquired if the driveway could be widened. Geoff McAlmond stated he could have a second driveway since under current regulations he is limited to a 15-foot driveway.

K. Chatel mentioned he has a second access to the desired parking area.

The board inquired if he was planning on paving the parking area. K. Chatel answered that he did not want to pave it and wanted to have a gravel path down the center for the cars to drive down. N. Talbot asked if he was attempting to maintain the rustic country look. K. Chatel answered yes and that this was an effort to save his business.

C. DiMarzio questioned K. Chatel on the nature of the events that would be held on the property. K. Chatel answered that he was looking to have events of no more than 50-people (including staff) those events could be micro weddings, 1-day retreats, breakfast meetings, or showers. He stated he would market the events as peaceful affairs.

C. DiMarzio asked if there could be live music at these events. K. Chatel stated that it was a possibility. They continued the discussion with K. Chatel stating that events would end by 8pm, be scheduled Monday through Sunday and could begin as early as 7 or 8 am.

C. DiMarzio asked if he was planning to install lighting in the parking area. K. Chatel answered that he was not.

K. Chatel mentioned he did not feel comfortable representing himself and would prefer to have an attorney. The board and K. Chatel spoke about their concerns of limiting when events could be held. N. Talbot said no one had mentioned that. A. Marques stated the Bylaws have design guidelines.

R. Prouty stated 7am seemed to be early for an event. K. Chatel explained that breakfast meetings might be held that early. R. Prouty also inquired about overflow parking. K. Chatel stated the calculations included that. C. DiMarzio explained that there is a formula in the Bylaw to figure out the amount of parking spaces needed. R. Prouty asked if cars would be prohibited from parking on Church Street and if the events would have a time limit. C. DiMarzio and R. Starodaj stated that the events would be over by 8pm. R. Prouty asked if the board could address the start time for live music.

D. Ouimette spoke stating that he and his wife are in favor of the plan.

The board discussed what conditions they may impose. K. Mongeau Ring asked what other permits may be needed. R. Starodaj answered that the Planning Board only deals with the use and other permits are handled by different departments.

R. Prouty suggested adding a temporary sign that may be placed near the curve on Church St. Warning cars of enter/exiting traffic. The board discussed different types of signs that may be used, and proposed K. Chatel place a sandwich board style sign out during events

K. Crosby inquired about the stone wall on the property. The board responded that the Scenic Road Bylaw was not in play. K. Chatel responded that the wall would not be affected, and it sits on the property line between his property and Grenville Park. K. Crosby asked how K. Chatel would obtain food for the events. The board responded that was beyond their purview.

R. Starodoj stated they would wait on the findings but would draft conditions.

Conditions:

- a- 20' Buffer with existing conditions
- b- Limited to 50 guests
- c- 2pm -8pm for live music
- d- Hours 7am -8pm for events Monday through Sunday (does not affect the hours of the B&B guests/hours)
- e- (Work in progress)
- f- No on-street parking and a sign
- g- Does not apply

R. Starodoj requested that in case of change of ownership of the property the new owner should meet with the board.

C. DiMarzio suggested adding the placement of a light/lights to the parking plan in case it is ever needed. R. Starodoj added that a condition might be that the lights only be operated during events and shielded. N. Talbot asked if there was a requirement for the type of lighting used and asked if he could use string lights or something else as long as it does not interfere with the neighbors.

The board and K. Chatel discussed the schematic he was provided by his engineer. The board suggested hiring someone local who may be more aware of the bylaws and ordinances.

The board discussed dates to continue the hearing. K. Chatel stated he would like to schedule it further out than November.

**Motion** made by N. Talbot to continue the Public Hearing for Modification to SP-2015-04 to January 5, 2023. C. DiMarzio seconded the motion. There was no additional discussion.

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

**All in favor. Approved 5/0/0.**

## **NEW BUSINESS**

Discussion on the recommendation of plowing and sanding of private roads during the 2022-2023 Winter Season

An inspection of the following roads was carried out September 21, 2022. R. Watchilla, A. Marques, G. McAlmond, E. Murphy, and J. Prenosil were in attendance.

### **BELAIR DRIVE (Belair Estates):**

The condition of the road has deteriorated. The manhole issue was addressed; however, concrete was put down around the manhole but not smoothed out. After consulting with the crew, it was determined that Belaire Drive should not be recommended for plowing or sanding this winter.

**COLDBROOK DRIVE (Pennybrook Estates):**

- The road is in good condition
- It's recommended that Coldbrook Drive be plowed and sanded by the Town this winter.

**HIGH MEADOW LANE**

- The road serves as someone's driveway and has not been plowed in the past
- We recommend that High Meadow Lane NOT plowed and sanded by the Town this winter.

**HILLSIDE TERRACE:**

- Hillside Terrace is a Town Owned Road that was accepted on May 11, 2005.
- It was in error that this road was included initially on this list
- DPW will plow and sand this road since it is Town Owned

**KING GEORGE DRIVE**

- The DPW has plowed this private road in the past
- Road is still in good condition but is starting to show signs of deterioration
- Mrs. Robidoux has recently shown interest that she intends to move forward with road acceptance.
- We recommend that King George Drive be plowed and sanded this winter.

**LEE ROAD**

- The DPW has plowed this private road in the past
- There are two easements placed on Lee Road for the purposes of plowing, drainage and general road maintenance
- We recommend that Lee Road be plowed and sanded this winter.

**WALTER DRIVE (Edgewood Estates):**

- The basecoat continues to deteriorate but still in good condition
- Mr. Pelski has shown interest in pursuing road acceptance
- There appear to be no problems for either the Town or the owner if the Town plowed and sanded this winter
- We recommend that Walter Drive be plowed and sanded by the Town this winter

**WILDFLOWER DRIVE & BRIAR CIRCLE (Isabella Ridge):**

- Attempted to reach out to Berkshire Bank but have not received any feedback from them
- Sidewalks contain a good amount of overgrowth
- Road condition is still good overall
- We recommend that Walter Drive be plowed and sanded by the Town this winter

**WILLISTON DRIVE**

- Only the eastern section of Williston Drive has been accepted by the Town (see photo)
- The DPW has historically plowed and sanded the entire length of this road so that the trucks could turn around easily
- Roads are showing early signs of deterioration
- We recommend that the entirety of Williston Drive be plowed and sanded this winter.

**Motion** made by C. DiMarzio to approve the recommendations made for private way and road plowing and sanding. E. Murphy seconded the motion. There was no additional discussion.

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

**All in favor. Approved 5/0/0.**

The board discussed with G. McAlmond the placement of responsibility of water systems on the private roads and that in the new subdivision regulations it should be clearly laid out who's responsible for the maintenance and operation of those systems.

#### TOWN PLANNER UPDATE

The next Planning Board meeting will be held on November 3rd, 2022.

- The Planning & Community Development Department has hired a part-time intern
  - o She is set to start on Tuesday, October 25
  - o The intern's main task is to assist the department with updating our Open Space and Recreation Plan
- The Façade Improvement Program Application window has officially closed
  - o Applications will be reviewed over the coming weeks
  - o The Design Review Committee had a meeting on October 19 to discuss the review process moving forward
- The Town has received its Notice to Proceed from MassDOT
  - o The Town was awarded \$43,000 in equipment funding from the Shared Streets and Spaces Program
  - o We have until December of 2023 to spend all of the funds awarded
  - o First phase would be to purchase 16 pedestrian blinker signs to put at 8 unmarked crosswalks along West Street (most immediate need)
  - o Working with the DPW director to find the best type of signage
- The Town has received three prices quotes for the LED Sign on main street
  - o The sign would be funded by a \$30,000 grant from the REDO program
  - o Discussions on final design choice are in progress
  - o Downtown Improvement Committee with work on picking an appropriate location for the sign
- The PVPC Land Use department held its first "Battery Storage Zoning" Discussion on October 4th
  - o Initial discussions took place with PVPC Planning Staff
  - o They should be developing draft language in the coming weeks
  - o We are expected to meet 4-5 more times with the Towns of Belchertown and Monson included in the mix.

R. Starodoj asked the status of Scenic Road Bylaw being moved to the spring. R. Watchilla answered that the Historic Commission asked that this be delayed until spring.

C. DiMarzio inquired about the battery storage. R. Watchilla clarified that it is for the large free standing battery storage projects. C. DiMarzio asked if these facilities were too large to have in the same area as the high-tension wires. R. Watchilla stated there is also a concern of the batteries combusting at a



temperature that is too hot for normal fire suppression techniques. The board discussed their concerns of the placement of the structures and how they would be classified.

E. Hancock brought up the Horse Track that may be built in Hardwick and the concerns the town may have.

**Motion** made by N. Talbot to adjourn the meeting at 8:43pm. Seconded by C. DiMarzio. No additional discussion.

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

**All in favor. Approved 5/0/0.**

**NEXT PLANNING BOARD MEETING DATE:**

**Thursday, November 3rd, at 7:00pm.**

Minutes from Thursday, October 20th, 2022.

Respectfully submitted by,

Kristen Jacobsen  
Administrative Assistant  
Planning & Community Development

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

Starodoj \_\_\_\_\_

Murphy \_\_\_\_\_

Talbot \_\_\_\_\_

Crosby \_\_\_\_\_

DiMarzio \_\_\_\_\_





# TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 118    rwatchilla@townofware.com

## Notice of Public Hearing Planning Board

### LEGAL NOTICE

to be published in the *Ware River News*  
issues 10/20/2022 and 10/27/2022

Pursuant to MGL Ch. 40A, Sec. 5, the Ware Planning Board will hold a public hearing on **Thursday, November 3<sup>rd</sup>**, during their normally scheduled meeting starting at 7pm in the Auditorium in the Ware Junior/ Senior High School, 237 West Street, Ware, MA. The purpose of this hearing is to consider amendments to sections 3.4 (Overlay Districts) and 4.9 (Overlay District Regulations) of the Town of Ware Zoning Bylaws to include language and a map on a proposed overlay district known as the "Rural Business Overlay District" along the route 9 corridor.

Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in the Auditorium in the Ware Junior/ Senior High School, 237 West Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

A complete copy of the proposed changes can be found at the Planning & Community Development Department Office. Anyone interested or wishing to be heard should appear at the time and place designated. All interested parties are invited to attend.

**WARE PLANNING BOARD**  
Richard Starodoj, Chairman



## TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 118      rwatchilla@townofware.com

To: Planning Board

From: Robert Watchilla, *Director of Planning & Community Development*

Date: October 6, 2022

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### **Proposed Zoning Amendment: Creation of Rural Business (RRB) Overlay District**

In accordance with M.G.L. Chapter 40A §5, you are being presented with proposed amendments to the Town of Ware Zoning Bylaws for your review and request for a vote before Town Meeting. The date of Town Meeting is **Monday, November 14<sup>th</sup>**.

