



# TOWN OF WARE

## Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

### Planning Board

Meeting Minutes from

**Thursday, February 3<sup>rd</sup>, 2022**

Select Board Room, Town Hall

#### Planning Board Members in Attendance:

Josh Kusnierz (Chairman)  
Rick Starodoj (Vice-Chairman)  
Ed Murphy, III  
Ken Crosby  
Elizabeth Hancock (Alternate)

#### Planning Board Members Absent:

Joe Knight

#### Board of Selectmen in Attendance:

Keith Kruckas (Chairman)  
Caitlin McCarthy (Selectman)  
John Morrin (Vice-Chairman) - remote  
Thomas Barnes (Clerk) - remote  
Chris Nolan (Executive Assistant to the Town Manager  
& Select Board) - remote

#### Staff Members in Attendance:

Stuart Beckley (Town Manager)  
Rob Watchilla (PCD Dept. Director)  
Laura White (Admin. Assistant to PCD Dept.)

#### Members of the Public in Attendance:

Sharon Biskup  
Melissa Richard  
Paul Richard

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### PLEDGE OF ALLEGIANCE

Chairman J. Kusnierz called the meeting to order at 7:00 pm and led the Board in the Pledge of Allegiance.

### ADMINISTRATIVE

#### Approval of meeting minutes from January 20, 2022.

**Motion** made by E. Murphy to approve meeting minutes from January 20<sup>th</sup>. Approved by R. Starodoj.

Rick Starodoj	Aye
Ed Murphy	Aye
Ken Crosby	Aye

Three in favor, one abstention. Approved 3/0/2.

## **OLD BUSINESS**

### **Right to Farm Discussion**

R. Watchilla thanked the members of the public and members of the Board of Selectmen for attending and gave background information on proposed Right to Farm Bylaw. The Right to Farm Bylaw would protect farmers from nuisance complaints and lawsuits regarding any noise, odor, slow-moving farm vehicles, or other necessary byproducts of farming operations.

J. Kusnierz opened the floor to the public for discussion.

K. Kruckas inquired about whether this bylaw would allow earth to be removed from one property, then processed on a farm.

R. Watchilla informed everyone that earth removal and earth processing would be zoning related and does not relate to the Right to Farm Bylaw.

K. Kruckas inquired about farm vehicles and whether these vehicles would still be required to have farm plates.

R. Watchilla informed everyone that the Right to Farm Bylaw would not affect this.

K. Kruckas asked if the list provided in the handout, of local communities that had Right to Farm Bylaws, was a complete list or if there were more communities.

J. Kusnierz and R. Watchilla informed everyone that there were many more local communities with Right to Farm Bylaws, including Belchertown, Hardwick, Barre, and more.

M. Richard informed the Board that there is a map available that shows which towns in Massachusetts have Agricultural Commissions and or Right to Farm Bylaws. She also noted Ware is one of the few towns in Massachusetts which has an Agricultural Commission, but no Right to Farm Bylaws.

R. Watchilla stated the Town Agricultural Commission is also currently vacant.

J. Kusnierz stated a major reason for the purposed Right to Farm Bylaw, as well as the existing Agricultural Commission, is to create a sense of community in Ware, to bring residents together, and to support local farmers.

S. Biskup inquired about whether this Bylaw has to go through Town meeting and if there are plans to bring it into the Town meeting.

R. Watchilla stated this Bylaw will have to go through Town meeting and the plan is to bring it to Town meeting this fall, once the proposed Bylaw is finalized.

E. Hancock stated, after some research, she found the Agricultural Commission was started in 2008, according to a state website. She is unsure of how many members were on it, but stated that it could possibly be found by looking through old records.

R. Watchilla stated he was told by Conservation that they had files for the Ag. Commission, but he could not find information on membership.

K. Kruckas stated it could possibly be in the Town Meeting Report and that Selectmen and Town Clerk, Nancy Talbot may be able to help find more information.



S. Biskup stated her son was part of the original Ag. Commission and he may still have the names of the other members.

J. Kusnierz requested she ask her son to reach out to him or R. Watchilla if he has that information.

K. Kruckas stated he would like to advertise, possibly at the next meeting, that the Board of Selectmen are looking for people to join the Agricultural Commission.

J. Kusnierz stated potential members will want to know what the responsibilities of the members of the Ag. Commission are.

S. Beckley stated that, according to Massachusetts State Law regarding Right to Farm and Town Ag. Commissions, part of the intent for these commissions would be to look at all proposed bylaw changes to see if and how they would impact local agriculture.

J. Kusnierz suggested reaching out to Hadley's Ag. Commission for help and information.

R. Watchilla stated Right to Farm Bylaw will need to be written and will most likely be voted upon at the fall Town Meeting.

R. Watchilla suggested allowing the Ag. Commission to develop the Town Right to Farm Bylaw and stated any resident with an interest in farming may join Ag. Commission.

R. Watchilla informed the public of the results of the analysis done on the Right to Farm Survey that was mailed out to Chapter 61A residents.

M. Richard asked who handles the complaints about farms.

P. Richard stated he would be interested in joining the Ag. Commission.

J. Kusnierz informed the public of what would be involved in being a part of the Ag. Commission.

E. Hancock stated the commission would be able to apply for grants to help farmers, field complaints against farmers, and provide a lot of support to local farmers.

The Board discussed the next steps for this Bylaw.

K. Kruckas stated having the Ag. Commission could increase the Town's opportunities for grants for local farmers.

E. Hancock suggested the charge of the commission could be something like; "The Town of Ware should empower its Agricultural Commission to advocate for the farmers of Ware and to represent their needs at local and regional levels."

C. McCarthy stated the importance of encouraging the community of farmers to meet and share their knowledge, especially with the next generation of farmers who are just starting out and may not know how to get involved in the community. She also stated, in regard to a concern that was brought up about farm land being sold for building lots and solar plots, if there are people who can help farmers get grants, their farms could potentially be passed on to the next generation of famers instead of being sold for development.

R. Starodoj added that, for recent graduates who are looking to start an agricultural business, an Ag. Commission could provide the guidance and resources they would need to get started.

S. Beckley suggested adding a section in the Bylaw proposal about the Ag. Commission and what their purpose and responsibilities would be.

E. Hancock stated that Massachusetts General Law covers what the powers of the Ag. Commission are.

The Board agreed to table the Right to Farm Bylaw discussion.

## **Zoning Bylaw Updates**

### **Specific Permitting Standards (§4.3)**

#### **Junkyards (§4.3.25)**

R. Watchilla read the proposed §4.3.25 of the Town Bylaw regarding Junkyards, which states:

“Junkyards (F-2) are allowed by Special Permit in the Commercial Industrial (CI) and Industrial (I) Districts.

- Junkyards will also be required to have a site plan review as specified in §7.4. The Building Commissioner and the Planning Board may request additional details regarding the site design.
- No person shall establish, operate or maintain a junkyard, any portion of which is within one thousand (1000) feet of the nearest edge of the right-of-way of any interstate or primary highway, unless such junkyard is:
  - a) Screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or otherwise removed from sight, or
  - b) Located within an area which is zoned for industrial use under authority of law, or
  - c) Is not visible from the main traveled way of the system.
- All junkyards must possess proper licensing as stated in M.G.L. Ch. 140 §59A.”

K. Kruckas stated there could be an issue with saying old cars are considered “junk,” as there is a large demand for older vehicles and vehicle parts.

R. Starodoj stated there is a big difference between Auto Salvage and Junkyard.

The Board discussed the differences between Auto Salvage and Junkyard.

R. Starodoj and J. Kusnierz agreed the word "Junkyard" could be changed to "Salvage Yard"

R. Watchilla read the proposed definitions of Junk and Junkyard under the Bylaw:

“Junk: Old or scrap copper, brass, rubber debris, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous material.

Junkyard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This term shall not include garbage dumps and sanitary fills.”

J. Kusnierz stated he believes "automobile graveyard" does not belong in the definition.

E. Hancock stated the term "graveyard" may give permission for junk to build up and expand.



J. Kusnierz read a definition he found online for "automobile graveyard," which states, "An automobile graveyard or car cemetery is a place in which decrepit road vehicles reside while waiting to be destroyed or recycled or are left abandoned and decaying."

The Board discussed ways to prevent junk from piling up in Town.

E. Hancock stated Junkyards are limited to Industrial and Highway Industrial zoning districts only.

J. Kusnierz suggested putting more thought into Junkyards and Automobile Graveyards before submitting anything.

S. Beckley stated the Board could put a definition for Automobile Graveyard and prohibit it on the Use Table in the Bylaw.

K. Crosby asked if prohibiting the use of an Automobile Graveyard in all zoning districts would allow someone to come in, pick a spot, and force the Town to allow them to open an Automobile Graveyard there.