The following are proposed changes to Zoning Bylaws:

- The creation of the **Rural Business (RRB) Overlay District**.
- **§3.4: Overlay Districts**
  - The addition of §3.4.3:
    - “RRB – Rural Business. The purpose of the rural business overlay district is to preserve the scenic rural character of the route 9 corridor, while allowing for commercial development that is in keeping with adjoining uses and in harmony with the natural environment. This district allows for the potential of economic development while minimizing the impacts to the rural character of the corridor.”
- **§4.9: Overlay District Regulations**
  - The addition of §4.9.3 (Rural Business):
    - Purpose. The purposes of the Rural Business District are to:
      - Allow for commercial development that is in keeping with adjoining uses and in harmony with the natural environment.
      - Preserve the scenic rural character of the route 9 corridor.
      - Promote economic development along a heavily traveled state highway.
    - District Delineation

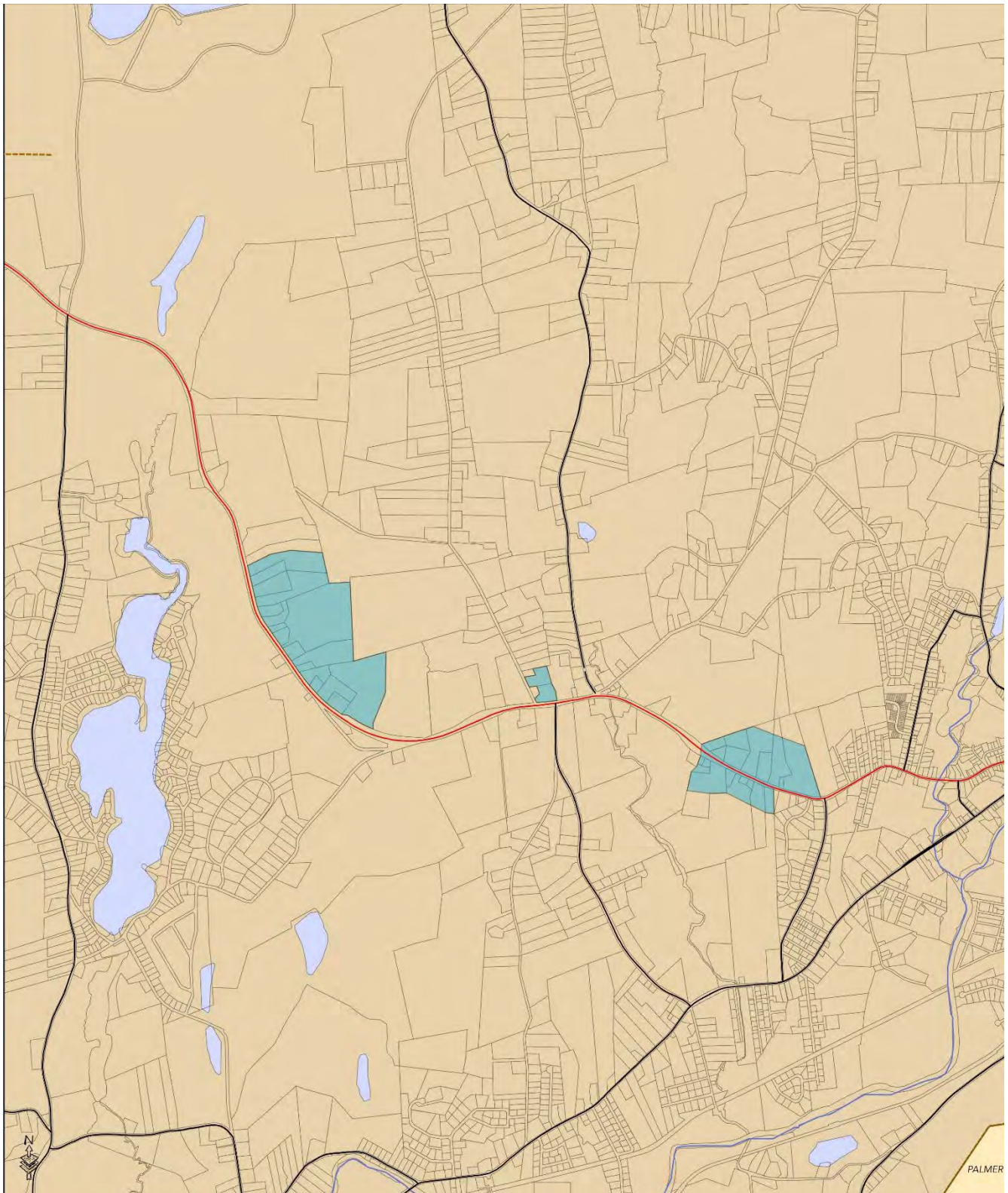
- The general boundaries of the Rural Business Overlay District are shown on the “Rural Business Overlay District” Map dated (Month of STM Approval), 2022.
- Use Regulations
  - The Rural Business District is established as an overlay district over the Rural Residential (RR) district. Any uses permitted in the RR district by right or by special permit shall continue to be permitted by right or by special permit. The provisions of the Rural Business District shall only apply to parcels that are 5 acres or greater in size.
  - Reference to Existing Regulations. All development in the Rural Business Overlay District, including structural and non-structural activities, must be in compliance with the dimensional and parking requirements as required in the RR district, unless otherwise specified for each permitted use in this section.
  - Permitted Uses. The following uses are allowed by right in the Rural Business Overlay District:
    - All uses allowed by right (Y) in the Rural Residential (RR) District. (refer to section 4.2 Use Table)
  - Uses Permitted by Special Permit and Site Plan Review. The following uses are allowed by Special Permit and Site Plan Review (see section 7.4.2) in the Rural Business District:
    - All uses allowed by special permit (SP) in the Rural Residential (RR) District. (see section 4.2 Use Table)
    - Business, Finance, or Other Professional Offices
    - Office or clinic for health services
    - Laboratory
    - Research Facility
    - Auto Service
    - Self-service Storage Facility
    - Light Industry (see section 2.2 Definitions)
    - Tank Farm
      - Limited only to the storage of gases including natural gases, propane, methane, butane, and ethane.
      - Tank farms shall adhere to a setback requirement of 125 feet from the nearest residential property line and 200 feet from the

*nearest residential structure in order to protect the welfare and safety of abutting neighbors.*

- *Prohibited Uses. The following uses are prohibited in the Rural Business Overlay District:*
  - *Auto Salvage Yards (see section 2.2)*
  - *Junkyards/Automobile Graveyards (as defined in MGL c. 140B section 1)*
- *Special Permit Approval Criteria. The SPGA may grant a special permit after a duly noticed public hearing in accordance with §7.2 of this Zoning Bylaw provided it finds that the proposed use:*
  - *Will be designed to avoid substantial disturbance to the natural environment to include (but not limited to) soils, topography, drainage, vegetation, and ground water;*
  - *Is in harmony with the purpose and intent of this ordinance and will promote the purposes of the Rural Business Overlay District; and*
  - *Is consistent with the existing and probable future development of surrounding area.*



**Appendix: Map of Proposed Rural Business (RRB) Overlay District (Shown in Blue)**



**Appendix: In Text Language of Zoning Changes**  
(Additions Highlighted in Yellow)



3.3.2 *Parcels transected by one or more zoning district boundaries.*

- A. The use regulations for the less restricted portion of such parcel may extend not more than 30 feet into the more restricted portion, or, by special permit, not more than 100 feet into the more restricted portion. In such applications, the Special Permit Granting Authority shall first determine that the proposed use will have no detrimental impact on abutting properties and uses. This provision does not apply to overlay districts.
- B. The area, frontage, and setback requirements of §5.1 shall be determined based on the requirements of the district where at least 50% of the proposed structure will be located.

3.4 **Overlay Districts**

3.4.1 *FP – Floodplain.* The purposes of the floodplain district are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the floodplain, and to preserve and maintain the groundwater table and water recharge areas within the floodplain.

3.4.2 *AP – Aquifer Protection.* The purposes of the aquifer protection district are to protect, preserve and maintain present and potential sources of public and private water supplies including their recharge areas, conserve the natural resources of the town, and prevent temporary and permanent contamination of the environment due to adverse land use practices.

3.4.3 *RRB – Rural Business.* The purpose of the rural business overlay district is to preserve the scenic rural character of the route 9 corridor, while allowing for commercial development that is in keeping with adjoining uses and in harmony with the natural environment. This district allows for the potential of economic development while minimizing the impacts to the rural character of the corridor.

## 4.9 Overlay District Regulations

### 4.9.1 *Floodplain*

### 4.9.2 *Aquifer Protection*

### 4.9.3 *Rural Business*

#### A. Purpose. The purposes of the Rural Business District are to:

1. Allow for commercial development that is in keeping with adjoining uses and in harmony with the natural environment.
2. Preserve the scenic rural character of the route 9 corridor.
3. Promote economic development along a heavily traveled state highway.

#### B. District Delineation

1. The general boundaries of the Rural Business Overlay District are shown on the "Rural Business Overlay District" Map dated (Month of STM Approval), 2022.

#### C. Use Regulations

1. The Rural Business District is established as an overlay district over the Rural Residential (RR) district. Any uses permitted in the RR district by right or by special permit shall continue to be permitted by right or by special permit. The provisions of the Rural Business District shall only apply to parcels that are 5 acres or greater in size.
2. Reference to Existing Regulations. All development in the Rural Business Overlay District, including structural and non-structural activities, must be in compliance with the dimensional and parking requirements as required in the RR district, unless otherwise specified for each permitted use in this section.
3. Permitted Uses. The following uses are allowed by right in the Rural Business Overlay District:
  - a) All uses allowed by right (Y) in the Rural Residential (RR) District. (refer to section 4.2 Use Table)
4. Uses Permitted by Special Permit and Site Plan Review. The following uses are allowed by Special Permit and Site Plan Review (see section 7.4.2) in the Rural Business District:
  - a) All uses allowed by special permit (SP) in the Rural Residential (RR) District. (see section 4.2 Use Table)
  - b) Business, Finance, or Other Professional Offices
  - c) Office or clinic for health services
  - d) Laboratory
  - e) Research Facility
  - f) Auto Service
  - g) Self-service Storage Facility
  - h) Light Industry (see section 2.2 Definitions)
  - i) Tank Farm
    - Limited only to the storage of gases including natural gases, propane, methane, butane, and ethane.
    - Tank farms shall adhere to a setback requirement of 125 feet from the nearest residential property line and 200 feet from the nearest residential structure in order to protect the welfare and safety of abutting neighbors.

5. Prohibited Uses. The following uses are prohibited in the Rural Business Overlay District:
  - a) Auto Salvage Yards (see section 2.2)
  - b) Junkyards/Automobile Graveyards (as defined in MGL c. 140B section 1)

D. Special Permit Approval Criteria. The SPGA may grant a special permit after a duly noticed public hearing in accordance with §7.2 of this Zoning Bylaw provided it finds that the proposed use:

1. Will be designed to avoid substantial disturbance to the natural environment to include (but not limited to) soils, topography, drainage, vegetation, and ground water;
2. Is in harmony with the purpose and intent of this ordinance and will promote the purposes of the Rural Business Overlay District; and
3. Is consistent with the existing and probable future development of surrounding area.



## TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 118      rwatchilla@townofware.com

To: Ware Planning Board

From: Ware Zoning Board of Appeals

Date: September 28, 2022

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### MEMORANDUM

Dear Planning Board Members,

The Ware Zoning Board of Appeals would like to express our position in regard to the proposed Rural Business (RRB) Overlay District on the Planning Board's agenda for the October 6<sup>th</sup>, 2022 meeting.

The RRB Overlay District does not offer development opportunities equally to all landowners over 5 acres along the route 9 corridor. We feel that the proposed overlay district is not in the best interest of the Town nor does it concur with the Town's Master Plan.

Sincerely,  
Ware Zoning Board of Appeals

Lewis Iadarola, Chair  
Jodi Chartier, Vice-Chair  
Phillip Hamel, Member  
Charles Dowd, Member  
Gregory Eaton, Member  
David Skoczylas, Alternate  
SK Robinson, Alternate



# TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 118    rwatchilla@townofware.com

## Notice of Public Hearing Planning Board

### LEGAL NOTICE

to be published in the *Ware River News*  
issues 10/20/2022 and 10/27/2022

Pursuant to MGL Ch. 40A, Sec. 5, the Ware Planning Board will hold a public hearing on **Thursday, November 3rd,** during their normally scheduled meeting starting at 7pm in the Auditorium of the Ware Junior/ Senior High School, 237 West Street, Ware, MA. The purpose of this hearing is to consider an alteration to the Residential Business (RB) district boundary line at the portion located at 256 West Street, Ware, MA.

Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in the Auditorium in the Ware Junior/ Senior High School, 237 West Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

A complete copy of the proposed changes can be found at the Planning & Community Development Department Office. Anyone interested or wishing to be heard should appear at the time and place designated. All interested parties are invited to attend.

**WARE PLANNING BOARD**  
Richard Starodoj, Chairman



## TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 118      rwatchilla@townofware.com

To: Planning Board

From: Robert Watchilla, *Director of Planning & Community Development*

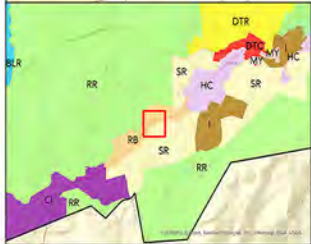
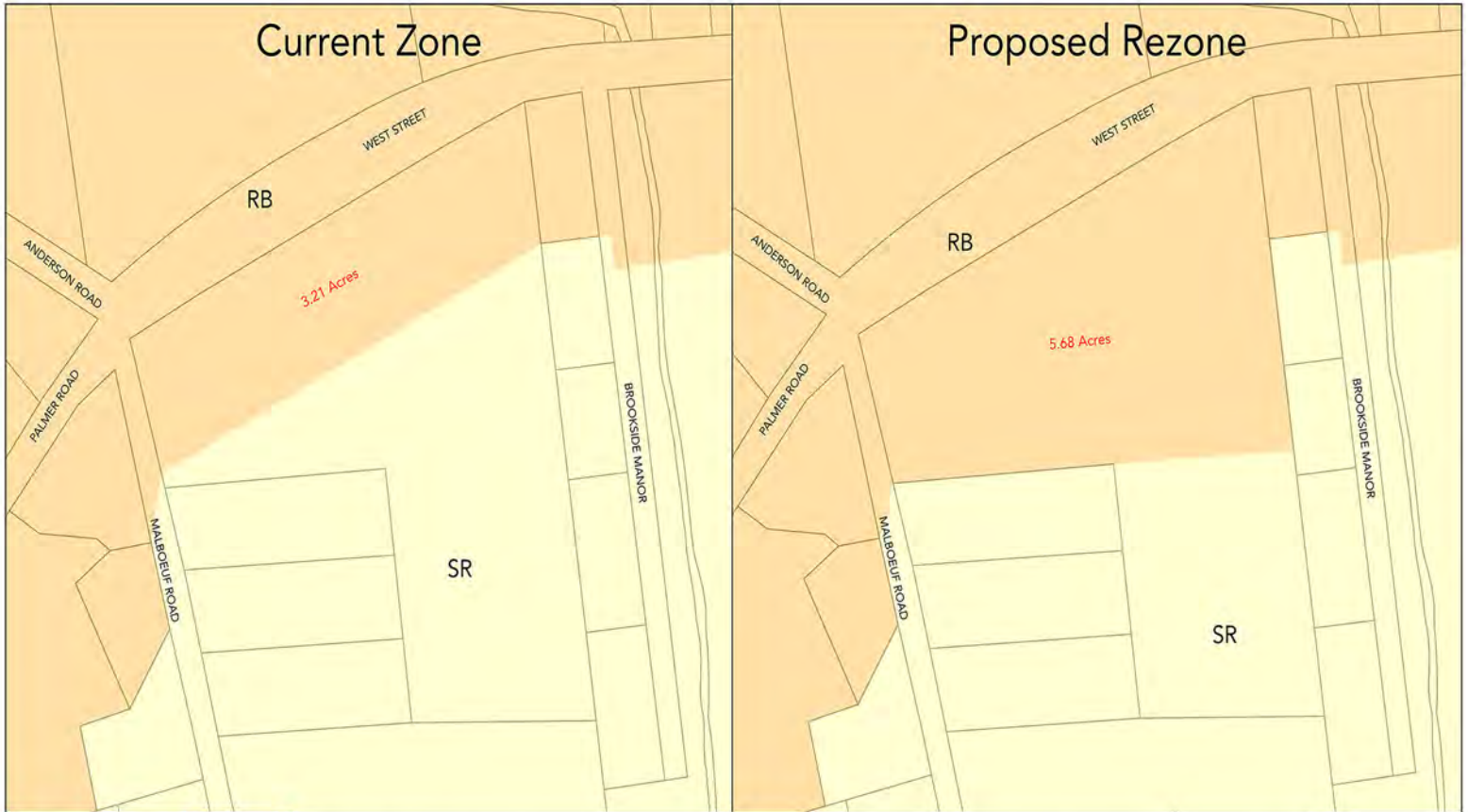
Date: October 6, 2022

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### **Proposed Zoning Amendment: Residential Business (RB) District Boundary Alteration**

In accordance with M.G.L. Chapter 40A §5, you are being presented with proposed amendments to the Town of Ware Zoning Bylaws for your review and request for a vote before Town Meeting. The date of Town Meeting is **Monday, November 14<sup>th</sup>**.

The following is a proposed alteration to the Residential Business (RB) District Boundary (see attached map):



# RB Zoning Boundary Change Map

Proposed Zoning District Alteration of the Residential Business (RB) District

2022

Coordinates: 72°15'56"W 42°14'52"N

Location: 256 West Street, Ware, MA

N



0 80 160 320 Feet



My name is Patricia Ann Aldridge. I am the property owner of 7 Malbouef Road in Ware. I was born in Ware and lived my early years at the house my Dad and Uncle George Messier built on Richfield Ave. Later we moved to a house on Hardwick Pond Road where I lived with my 12 siblings and parents, Doris and Joseph Supczak. I was married at All Saints Church and moved away with my now deceased husband, Jesse L. Aldridge, CMSgt/Ret. He was stationed at Westover AFB when I met him. In his 26 years in the Air Force we lived in several foreign countries in addition to several states. For his 3 remote tours, I returned and lived in Ware with my 4 children as well as numerous short tours. We settled in Austin Texas but my heart has always been in Ware. We purchased the house on Malbouef Road in 2012 because one of my sisters, Yvonne Supczak relocated to Ware from Florida and needed a place to live. She rents the house from me and our agreement is I and my family visit frequently. I am not an absent landlord. I pay the taxes, insurance, water, security system and upkeep of the property. The house sits on a hill across the street from the property that is being considered for the Tractor Supply business. I tell you all of this to demonstrate how much Ware means to me and our family.

For many years I have been an active parishioner of the Holy Cross Polish National Catholic Church, my husband rests in their cemetery as will I someday. There are several other siblings that live in Ware or West Brookfield, Jimmy, Sylvia and Sandra. Three sisters, Mary, Marie and Debra live in Florida. All of us love Ware!

I am told someone wants to buy the land you are considering, and he intends to lease it to a Tractor Supply business. Many years ago this same property had interest by James Taylor who also lives across the street from my house on Malbouef Rd. He intended to put some type of transportation business on it. Our neighbors got together, including me, attended the hearings and opposed the sale. A key point was part of this land was wetland. This has not changed!! The wetland didn't just disappear. I am told that area will not be used. Come on! Tractor Supply needs lots of land to do what their business is about!

Several issues are apparent. The property is across the street from Ware's Middle and High Schools! Really, the Planning Board would endanger the children of Ware! What about the traffic! There would need to be at least a turning lane for the many big trailer trucks entering and exiting the business as well as the customers. What about the brook and bridge close by, the bridge would have to be widened also? Can you imagine the traffic on Palmer Rd/West St!! Several years ago I was exiting Malbouef Rd when I was hit by a truck coming down the hill and my sister's car was totaled. The policeman told me frequently people are driving faster than normal when leaving Walmart and going down the hill causes them to accelerate more. No tickets were issued. Several accidents have been at this intersection. It appears there would need to have a traffic light there, another expense for the Town of Ware.

I am all in favor of progress but this is not the place the Tractor Supply Company should put their business. As a property owner adjacent to the land being considered, I am totally opposed to the Tractor Supply business being located on this land.

Patricia A Aldridge





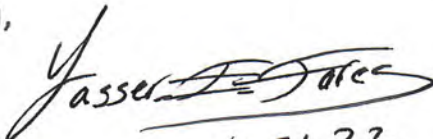
To Town of Ware Planning Board, and to Whom it may concern:

I am the owner of Lot # 129-6. I purchased this property in 2018 as a residential lot. Tractor Supply is requesting that the adjacent residential lot be rezoned for commercial use. I strongly oppose this as it will impact the privacy and security of my lot and as a result, devalue my property. Lighting, noise and increased traffic are just some of the concerns involved. The signage proclaiming Tractor Supply Coming Soon has already resulted in the loss of a potential buyer for my property. No one wants a large commercial operation outside their kitchen window.

The area should remain residential. I ask that you do not allow the change in zoning to preserve the privacy and security of the residential area.

Thank you,

Yasser Fares

  
10-31-22

30 Anderson Rd,

Ware, MA 01082

413-768-7221





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issues 10/20/2022 and 10/27/2022

Pursuant to MGL Ch. 40A, Sec. 5, the Ware Planning Board will hold a public hearing on **Thursday, November 3<sup>rd</sup>**, during their normally scheduled meeting starting at 7pm in the Auditorium in the Ware Junior/ Senior High School, 237 West Street, Ware, MA. The purpose of this hearing is to consider amendments to sections 2.2 (Definitions), 4.7 (Prohibited Uses), and 4.9.2 (Aquifer Protection Overlay) of the Town of Ware Zoning Bylaws to include language on the "Prohibition on the use of Contaminated Sediments and Soil as Fill Material", otherwise known as "Urban Fill".

Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in Auditorium in the Ware Junior/ Senior High School, 237 West Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

A complete copy of the proposed changes can be found at the Planning & Community Development Department Office. Anyone interested or wishing to be heard should appear at the time and place designated. All interested parties are invited to attend.

**WARE PLANNING BOARD**  
Richard Starodoj, Chairman



## TOWN OF WARE

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126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 118      rwatchilla@townofware.com

To: Planning Board

From: Robert Watchilla, *Director of Planning & Community Development*

Date: October 6, 2022

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### **Proposed Zoning Amendment: Prohibition on the use of Contaminated Sediments and Soil as Fill Material (Urban Fill)**

In accordance with M.G.L. Chapter 40A §5, you are being presented with proposed amendments to the Town of Ware Zoning Bylaws for your review and request for a vote before Town Meeting. The date of Town Meeting is **Monday, November 14<sup>th</sup>**.