S. Beckley stated they would not.

E. Murphy asked if the Board is going to remove "automobile graveyard" from the definition Junkyard and give a separate definition for it.

R. Watchilla informed the Board that they would need to add a separate use for Automobile Graveyard for the Use Table.

J. Kusnierz stated concerns about contaminants from automobiles in a junkyard or auto salvage facility.

R. Starodaj stated the differences between old-style junkyards and new-style junkyards.

The Board agreed the definitions of Junk and Junkyard need to be broken down further.

R. Starodaj stated Tow Yard should be defined in the Town Bylaw.

J. Kusnierz suggested the Town reach out to local businesses for more information.

R. Watchilla recommended the Board members to attend the Zoning Board of Appeals meeting next Thursday to discuss Junkyards and Earth Processing with them.

#### **Earth Processing (§4.3.27)**

R. Watchilla read the proposed §4.3.27 which states:

"Earth Processing (F-5) shall be defined as the processing of earth materials (soil, loam, peat, sand, gravel, or stone) brought on site or brought in and stored for processing in any 12-month period, this includes gravel pits. Earth processing shall be allowed by special permit (see §7.2) in the Rural Residential (RR), Highway Commercial (HC), Commercial Industrial (CI) and Industrial (I) zoning districts. In addition to a special permit, earth processing operations over 500 cubic yards shall warrant a site plan review by the Special Permit Granting Authority (SPGA). A special permit for earth processing may not be required if:

- Conducted on the site of earth removal operation that was allowed by special permit,
- Conducted on the site of a privately owned subdivision for the sole purpose of developing the private roadway,
- Conducted on the site of, incidental to, and in connection with earth removal necessary for the construction of a principal or accessory structure permitted by the Zoning Bylaw.”

R. Starodoj suggested changing "Earth processing *shall* be allowed by special permit" to "Earth processing *may* be allowed by special permit."

S. Beckley requested the Board take a look at the Rural Residential zoning district on the Use Table, as there may be too many uses, including many commercial uses.

K. Kruckas stated issues with allowing businesses in rural residential zoning districts where residents purposely purchase property in that zoning district to avoid businesses.

R. Starodoj stated businesses, that existed before residents moved in, should be allowed to operate and residents should understand when they buy the property.

K. Crosby stated there should be regulations for businesses in rural residential zoning districts to prevent disturbances. Lot size should be taken into consideration.

E. Hancock stated an issue with earth processing is not just noise or debris, but also vibration that can cause issues in a Rural Zoning District.

J. Kusnierz stated there could be issues with removing Rural Residential.

The Board agreed to continue this discussion at the joint meeting with the Zoning Board of Appeals on Thursday, February 10<sup>th</sup>.

#### **Use Table (§4.2)**

J. Kusnierz inquired about why a winery would not be allowed by special permit in Beaver Lake.

R. Starodoj stated he does not believe the Beaver Lake Association would allow a winery there.

R. Watchilla informed the Board of the two different uses of Winery on the Use Table. One is covered by Farm under Agricultural Uses, while the other is listed under Retail Business & Consumer Service Uses.

R. Starodoj stated the Special Permit allows for modification of regulations and limitations to allow businesses to fit in with the surrounding area and residences.

The Board agreed to the proposed changes to the Use Table.

J. Kusnierz requested to put on the agenda for a future meeting to discuss the uses in the Rural Residential zoning districts.



## **Definitions (§2.2)**

### **Craft Distillery**

R. Watchilla read the proposed definition of Craft Distillery, which states:

“A plant or premise where distilled spirits are produced, manufactured, or distilled for human consumption, limited to a maximum annual production of 10,000 proof gallons (12,500 gallons) of distilled spirits per year. Such establishments may also offer on-site tastings, sell their product on-site and sell wholesale to other parties mentioned in M.G.L. Ch. 138 §19E. Registered craft distilleries must be licensed as “farm distilleries” under M.G.L. Ch. 138 §419E.”

The Board agreed to this definition, as written.