The following are proposed changes to Zoning Bylaws:

- **§2.2: Definitions**
  - Addition of "Contaminated Sediments":
    - *Contaminated Sediments – Sediments containing oil and/or hazardous material associated with a release for which notification is required by 310 CMR 40.0300 and 40.1600.*
  - Addition of "Contaminated Soils":
    - *Contaminated Soils - Soil containing oil and/or hazardous material at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and 40.1600.*
  - Addition of "Fill Material":
    - *Soil, sediments, rock and/or stone obtained off-site that is used to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.*
  - Addition of "Historic Fill":
    - *Historic Fill - Fill Material that based on the weight of evidence and consistent with the Conceptual Site Model (see 310 CMR 40.0006):*
      - (a) *was emplaced before January 1, 1983;*



- (b) may contain, but is not primarily composed of, construction and demolition debris, reworked soils, dredge spoils, coal ash, wood ash or other solid waste material;
  - (c) was contaminated with metals, hydrocarbons, and/or polycyclic aromatic hydrocarbons prior to emplacement, at concentrations consistent with the pervasive use and release of such materials prior to 1983;
  - (d) does not contain oil or hazardous materials originating from operations or activities at the location of emplacement;
  - (e) is not and does not contain a generated hazardous waste, other than Oil or Waste Oil;
  - (f) does not contain chemical production waste, manufacturing waste, or waste from processing of metal or mineral ores, residues, slag or tailings; and
  - (g) does not contain waste material disposed in a municipal solid waste dump, burning dump, landfill, waste lagoon or other waste disposal location.
- **§4.7: Prohibited Uses**
  - Addition of §4.7.F:
    - *“The use of Contaminated Sediments and Contaminated Soils as Fill Material (see §2.2) to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.”*
- **§4.9.2: Aquifer Protection**
  - Addition of §4.9.2.C.2.b:
    - **Prohibited Uses:**
      - disposal of leachable wastes with the exception of subsurface waste disposal systems approved through Title V;
      - *The use of Contaminated Sediments and Contaminated Soils as Fill Material (see §2.2) to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.*

**Appendix: In Text Language of Zoning Changes**  
(Additions Highlighted in Yellow)

Definitions to include pertaining to Urban Fill (will be inserted into section 2.2)

Contaminated Sediments - Sediments containing oil and/or hazardous material associated with a release for which notification is required by 310 CMR 40.0300 and 40.1600.

Contaminated Soils - Soil containing oil and/or hazardous material at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and 40.1600.

Fill Material - Soil, sediments, rock and/or stone obtained off-site that is used to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.

Historic Fill - Fill Material that based on the weight of evidence and consistent with the Conceptual Site Model (see 310 CMR 40.0006):

- (a) was emplaced before January 1, 1983;
- (b) may contain, but is not primarily composed of, construction and demolition debris, reworked soils, dredge spoils, coal ash, wood ash or other solid waste material;
- (c) was contaminated with metals, hydrocarbons, and/or polycyclic aromatic hydrocarbons prior to emplacement, at concentrations consistent with the pervasive use and release of such materials prior to 1983;
- (d) does not contain oil or hazardous materials originating from operations or activities at the location of emplacement;
- (e) is not and does not contain a generated hazardous waste, other than Oil or Waste Oil;
- (f) does not contain chemical production waste, manufacturing waste, or waste from processing of metal or mineral ores, residues, slag or tailings; and
- (g) does not contain waste material disposed in a municipal solid waste dump, burning dump, landfill, waste lagoon or other waste disposal location.

shall not exceed the height recommended by the manufacturer, or 150 feet maximum from the base of the structure to the highest point of the equipment, or 35 feet above the surrounding tree canopy, whichever is less. The minimum setback requirement for a wind monitoring tower shall be equal to two times the height of the tower. At the end of the monitoring period, or one year from the date of construction, whichever comes first, the tower and all accessory structures shall be removed from the site unless an application for a special permit for a wind energy facility is submitted pursuant to §4.8.4 of this Zoning Bylaw.

- 4.6 **Exempt Uses.** MGL c. 40A §3 lists uses which are exempt from local Zoning Bylaws, but which may be required to conform to certain standards. These include churches or other religious institutions, schools and other educational uses, and daycare centers, which shall be permitted in any district within the Town of Ware, subject to the dimensional requirements of Article 5, the parking requirements of Article 6, §6.1, and the buffering requirements of Article 6, §6.2.

#### 4.7 **Prohibited Uses**

4.7.1 *Prohibited Uses.* Any use not specifically or generically listed in §4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited, including the specific uses below which are spelled out as a matter of clarification.

- A. Any nonresidential use which is dangerous or detrimental to a neighborhood because of fire or explosive hazard, offensive noise, smoke, vibration, harmful radioactivity, electrical interference, dust, odor, fumes, heat, glare, unsightliness or other objectionable characteristics, as determined by the Building Inspector.
- B. Mobile Homes are prohibited in all districts unless located in a Mobile Home Park.
- C. Motels.
- D. Occupancy of a recreational vehicle for more than 30 days in a calendar year (whether continuous or not) is prohibited. This shall not be construed to mean a homeowner cannot park his own recreational vehicle on his lot for storage purposes.
- E. Motorized sports facilities, such as but not limited to off-road vehicle tracks and race car tracks, are prohibited.
- F. The use of Contaminated Sediments and Contaminated Soils as Fill Material (see §2.2) to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.

#### 4.8 **Special Use Regulations**

4.8.1 *Flexible Residential Open Space Development (FROSD)* is allowed by-right in the RR, SR, DTR, and RB districts, and is intended to provide an alternative to landowners wishing to develop land for residential use in a more efficient manner than a standard subdivision, while preserving open space.



- d) The SPGA may specify such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public and occupants of the proposed use.

#### 4.9.2 Aquifer Protection

- A. Purpose. The purpose of the Aquifer Protection Overlay District is to promote the health, safety, and general welfare of the community by ensuring an adequate supply of potable water through the protection of present and potential sources of water supply, including aquifer and aquifer recharge areas. To this end, there are two levels of regulation for such areas in Ware; a higher level which covers the areas known to contribute directly to a public water supply, and a lower level which covers the areas thought to potentially contribute to a water supply.
- B. Location.
  1. The Aquifer Protection Overlay District is comprised of two areas: the Zone II Groundwater Protection Area plus the Interim Wellhead Protection Area (IWPA), and the high plus medium yield aquifer areas.
  2. The Aquifer Protection Overlay District is shown on the Aquifer Protection Overlay District map dated March 8, 2012, which is hereby incorporated as part of this Zoning Bylaw.
  3. Where a boundary of the Aquifer Protection district is in dispute, the burden of proof for determining the correct location shall rest with the applicant, and any agreed upon resolution of ambiguity in the precise location of the boundary may be used in the administration of this §4.9.2. The boundaries of the Aquifer Protection district shall only be modified by a zoning amendment adopted by Town Meeting, pursuant to MGL c. 40A §5.
  4. When a parcel is split by a boundary of the Aquifer Protection district, the provisions of this §4.9.2 shall only apply to the area within the Aquifer Protection district.
  5. As an overlay district, the regulations for the underlying district remain in effect but all uses are subject to the provisions of this §4.9.2.
- C. Regulations Applicable to the Entire Aquifer Protection District.
  1. Permitted Uses. The following uses are permitted within all areas of the Aquifer Protection district, provided that all necessary permits, orders, or approvals required by local, state, or federal law are obtained:
    - a) conservation of soil, water, plants, and wildlife;
    - b) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
    - c) foot, bicycle and/or horse paths, and bridges;
    - d) normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
    - e) maintenance, repair, and enlargement of any existing structure, subject to the provisions of this Section;
    - f) residential development, subject to the provisions of this Section;

- g) farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to prohibited uses and special permitted uses;
- h) construction, maintenance, repair and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.

2. Prohibited Uses:

- a) disposal of leachable wastes with the exception of subsurface waste disposal systems approved through Title V;
- b) The use of Contaminated Sediments and Contaminated Soils as Fill Material (see §2.2) to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real property.

3. Uses Requiring a Special Permit:

- a) Any proposed new development that will render 50% or more of the parcel impervious.
- b) Nonresidential uses permitted by right or by special permit in the underlying district, except for those specifically prohibited in this §4.9.2.
- c) Disposal of solid waste other than brush or stumps.

D. Regulations Applicable to the Zone II and IWPA Areas:

1. Prohibited Uses:

- a) landfills and open dumps as defined in 310 CMR 19.006.
- b) automobile graveyards and junkyards, as defined in MGL c. 140B §1.
- c) landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to NLG-LC-21 Sec. 2-6 through 53, MGL c. III §17; MGL c. 83 §6 and 7, and regulations promulgated thereunder.
- d) facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c. 21 C and 310 CMR 30.00, except for the following:
  - (1) very small quantity generators as defined under 310 CMR 30.000;
  - (2) household & hazardous waste centers and events under 310 CMR 30.390;
  - (3) waste oil retention facilities required by MGL c. 21 §52A;
  - (4) water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.
- e) petroleum, oils, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and other subsequent amendments.
- f) storage of liquid hazardous materials, as defined in MGL c. 21E, and liquid petroleum products, unless such storage is above ground level and on an impervious surface, and either in container(s) or above ground tank(s) within a building, or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to

hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.

However, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.

- g) storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- h) storage of deicing chemicals or animal manure unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- i) earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within ten feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works.
- j) treatment or disposal works subject to 314 CMR 5.00, for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:
  - (1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - (2) treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3), or 5.05(13);
  - (3) publicly owned treatment works.
- k) stockpiling and disposal of snow and ice removed from highways and streets located outside the Zone II that contain sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- l) storage of commercial fertilizers, as defined in MGL c. 128 §64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate.
- m) any floor drainage systems in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), connect the drain to a municipal sewer system (with all appropriate permits and pretreatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies.

2. Uses Requiring a Special Permit:

- a) Pre-existing nonconforming uses may be extended or altered upon the granting of a special permit.
- b) Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use,

except as prohibited under §4.9.2 D.1.

- c) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. For such proposals, a system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sedimentation traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

E. Application Requirements. The applicant shall file five (5) copies of a site plan, to be prepared by an Engineer registered in the Commonwealth of Massachusetts, which shall include, at the minimum, the following:

1. Provisions to prevent contamination of groundwater by petroleum products, hazardous materials or wastes;
2. Drainage recharge features and provisions to prevent loss of recharge;
3. Provisions to prevent soil compaction;
4. Provisions to prevent seepage from sewer pipes;
5. A complete list of chemicals, pesticides, fuels and other hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Those businesses using or storing such hazardous materials shall file a definitive operating plan; for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
  - a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures,
  - b) provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
  - c) evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
6. A plot plan showing:
  - a) Location of wetlands, streams, water bodies, and flood plain;
  - b) Existing drainage patterns;
  - c) Existing woodland;
  - d) Areas having slopes exceeding 15';
  - e) Areas to be disturbed by construction;
  - f) Areas where earth and other material subject to erosion will be temporarily stockpiled;
  - g) Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the district;
  - h) Temporary and permanent erosion control measures planned, such as sediment basins, storm water basins, diversions, riprap, stabilization seedings, etc.;

- i) Temporary work roads to be used during projects;
    - j) Locations and sizes of septic system;
    - k) Suitable method to contain spillage in fuel filling areas.
  - 7. A storm drainage plan showing:
    - a) Locations of drains and culverts, and names of streams, rivers, ponds, or reservoirs in the town into which they flow;
    - b) Discharge peaks and expected velocities at drain or culvert outlets;
    - c) Conditions above and below outlets and expected flow velocities;
    - d) Supporting computations for the above.
  - 8. A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles.
  - 9. A siltation and sedimentation control plan including:
    - a) Sediment and erosion control structures such as diversions, waterways, slope stabilization structures, sediment basins, etc., in sufficient detail to implement their installation together with referred standards for soil erosion and sediment as appropriate, and design calculations as required for each structure;
    - b) Seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixtures, lime, fertilizer, and mulching requirements with referenced standards;
    - c) Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installation, duration of exposure of soils and critical area stabilizations, both temporary and permanent. Indicate dates when critical area stabilization, paving, seeding, mulching or sodding is to be completed;
    - d) General notes for sediment control that spell out the procedures for implementing the plan.
- F. Special Permit Approval Criteria. The SPGA may grant a special permit after a duly noticed public hearing in accordance with §7.2 of this Zoning Bylaw provided it finds that the proposed use:
- 1. Will in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of groundwater;
  - 2. Will be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed;
  - 3. Is in harmony with the purpose and intent of this ordinance and will promote the purposes of the Aquifer Protection Overlay District; and
  - 4. Is consistent with the existing and probable future development of surrounding areas.



**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





# TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext.118 rwatchilla@townofware.com

## Notice of Public Hearing Planning Board

### LEGAL NOTICE

to be published in the *Ware River News*  
issues 10/20/2022 and 10/27/2022

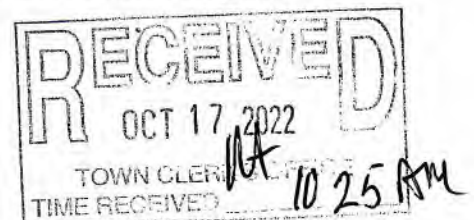
SP-2022-10

NOTICE is hereby given that the Ware Planning Board, acting as the Special Permit Granting Authority, will hold a Public Hearing on **THURSDAY, November 3<sup>rd</sup>, 2022** during their normally scheduled meeting **starting at 7pm**, on the application of Bond Construction Corporation, for a Special Permit for earth removal under Section 4.8.5, of the Zoning Bylaw, and pursuant to MGL Chapter 40A. Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in the auditorium of the Ware Junior/Senior High School, 237 West Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

**SITE LOCATION:** 219 Babcock Tavern Road, Ware, MA. Said premises being further described in deeds recorded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Property is also identified as Assessor's Parcel 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).

A complete copy of the application can be found at the Town Clerk's office and on the Planning & Community Development Department website under Recent Filings. Anyone interested or wishing to be heard on the application should appear at the time and place designated.

**WARE PLANNING BOARD**  
Richard Starodoj, Chairman





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: \_\_\_\_\_

<b>Official Use Only:</b> Preliminary Review By: <u>RW</u> Date: <u>10/14/22</u>	
Fee: \$ <u>757.00</u>	Date Paid: <u>10/13/22</u> Check #: _____
Date of Public Hearing: _____	
Decision of Board: _____	
Date of Decision: _____	Expiration Date: _____

Town Clerk's stamp:

<b>RECEIVED</b>
OCT 14 2022
TOWN CLERK'S OFFICE
TIME RECEIVED <u>1150 AM</u>



Planning Board &  
Zoning Board of Appeals

Robert A. Watchilla  
Director of Planning &  
Community Development

Town of Ware  
Planning &  
Community Development  
Land Owner  
Authorization Form



126 Main Street  
Ware, MA 01082  
413.967.9648 ext. 120

Applicant

Name of Applicant (primary contact): Karen Hubacz  
Company: Bond Construction Corporation  
Address: 98 No Spencer Road, Spencer, MA 01562  
Phone: 508-885-6100 Cell: 508-847-1592  
Email Address: karenhubacz@bondsandandgravel.com

Owner

Name of Owner: Kathleen Knight  
Address: 240 Babcock Tavern Road, Ware, MA 01082  
Phone: \_\_\_\_\_ Cell: 413-374-7431  
Email: \_\_\_\_\_

Property

Address of Property: 219 Babcock Tavern Road, on the easterly side of babcock taven Road  
Assessor's Tax Map/Parcel Number: 4-0-14

Proposal

Brief description of the proposed work: applicant proposes removal of earthen products behind #240 Babcock Taven Road

Authorization

As the owner or authorized agent of the property listed above, I hereby give permission to the Applicant as stated above to perform work at aforementioned property. Said permission includes, but is not limited to, acquiring all required permits and performing all work required to complete the project.

**By signing this Form, I acknowledge and agree that I am not released from responsibility for:**

- (a) the payment of any and all fees associated with the issuance of any: permits, orders, notices or other approvals ("Approvals") by the Town of Ware pursuant to any applications, including taxes, that effect said property;
- (b) the satisfactory completion of all work authorized by such Approvals in compliance with all applicable town, state and federal laws, codes, rules, regulations and requirements; and
- (c) correcting any violations of the terms and conditions of such Approvals issued by the Town of Ware pursuant to any application to effect my property.

Signature

Original Owner's Signature (Blue Ink Only): Kathleen Knight Date: 10/2/02  
Mailing Address: 240 Babcock Tavern Road Town/State/Zip: Ware, MA 01082  
Phone Number: 413-374-7431 Email: \_\_\_\_\_

**From:** [Prenosil, John](#)  
**To:** [Watchilla, Robert](#); [Beckley, Stuart](#); [Marques, Anna S.](#); [Crete, Andrea](#); [Martinez, Jim](#); [Gagnon, Chris](#); [Crevier, Shawn](#); [McAlmond, Geoffrey](#)  
**Cc:** [Croteau, Nicole](#); [Thacker, Kristen](#); [Jacobsen, Kristen](#); [Barlow, Betty](#)  
**Subject:** Re: Special Permit (SP-2022-10) 219 Babcock Tavern Road REQUEST FOR COMMENTS  
**Date:** Tuesday, November 1, 2022 7:10:22 PM

---

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.

John

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**From:** Prenosil, John <jprenosil@townofware.com>  
**Sent:** Thursday, October 20, 2022 11:42:01 AM  
**To:** Watchilla, Robert <rwatchilla@townofware.com>; Beckley, Stuart <sbeckley@townofware.com>; Marques, Anna S. <amarques@townofware.com>; Crete, Andrea <acrete@townofware.com>; Martinez, Jim <jmartinez@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Crevier, Shawn <CrSH@townofware.com>; McAlmond, Geoffrey <gmcalmond@townofware.com>  
**Cc:** Croteau, Nicole <ncroteau@townofware.com>; Thacker, Kristen <kthacker@townofware.com>; Jacobsen, Kristen <kjacobsen@townofware.com>; Barlow, Betty <BBarlow@townofware.com>  
**Subject:** Re: Special Permit (SP-2022-10) 219 Babcock Tavern Road REQUEST FOR COMMENTS

Good morning, Rob.

The application mentions a wetland east of the proposed work area and an isolated wetland south of the proposed work area. Have the boundaries of these areas been verified? The Application states their location is based on GIS data. GIS data only provides a general location of wetland resource areas; it does not provide exact boundaries. It would be helpful to have definitive wetland boundaries, and their distance from the proposed limits of work, illustrated on the plan. I'd also like to walk the site.

Let me know if I can be of further assistance.

John

---

**From:** Watchilla, Robert <rwatchilla@townofware.com>





**SHERMAN & FRYDRYK**  
Land Surveying and Engineering  
A division of Hancock Survey Associates, Inc.

October 11, 2022

*via email & hand delivery*

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 Members of the Board;

On behalf of our client, Bond Construction Corp., this office herewith submits an application and supporting materials for Earth Removal Operations Special Permit in accordance with the requirements of Section 4.8.5 of the Ware Zoning Ordinance. This application is to permit the continuance of earth removal activities performed under agricultural activities.

Included with the application, please find the following intended to comprise of a Special Permit Application.

1. A check in the amount of \$757.00 based on a Level 2 Special Permit application fee payable to the Town of Ware. (\$750 fee plus \$1 per abutter)
2. Fourteen (14) copies of the Earth Removal Application including:
  - Application for Special Permit
  - Land Owner Authorization Form
  - Certified Abutters List (300')
  - Project Narrative
  - Conformance with Zoning Requirements Summary
  - Excerpt from FEMA Flood Map
  - Excerpt from Ware River Flood Study
  - Excerpt from Mass GIS showing Priority Habitats
  - Excerpt from USDS Soils Maps and Soil Descriptions
3. Seven (7) Full size Plan entitled "Plan of Land in Ware, Ma, Prepared for Bond Construction Corp, Close Out Grading" Dated October 7, 2022
4. Ten (10) Reduced copies of Site Plan
5. One (1) CD with all application information in PDF including full size set of plans



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

A division of Hancock Survey Associates, Inc.

This office looks forward to working with the Board and other Town agencies throughout this project. If the Board should have any questions, concerns, or if you require any additional information for the review of this project, please contact the undersigned.

Respectfully Submitted,  
Sherman & Frydryk

By:

Andrew Baum, PE  
Senior Project Manager

Cc: Karen Hubacz, President/CEO, Bond Construction Corp. - Applicant  
Kathleen Knight, Property owner





## **Project Narrative**

### **History**

The farm located at 219 Babcock Tavern Road has performed earth removal and re-grading operations since 2009 in conjunction with the Applicant, Bond Construction Services, Inc. The purposes of the operation were to promote improved field conditions for the continued agricultural use of the property.

Earth removal operations have occurred on the easterly side of Babcock Tavern Road beginning approximately 400 feet south of the barn yard area. Access to the earth removal area has been provided via the existing paved driveway that serves the barns and out buildings. A gravel access road has been utilized from the end of the paved driveway to the active removal area.

The volume of earth removal from the site has varied based upon the market needs and project schedules. The earth removal progression has proceeded from north to south. Completed areas have been loamed, seeded, and utilized as a hay field at the current time.

### **Proposed Project**

The proposed project will be a continuation of the earth removal activities progressing southerly to the property line. The project will include removal of earthen products east of the residence located at 240 Babcock Tavern Road.

This permit application is based upon the request of the Board to apply for an Earth Removal Permit to allow the continuation of 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 area will be unchanged. Trucks will access the site from the existing curb cut on Babcock Tavern Road. Drivers existing the site have access to Route 32 via Old Belchertown Road or Emery Street to State Street to the south into Palmer. Bridge/Road weight restrictions on other collector streets will be honored by drivers as appropriate. The Applicant has worked with the Town of Ware and the Town of Palmer in routing trucks on non-weight restricted roads and bridges to gain access to highway routes.

Sedimentation controls for the site are shown on the included site plan. Best Management Practices (BMP's) include:

- 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.

The proposed removal area is approximately 10.0 acres of land area. The estimated volume of earth to be removed is approximately 194,500 cubic yards. Rate of removal from the site will vary based upon market needs for earthen products from this area.





**Existing Conditions:**

The proposed excavation area is undeveloped. Ground cover consists of woodland and active earth removal activity to the north. Topography consists of steep eskers and kettle holes consistent with an outwash plain. 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.

The Ware River is located to the 500 to 1,000 feet east of the property. Review of the Ware River detailed flood study show that the proposed activity is above the 100 year flood elevation of 379+. No proposed activity under this permit application will result in the loss of flood storage of the Ware River basin.

There is a GIS mapped wetland located to the east of the project area and an isolated wetland to the south of the proposed work. The enclosed design plan shows that the work will occur outside of the respective 100 foot buffer zones.

The proposed work is outside mapped Priority Habitat as shown in the enclosed Species Habitat map. There are no Certified Vernal Pools within 1,000 feet of the proposed work area.

The work area is not located in any mapped Surface Water Supply or Wellhead Protection zones.

**Conformance with Operational Standards**

The following is a listing of Operational Standards set forth in the Ware Zoning Bylaw (Section 4.8.5 (D)) and a summary of compliance or waiver requests:

1. 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.*
2. No excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary.  
*Minor shaping is proposed within 50 feet of the property line to the south. The top of slope for the earth removal begin 50 feet from the property line. Accordingly, the Applicant requests a waiver from this requirement.*
3. 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).  
*No finished slopes are proposed steeper than 3:1.*
4. All excavated areas shall, upon completion of the operation, be covered with not less than four inches of loam suitable for seeding, brought to the finish grade and seeded in a manner complying with Mass DOT standards.  
*Applicant agrees to this condition.*
5. Within the Flood Plain Overlay District, excavation of earth products shall be prohibited if such excavation will lower the level of the water table or will interfere with the natural flow pattern or reduce the flood storage capacity of a stream.





*The project is outside the Flood Plan Overlay District. As noted in the narrative, the project will not interfere with the natural flow pattern of the watershed.*

6. No excavation shall be made at less than 10 feet above the annual high water table, as established from test pits and soil borings.