### **Microbrewery**

R. Watchilla read the proposed definition of Microbrewery, which states:

“An establishment that specializes in the production and manufacturing of beer/malt beverages and sells at least 25 percent or more of it beer/malt beverages for on-site consumption. Such establishments can sell their beer/malt beverages at wholesale under the regulations set forth in M.G.L. Ch. 138. This definition includes brewpubs, taprooms, and craft breweries. Microbreweries located in the Rural Residential District must have a Farmer Brewery License under M.G.L. Ch. 138 §19C and shall produce no more than 1,000 barrels (31,000 gallons) of beer/malt beverages annually. Microbreweries located in all other zoning districts may have either a farmer brewery license (M.G.L. Ch. 138 §19C) or a pub brewery license (M.G.L. Ch. 138 §19D) and shall produce no more than 15,000 barrels (472,000 gallons) of beer/malt beverages annually.”

The Board agreed to this definition, as written.

## **Powers of the Zoning Enforcement Officer (§7.5.1)**

R. Watchilla read §7.5.1, which states:

“This Bylaw shall be administered and enforced by the Building Inspector of the Town of Ware. He/she shall issue no permit for the erection or alteration of any structure or part thereof, the plans, specifications, and intended use of which are not in all respects in conformity with the provisions of this Zoning Bylaw. For any uses not specifically listed in §4.2 (Use Table), the Zoning Enforcement Officer shall make a determination as to the closest appropriate applicable category, or to determine that the proposed use does not fit appropriately in any category and deny with a written explanation. This decision can be appealed to the Zoning Board of Appeals and must be filed with the Town Clerk no later than 30 days after it is issued.”

The Board agreed to the language in this section of the Bylaw, as written.

### **Urban Fill**

The Board discussed where to add Urban Fill in the Town Zoning Bylaw.

The Board agreed to prohibit this use in all zoning districts.

R. Starodoj stated this use has to be put somewhere or it will be an issue.

K. Crosby suggested allowing it near rail in order to have it shipped somewhere else.

E. Hancock stated a judge ruled in favor of an urban fill project after a gravel operation took earth, because it provided the use of filling the empty lot.

The Board agreed to discuss this topic at a later date.

## **NEW BUSINESS**

J. Kusnierz stated again, he will not be running for his seat on the Board and urged E. Hancock to run for the open seat.

E. Hancock stated she will not be running for the open Chairman position on the Board.

## **TOWN PLANNER UPDATE**

### **One-Stop for Community Growth**

R. Watchilla informed the Board that the One-Stop for Community Growth Application cycle is now open. This is a grant program for different grants through Mass Development, the Department of Housing and Community Development, etc. The Expression of Interest is open until mid-march, however the deadline for any towns submitting more than two projects is Friday, February 4<sup>th</sup>. The Town of Ware is submitting an Expression of Interest for four projects which include:

- The Mill Yard Construction Project
- Demolition of Building 9 (the old Turbine Building)
- Proposed parking lot / pickle ball court on Monroe Street
- A Development Feasibility Study of the Mary Lane Hospital to determine what the building could be used for

### **Shared Streets and Spaces Grant Program**

R. Watchilla informed the Board that the application cycle for the Shared Streets and Spaces Grant Program is open through March 1<sup>st</sup>, and the Town will be applying for a project that focuses on pedestrian and bicycle access on West Street that will include ADA compliant sidewalks in sections where there are none, and installing pedestrian blinker signs at unmarked pedestrian crosswalks throughout the street.

### **West Street Corridor Study**

R. Watchilla informed the Board that the West Street Corridor Study was put out to bid Wednesday, February 2<sup>nd</sup>. The Town is contracting a consultant to develop a Build-Out Analysis and Traffic Operation Study on West Street from the intersection of Main Street down to the schools.

The Town is being funded \$30,000 that was awarded from the state.

The bid will close on February 23<sup>rd</sup> at 2:00pm.



## ADJOURN

**Motion** made by E. Murphy to adjourn at 9:08pm, Seconded by K. Crosby.

Rick Starodoj    Aye  
Ed Murphy      Aye  
Ken Crosby     Aye

Three in favor, one abstention. Approved 3/0/2.

The Planning Board may be attending the next Zoning Board meeting scheduled for Thursday, February 10<sup>th</sup> at 7:00pm.

The next Planning Board meeting is scheduled for Thursday, February 17th at 7:00pm.

Minutes from February 3, 2022

Respectfully submitted by,

Laura White  
Administrative Assistant  
Planning & Community Development

<i>Minutes Approved on:</i> <u>4/17/22</u>	
Kusnierz	<u>[Signature]</u>
Starodoj	<u>[Signature]</u>
Knight	<u>[Signature]</u>
Murphy	<u>[Signature]</u>
Crosby	<u>[Signature]</u>