*Test pits were dug around the perimeter of the work in April of 2022. Twenty (20) foot witness pipes. The attached plan shows the test pit locations and respective elevations. The lowest monitoring well has a bottom elevation of 365.3 without water encountered. This roughly correlates with the adjacent wetland elevation of 362 (per Google Earth Spatial Data). The proposed work ceases at elevation 380 for the infiltration basin, which is 15 feet higher than the water table.*

7. All top soil and subsoil stripped from operation areas shall be stockpiled, seeded with an erosion control seed mixture, and used in restoring the area.

*Applicant agrees to this condition. As noted previously, the purpose of this removal is to provide additional tillable land for agricultural purposes.*

8. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.

*As previously noted, this is a continuation of an ongoing earth removal project. The Applicant has worked with the Town of Palmer and Town of Ware with respect to acceptable trucking routes. There are no bridge weight restrictions from the site to major arterial roads (Route 9, Route 32, and Route 181)*

9. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.

*The site is currently accessed via the curb cut to the barn area. There is a paved driveway at the entrance that transitioned to an established gravel road to the existing operation. The proposed work will utilize the current access route.*

10. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance, in locations approved by the Ware Department of Public Works and Ware Police Department.

*Applicant agrees to this condition.*

11. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.

*Applicant agrees to this condition.*

12. Operators shall immediately clean up any spillage on public ways, and are responsible for repairs to any public ways damaged as a result of the trucking traffic serving the earth removal operation.

*Applicant agrees to this condition.*

13. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within 60 days after they are no longer needed for work upon that site.

*No shelters are proposed at this time. The Applicant agrees to this condition should a shelter or building be erected to support the earth removal operation.*

#### **Considerations for Decision (4.8.5 (F. Decision))**

- In accordance with the Decision section of the Bylaw, the Applicant wishes to address the following Decision considerations of the Board:





1. The SPGA shall take into consideration the following in reaching its decision:
  - a. The health, safety and general welfare of the inhabitants of the Town;  
*The project is not a detriment to the health, safety and general welfare of the inhabitants of the Town. The project will provide earthen products need for the continued construction and maintenance of infrastructure to the Town and surrounding communities. The project as designed is to permit additional agricultural use of the property. The applicant is not maximizing the removal of material but seeking to re-grade the property for the intended use and remove the excess material.*
  - b. The removal will not be detrimental or injurious to abutters or the neighborhood, either by the alteration of existing topography or by a substantial change in the use of the streets in the neighborhood; and  
*Removal and regrading will not be detrimental to abutters. Site has been designed to direct runoff to the east of the project into an infiltration basin.*
  - c. The effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.  
*Project is designed to maintain groundwater separation, separation from abutting wetlands and provide additional agricultural use on the property. Recharge to groundwater is promoted via an infiltration basin at the easterly side of the project limits.*
2. The SPGA may impose conditions pertaining to:
  - a. methods of removal,  
*The Applicant plans to continue excavation activities proceeding in a southerly fashion. Areas to the north that have been brought to sub-grade and no longer needed for operational storage will be loamed and seeded as the project progresses to the south.*
  - b. type and location of structures and fencing,  
*No structures or fencing are proposed with this application.*
  - c. hours of operation,  
*Hours of Operation are proposed to be Monday through Saturday, 7:00 am to 5:00 pm.*
  - d. area, location and depth of excavation and steepness of slopes,  
*The proposed expansion area is approximately 10 Acres. The depth of excavation is shown in the attached plans. Finished slope steepness is also shown and is shallower than the regulations restriction. Total material removal is estimated to be 194,500 cubic yards.*
  - e. drainage,  
*Project involves regrading the existing landform to slope down gradient from the west (Babcock Tavern Road) to the east. Project will direct runoff to an infiltration basin shown on the plans. The Applicant is requesting a waiver from drainage calculations as the surface change will be from woodland to pasture surface composition with a less steep finish grade reducing the watershed time of concentration..*
  - f. disposition of boulders and stumps,  
*Boulders will either be hauled off site for crushing or buried. Stumps will be ground on site and used for surface stabilization or hauled off site for disposal.*

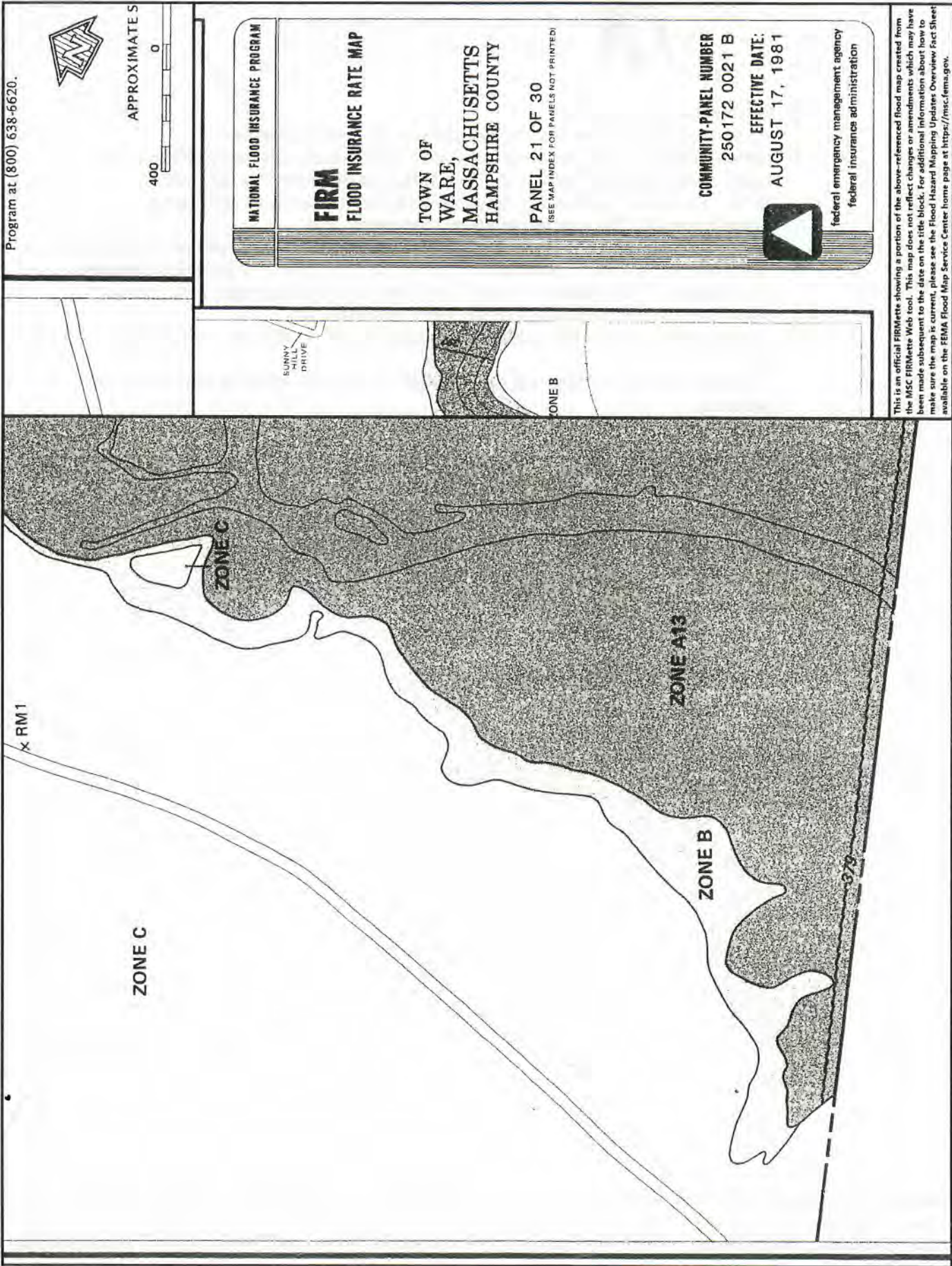


**SHERMAN & FRYDRYK**  
Land Surveying and Engineering

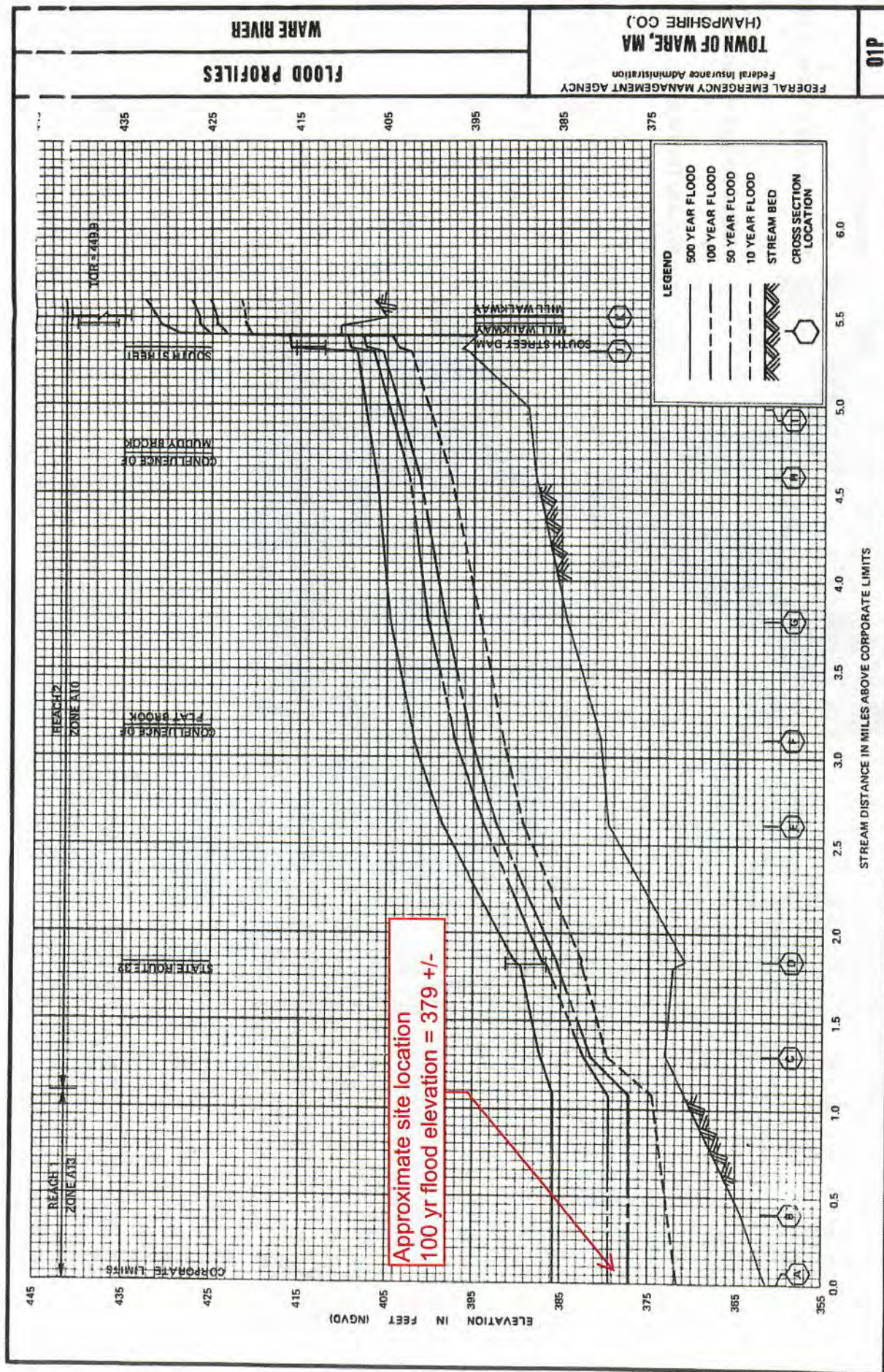
A division of Hancock Survey Associates, Inc.

- g. restoration and planting.  
*All surfaces will be loamed and seeded as areas are completed.*
- h. sufficient security and covenants to insure compliance with the special permit, which shall not be released until the surveyor or engineer has filed with the SPGA an as-built plan and certification that the site has been restored in compliance with the special permit and the plans, and  
*The Applicant requests a waiver from this requirement. The Applicant has been operating this removal operation for over 10 years and is an established business in the region. The Applicant has incorporated Best Management Practices and stabilized completed sections of the earth removal area.*
- i. other such conditions as it deems necessary to comply with the intent of this §4.8.5.  
*The Applicant will discuss any other conditions with the Board during the permit process.*









Excerpt from FEMA Detailed Flood  
Insurance Study  
Dated February 17, 1981



## Species Habitat Map









## MAP LEGEND

 Area of Interest (AOI)	 Spoil Area
 Soils	 Stony Spot
 Soil Map Unit Polygons	 Very Stony Spot
 Soil Map Unit Lines	 Wet Spot
 Soil Map Unit Points	 Other
 Special Point Features	 Special Line Features
 Blowout	 Water Features
 Borrow Pit	 Streams and Canals
 Clay Spot	 Transportation
 Closed Depression	 Rails
 Gravel Pit	 Interstate Highways
 Gravelly Spot	 US Routes
 Landfill	 Major Roads
 Lava Flow	 Local Roads
 Marsh or swamp	 Background
 Mine or Quarry	 Aerial Photography
 Miscellaneous Water	
 Perennial Water	
 Rock Outcrop	
 Saline Spot	
 Sandy Spot	
 Severely Eroded Spot	
 Sinkhole	
 Slide or Slip	
 Sodic Spot	

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:25,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Hampden and Hampshire Counties, Massachusetts, Eastern Part  
Survey Area Data: Version 17, Sep 9, 2022

Soil Survey Area: Hampden County, Massachusetts, Central Part  
Survey Area Data: Version 16, Sep 9, 2022

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 15, 2020—Oct 31, 2020

## MAP LEGEND

## MAP INFORMATION

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.



## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	7.8	4.8%
2A	Pootatuck fine sandy loam, 0 to 3 percent slopes, occasionally flooded	30.2	18.7%
15A	Scarboro-Rippowam complex, 0 to 2 percent slopes, frequently flooded	25.6	15.9%
253A	Hinckley loamy sand, 0 to 3 percent slopes	7.5	4.7%
253B	Hinckley loamy sand, 3 to 8 percent slopes	40.5	25.1%
253C	Hinckley loamy sand, 8 to 15 percent slopes	6.0	3.7%
253D	Hinckley loamy sand, 15 to 25 percent slopes	4.1	2.5%
260B	Sudbury fine sandy loam, 3 to 8 percent slopes	0.6	0.4%
422C	Canton fine sandy loam, 8 to 15 percent slopes, extremely stony	1.0	0.6%
422D	Canton fine sandy loam, 15 to 35 percent slopes, extremely stony	0.0	0.0%
447E	Gloucester and Canton soils, steep, extremely stony	23.8	14.7%
<b>Subtotals for Soil Survey Area</b>		<b>147.0</b>	<b>91.1%</b>
<b>Totals for Area of Interest</b>		<b>161.4</b>	<b>100.0%</b>

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	1.7	1.1%
2A	Pootatuck fine sandy loam, 0 to 3 percent slopes, occasionally flooded	1.2	0.8%
52A	Freetown muck, central lowland, 0 to 1 percent slopes	0.3	0.2%
95A	Podunk fine sandy loam, 0 to 3 percent slopes, occasionally flooded	0.5	0.3%
98A	Winooski silt loam, 0 to 3 percent slopes, occasionally flooded	3.5	2.2%
253A	Hinckley loamy sand, 0 to 3 percent slopes	0.7	0.5%

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
253C	Hinckley loamy sand, 8 to 15 percent slopes	0.1	0.1%
718A	Saco Variant silt loam, frequently ponded, 0 to 2 percent slopes, frequently flooded	6.2	3.8%
<b>Subtotals for Soil Survey Area</b>		<b>14.4</b>	<b>8.9%</b>
<b>Totals for Area of Interest</b>		<b>161.4</b>	<b>100.0%</b>



## Hampden and Hampshire Counties, Massachusetts, Eastern Part

### 253B—Hinckley loamy sand, 3 to 8 percent slopes

#### Map Unit Setting

*National map unit symbol:* 2svm8

*Elevation:* 0 to 1,430 feet

*Mean annual precipitation:* 36 to 53 inches

*Mean annual air temperature:* 39 to 55 degrees F

*Frost-free period:* 140 to 250 days

*Farmland classification:* Farmland of statewide importance

#### Map Unit Composition

*Hinckley and similar soils:* 85 percent

*Minor components:* 15 percent

*Estimates are based on observations, descriptions, and transects of the mapunit.*

#### Description of Hinckley

##### Setting

*Landform:* Outwash deltas, outwash terraces, kames, kame terraces, moraines, eskers, outwash plains

*Landform position (two-dimensional):* Summit, shoulder, backslope, footslope

*Landform position (three-dimensional):* Nose slope, side slope, base slope, crest, riser, tread

*Down-slope shape:* Concave, convex, linear

*Across-slope shape:* Convex, linear, concave

*Parent material:* Sandy and gravelly glaciofluvial deposits derived from gneiss and/or granite and/or schist

##### Typical profile

*Oe - 0 to 1 inches:* moderately decomposed plant material

*A - 1 to 8 inches:* loamy sand

*Bw1 - 8 to 11 inches:* gravelly loamy sand

*Bw2 - 11 to 16 inches:* gravelly loamy sand

*BC - 16 to 19 inches:* very gravelly loamy sand

*C - 19 to 65 inches:* very gravelly sand

##### Properties and qualities

*Slope:* 3 to 8 percent

*Depth to restrictive feature:* More than 80 inches

*Drainage class:* Excessively drained

*Runoff class:* Very low

*Capacity of the most limiting layer to transmit water*

*(Ksat):* Moderately high to very high (1.42 to 99.90 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* None

*Frequency of ponding:* None

*Maximum salinity:* Nonsaline (0.0 to 1.9 mmhos/cm)

*Available water supply, 0 to 60 inches:* Very low (about 3.0 inches)

#### **Interpretive groups**

*Land capability classification (irrigated):* None specified

*Land capability classification (nonirrigated):* 3s

*Hydrologic Soil Group:* A

*Ecological site:* F144AY022MA - Dry Outwash

*Hydric soil rating:* No

#### **Minor Components**

##### **Windsor**

*Percent of map unit:* 8 percent

*Landform:* Outwash deltas, outwash terraces, moraines, eskers, kames, outwash plains, kame terraces

*Landform position (two-dimensional):* Summit, shoulder, backslope, footslope

*Landform position (three-dimensional):* Nose slope, side slope, base slope, crest, riser, tread

*Down-slope shape:* Concave, convex, linear

*Across-slope shape:* Convex, linear, concave

*Hydric soil rating:* No

##### **Sudbury**

*Percent of map unit:* 5 percent

*Landform:* Outwash deltas, outwash terraces, moraines, outwash plains, kame terraces

*Landform position (two-dimensional):* Backslope, footslope

*Landform position (three-dimensional):* Head slope, side slope, base slope, tread

*Down-slope shape:* Concave, linear

*Across-slope shape:* Concave, linear

*Hydric soil rating:* No

##### **Agawam**

*Percent of map unit:* 2 percent

*Landform:* Outwash deltas, outwash terraces, moraines, eskers, kames, outwash plains, kame terraces

*Landform position (two-dimensional):* Summit, shoulder, backslope, footslope

*Landform position (three-dimensional):* Nose slope, side slope, base slope, crest, riser, tread

*Down-slope shape:* Concave, convex, linear

*Across-slope shape:* Convex, linear, concave



Hydric soil rating: No

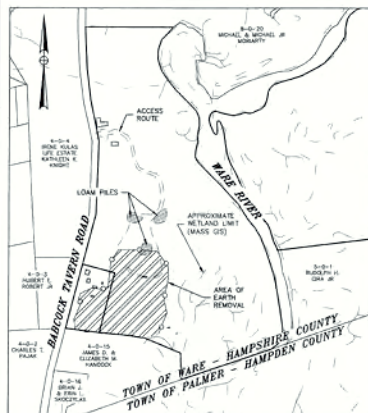
## Data Source Information

Soil Survey Area: Hampden and Hampshire Counties, Massachusetts, Eastern Part

Survey Area Data: Version 17, Sep 9, 2022

Soil Survey Area: Hampden County, Massachusetts, Central Part

Survey Area Data: Version 16, Sep 9, 2022

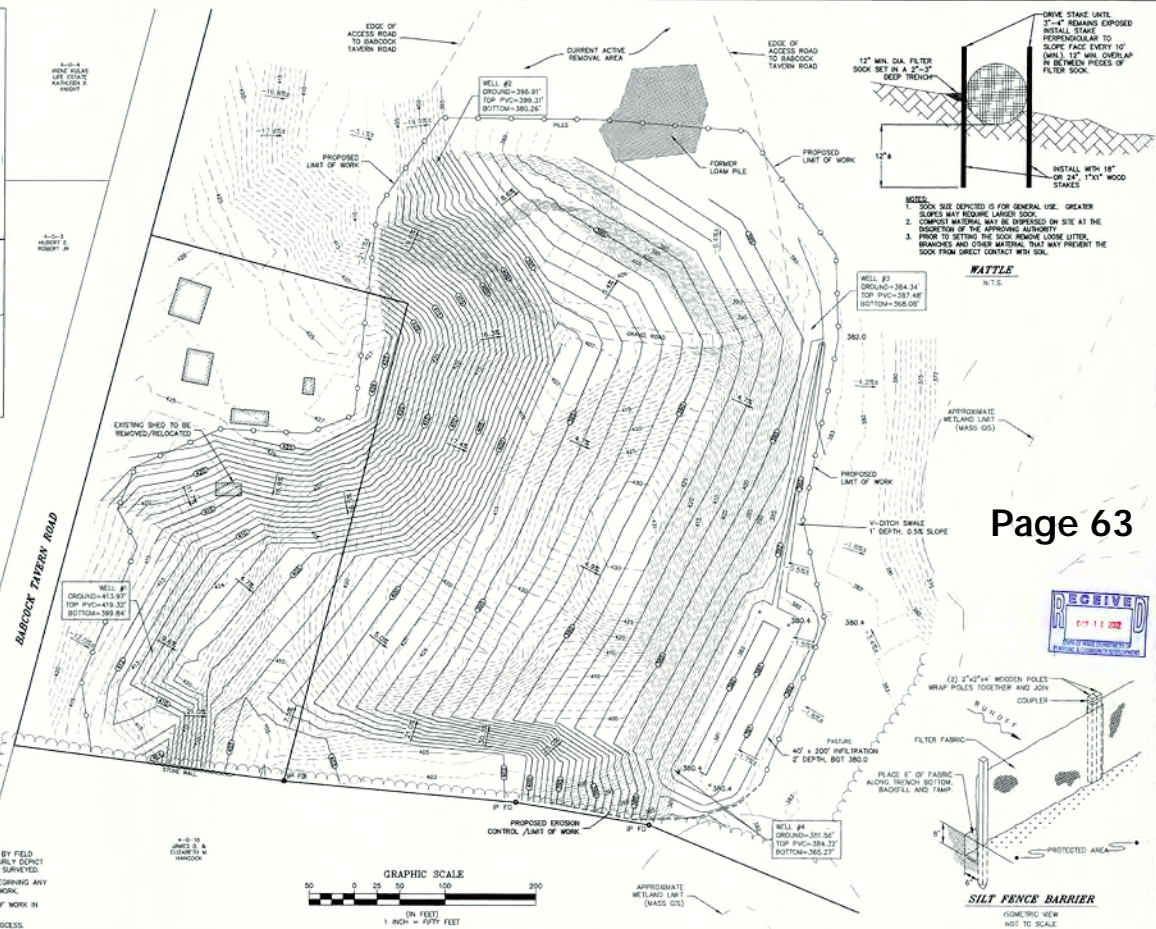


**LEGEND**

BUILDING	UTILITY POLE W/ WY
STILL LOCATION SHOT	UTILITY POLE
CONTOUR (INDEX)	SH
CONTOUR (INTERMEDIATE)	MAINTAIN
OVERHEAD ELECTRIC	FO
EDGE OF VEGETATION	ST
EDGE OF WOODS	ST
FLAGGED WETLAND	ST
WOOD FENCE	ST
CHAIN LINK FENCE	ST
STONE WALL	ST
GUARD RAIL	ST
EDGE OF PAVEMENT	ST
EDGE OF GRAVEL	ST
PROPERTY LINE	ST
ADJUTER LINE	ST

**NOTES**

1. LOCATIONS OF UTILITIES SHOWN HEREIN ARE THE RESULT OF SURFACE EVIDENCE AS LOCATED BY FIELD SURVEY. PLANS OF RECORD, AND OTHER AVAILABLE SOURCES. THIS PLAN DOES NOT NECESSARILY EXIST. THE EXACT LOCATIONS OF ALL UTILITIES WHICH MAY EXIST AT THIS TIME WITHIN THE PREMISES SURVEYED.
2. THE CONTRACTOR SHOULD VERIFY THE EXISTING CONDITIONS TO HIS SATISFACTION PRIOR TO BEGINNING ANY EXCAVATION. THIS SURVEY SHALL BE NOTICED AT LEAST 72 HOURS PRIOR TO BEGINNING ANY WORK.
3. ALL DISTURBED SURFACES SHALL BE STABILIZED WITH LOAM 4" & SEED AT THE COMPLETION OF WORK IN ACCORDANCE WITH MASSDOT STANDARDS.
4. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING INTERIM EROSION CONTROLS DURING REMOVAL PROCESS.



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NO.	DATE	BY	REVISIONS

**SHERMAN & FRYDRYK**  
Land Surveying, Engineering & Scientists  
A DIVISION OF HANCOCK SURVEY ASSOCIATES, INC.  
3 Converse Street, Suite 203  
Palmer, MA 01069

DESIGN: ARB/RMB  
DRAWING: KTT/RMB  
CHECKED: D.F.  
APPROVED: ARB

SCALE:  
HORIZ: 1"=40'  
VERT: N.A.  
DATE: 10/2/2002

**CLOSE OUT GRADING**  
**MONITORING WELL SKETCH & EARTH REMOVAL PLAN**

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

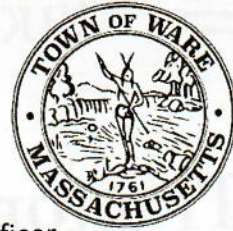
**PROJECT NUMBER**  
200209  
**SHEET NUMBER**  
1 OF 1

## Town Planner Update: November 3<sup>rd</sup>, 2022

- **The State General Elections will be held on Tuesday, November 8<sup>th</sup> in the Great Hall**
  - For more information on the timing of voting hours please reach out to the Town Clerk's Office
- **The PCD and DPW Departments are finalizing the order of the Pedestrian Blinker Signs to be placed along West Street (From Main Street to the Ware Public Schools)**
  - The Town was awarded \$45,000 in equipment funding from the Shared Streets and Spaces Program
  - We have until December of 2023 to spend all of the funds awarded
  - We would purchase 16 pedestrian blinker signs in which 2 each will be placed at unmarked pedestrian crosswalks along West Street
- **The Town has picked Signarama to help facilitate the Main Street LED Message Board Sign Project**
  - The sign would cost around \$27,000 and be funded entirely by REDO grant funds (which there is \$28,500 available)
  - Downtown Improvement Committee will work on picking an appropriate location for the sign



## Memo: Zone Use Designation, Tractor Supply



To: Planning Board

From: Anna Marques, Building Commissioner / Zoning Enforcement Officer

Date: November 3, 2022

Per Article 4 – Use Table in the Town of Ware Zoning Bylaw, it is determined **Tractor Supply** would fall under the use entitled “Sales of agricultural or horticultural products and associated supplies, partly or wholly outdoors, not associated with an agricultural use (category C in the Use Table)”

This is due to the nature of products sold and also the size of the retail store in relation to recognized Big Box stores.

- Tractor Supply serves a unique niche, targeting the needs of recreational farmers, ranchers and landowners living the rural lifestyle. It is a retail chain of stores that sells products for home improvement, agriculture, lawn and garden maintenance, livestock, equine and pet care. Proposed retail store consists of under 22,000 SF of building area.
- Big-box stores are a separate use on the Use Table, classified as Large scale retail sales. Big-box stores are recognized as being greater than 50,000 SF in building size and typically offer one-stop shopping selling a large variety of products.

It is important to note that even though the Use of Tractor Supply would be allowed by right in the RB zone, it would still require Site Plan Approval from the Planning Board in a public hearing.

# Tractor Supply Company

Article Talk



**Tractor Supply Company** (also known as **TSCO** or **TSC**), founded in 1938, is an American [retail chain](#) of stores that sells products for [home improvement](#), [agriculture](#), lawn and [garden](#) maintenance, [livestock](#), [equine](#) and pet care for recreational farmers and ranchers, pet owners, and landowners. The company has 2,000 stores and is headquartered in [Brentwood, Tennessee](#). It is publicly traded on the [NASDAQ](#) under the ticker symbol TSCO and is a [Fortune 500](#) company.



## People also ask

Is Tractor Supply owned by Walmart?




Is Tractor Supply Chinese owned?




Did Tractor Supply ever sell tractors?



What are the high 5 categories at Tractor Supply? 

Equine, livestock, pet and small animal products, including items necessary for their health, care, growth and containment; • Hardware, truck, towing and tool products; • Seasonal products, including heating, lawn and garden items, power equipment, gifts and toys; • Work/recreational clothing and footwear; and • ...

Feb 18, 2015

 <https://s23.q4cdn.com/files/annual>

More about The Big Box >


## People also ask

:

What is considered a big-box store?

^

Located in **large-scale buildings of more than 50,000 square feet**, the store is usually plainly designed and often resembles a large box. Walmart, Home Depot, and Ikea are examples of big-box retailers.

 <https://www.investopedia.com/terms>

**Big-Box Retailer Definition - Investopedia**



To Town of Ware Planning Board, Board of Selectman, and  
Whom it concerns,

The individuals listed below are opposed to Tractor  
Supply Store or any type of retail business be located at  
256 West Street, Ware, Ma.

signature

print

address

*Evan Tzitz*

*Evan Tzitz*

*4 Sunny Hill Rd*

*Lori Cebula*

*LORI CEBULA*

*9 SUNNYHILL DRIVE*

*Jane E. Quimby*

*Jane E. Quimby*

*9 Skyview Dr.*

*Nick Karanikis*

*Nick Karanikis*

*8 Sunny Hill Dr.*



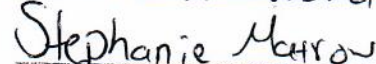
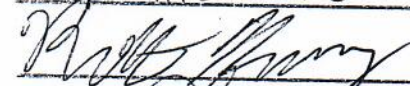

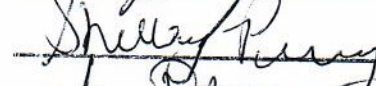

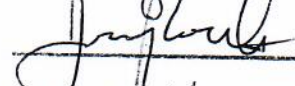
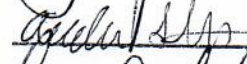
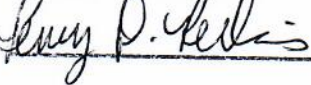



*Linda Berthiaume*

*Linda Berthiaume*

*3 Towac St*

To Town of Ware Planning Board, Board of Selectman, and  
Whom it concerns,

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Supply Store or any type of retail business be located at  
256 West Street, Ware, Ma.

signature	print	address
	JANET CIEJKA	278 PALMER RD
	Denise Hammond	250 West St
	<del>Steph</del> Morrow	250 West St
	Robert Kearney	250 West St
	Kyle Champagne	250 West St
	Shelby Perry	250 West Street
	Amy Peterson	250 West St #11
	Jon Paulson	250 West St #12
	Arale Strong	250 West St #10
	Penny D. Perkins	250 West St #5
	Phyllis P. Masse	250 West St #1
	Barbara Thayer	250 West St #3
	STEPHEN CUNNIE	250 West #2



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Whom it concerns,

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signature	print	address
<i>Patricia Aldridge</i>	Patricia A. Aldridge	7 Malboeuf Rd
<i>Eunice Taylor</i>	Eunice TAYLOR	12 Malboeuf Rd.
<i>J. Taylor</i>	JAMES TAYLOR	12 Malboeuf Rd.
<i>Eric Witsch</i>	Eric Witsch	13 Malboeuf Rd
<i>Dennis Pelletier</i>	Dennis Pelletier	16 MALBOEUF RD
<i>Michael Bingle</i>	MICHAEL BINGLE	15 MALBOEUF RD
<i>Conception A. Wink</i>		20 malboeuf Rd
<i>Kathy Lariviere</i>	Kathy Lariviere	24 Malboeuf Rd.
<i>David Green</i>	David Green	28 Malboeuf Rd.
<i>Jason Green</i>	Jason Green	30 Malboeuf Rd.
<i>Shannon Green</i>	Shannon Green	30 malboeuf Rd
<i>Yvonne Supczak</i>	Yvonne Supczak	7 Malboeuf Road

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signature

print

address

~~Ray Harbaugh~~ Withdrawn from petition 11/3/22

<del>Ray Harbaugh</del>	<del>Ray Harbaugh</del>	<del>22 Malboeuf Rd</del>
Catherine Harbaugh	Catherine Harbaugh	22 Malboeuf Rd.
Jon B Morrison	Jon Morrison	27 Malboeuf Rd.
Holly Bizzozzi	Holly Bizzozzi	27 Malboeuf Rd
Kristin Fredette	Kristin Fredette	14 Malboeuf Rd
Christopher Fredette	Christopher Fredette	14 Malboeuf Rd
Patricia Small	PATRICIA SMALL	3 SUNNY HILL DRIVE
Marilyn J. Sloper	Marilyn Sloper	250 W. St. #5 - Green Bldg.
Jeffrey M. Tweedie	JEFFREY M. TWEEDIE	19 MALBOEUF RD
Jessica Payson	Jessica Payson	19 Malboeuf Rd
George Rendon	George Rendon	16 Skyview Dr
Roseanne Wain	Roseanne Wain	4 Skyview Dr



To Town of Ware Planning Board, Board of Selectman, and  
Whom it concerns,

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256 West Street, Ware, Ma.

signature	print	address
<u>Robert Driscoll</u>	Robert Driscoll	247 Palmer Road
<u>Nancy Driscoll</u>	Nancy Driscoll	267 Palmer Rd
<u>Sandra Piechota</u>	Sandra Piechota	269 Palmer Rd.
<u>Mathew Piechota</u>	MATHEW PIECHOTA	269 PALMER RD
<u>Kris Swindlhunt</u>	KRIS Swindlhunt	265 Palmer Rd
<u>Barbara Lemaitre</u>	Barbara Lemaitre	4 Skyview Dr.