



TOWN OF WARE

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

PLANNING BOARD

MEETING AGENDA

Location: Board of Selectmen's Meeting Room
Town Hall, 126 Main Street, Ware, MA 01082

Date & Time: Thursday, April 6th, 2023 @ 7:00 PM

Digital Participation: Phone number: 929-205-6099

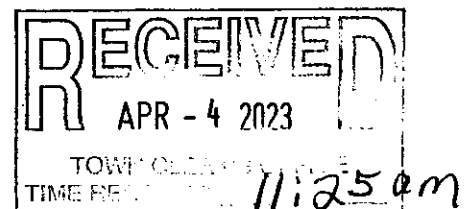
Meeting ID: 784 604 1861

Passcode: 01082

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

-
- **Pledge of Allegiance**
 - **Administrative**
 - Approval of minutes from March 16th, 2023
 - **Public Hearings**
 - **7:05pm: SP-2023-03 (Delia Wolfe, RVT)**
 - Applicant is requesting a Special Permit for the keeping of nine (9) pet chickens. Deeded in the Hampshire County Registry of Deeds, Book 14669, Page 178. Assessor's Parcel 25-0-3. Zoned: Rural Residential (RR).
 - **7:30pm: Battery Energy Storage Systems Public Hearing**
 - Proposed addition to the zoning bylaws regarding battery energy storage systems. Recommendation for Town Meeting.
 - **ANR**
 - ANR-2023-02 (Sczygiel Road)
 - Board will make the determination of whether or not this plan requires their approval under the Subdivision Control Law
 - **Old Business**
 - Review of newly proposed Subdivision Regulations
 - Sections 2.4.11 (Recording of Plan) to Section 2.4.14 (Road Acceptance) [Pages 43-45]
 - **New Business**
 - Appointment of PVPC point of contact and alternate.
 - **Town Manager Update**

The next Planning Board meeting will be held April 20th, 2023.





TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, March 16, 2023

Selectboard Meeting Room

126 Main Street, Ware MA 01082

Planning Board Members in Attendance:

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

Staff Members in Attendance:

Rob Watchilla	PCD Department Director
Kristen Jacobsen	PCD Dept. Admin. Assistant
Anna Marques	Building Commissioner/ Zoning Enforcement Officer
Sai Palani	Quabbin Health District

Members of the Public in Attendance:

Megan Sinclair	Lori Sinclair
Ryan Sinclair	Josh Kusnier
Terry Smith	

PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:03pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of Minutes from March 2, 2023

Motion by N. Talbot to approve the March 2, 2023, meeting. **Seconded** by E. Murphy. **Discussion** None

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

- **New Business**

- Discussion with B'Leaf Wellness regarding Condition #5 of SP-2021-07

R. Watchilla read a letter from Town Manager S. Beckley asking the board to consider releasing the applicants from the condition.

The board discussed feedback from the Ware Police Department who said they hadn't noticed any issues.

Motion by C. DiMarzio to suspend condition #5 of SP-2021-07 until the condition expires or if there is a complaint. **Seconded** by N. Talbot. **Discussion:** None

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

- **Discussion with Health Department on Alternative Housing and the New Housing Code Update.**
 - Potential changed to building, fire, housing codes.
 - Application process
 - Alternative square footage, heating, plumbing, sanitary, and electricity requirements.
 - Tiny homes
 - Current minimum requirements
 - State Guidance and Department of Public Health
 - FROSD Bylaw (Flexible Residential Open Space District)
 - Discussion of types of alternative housing and whether or not the new code would apply.
- **Review of proposed Battery Storage Energy Systems Zoning Language (vote to set date of public hearing)**

PVPC developed language (included in meeting packets)

One member of the ZBA, one member of the Historic Commission, R. Watchilla, and S. Beckley edited the proposed language

Bylaw is intended for free standing battery storage units not associated with solar energy systems.

R. Watchilla asked the board to consider voting to hold a public hearing during their April 6th 2023 meeting.

The board and R. Watchilla discussed concerns other boards had over fire safety.

C. DiMarzio and R. Watchilla discussed whether the battery storage systems would be publicly or privately owned and what types of uses or purposes they might serve.

The board discussed co-locating the battery storage units with solar systems.

Discussion of placement and zoning regulations.
T. Smith spoke of updated battery storage systems and their technology
The board discussed fire suppression systems for battery storage units.

Motion by N. Talbot to hold a Public Hearing for proposed additions of the Battery Storage Bylaw for Thursday April 6, 2023 **Seconded** by E. Murphy **Discussion:** None

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

TOWN PLANNER UPDATE

Right to Farm Public Hearing

The Right to Farm public hearing will occur on Tuesday, March 21 before the Selectboard

A proposed bylaw will be considered for Annual Town Meeting

PVPC District Local Technical Assistance Program

The Town of Ware was awarded funding through the DLTA program to develop a Senior Housing Plan

Resignation of PCD Director

- Taken a position in the Amherst Planning Department
- Last day in Ware will be Tuesday, March 28
- The search for a new PCD Director has gone underway

Motion by N. Talbot to table the discussion of the proposed subdivision regulations to a future Planning Board Meeting **Seconded** by E. Murphy **Discussion:** None

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

Motion made by E. Murphy to **ADJOURN at 8:41pm. Seconded** by K.Crosby **Discussion:** none

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

NEXT PLANNING BOARD MEETING DATE:

Thursday, April 6, 2023 at 7:00pm.

Minutes from Thursday, March 16, 2023.

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 3/23/2023 and 3/30/2023

SP-2023-03

NOTICE is hereby given that the Ware Planning Board, acting as the Special Permit Granting Authority, will hold a Public Hearing on **THURSDAY, April 6, 2023 at 7:05 PM** on the application of Delia Wolfe, for a Special Permit for housing nine (9) chickens under Section 4.4.1, 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 Selectmen's Meeting Room, 126 Main Street, Town Hall, 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: 704 Belchertown Rd, Ware, MA. Said premises being further described in deeds recorded in the Hampshire County Registry of Deeds, Book 14669, Page 178. Property is also identified as Assessor's Parcel # 25-0-3. 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

Rick 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 23 - 63

Applicant
Name of Applicant (primary contact): Delia Wolfe, RVT
Address: 704 Belchertown Rd Ware, MA 01082
Phone: 828-974-6322 Cell: 828-974-6322
Email Address: Delia.Denoff@tufts.edu

Owner
Name of Owner (primary contact): Michele Denoff
Address: 704 Belchertown Rd Ware, MA 01082
Phone: 828-335-0284 Cell: 828-335-0284
Email Address: Delia.Denoff@tufts.edu

Request
Choose applicable Zoning Bylaw Section: _____

~~Will the project require a:~~ Site Plan Review: ☐ Yes* ☐ No Variance: ☐ Yes* ☐ No *Explain in narrative

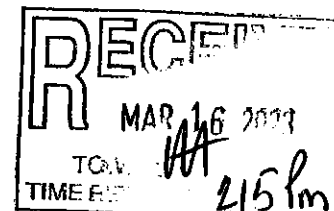
Property
Location of Property: 704 Belchertown Rd Ware, MA 01082 (3-family triplex home)
Assessor's Tax Map/Parcel Number: M: 00025 B: 00000 L: 0003, 3417126 25-0-3
Deed Reference - Hampshire District Registry of Deeds Book/Page Number: 14669
Plan Reference - Hampshire District Registry of Deeds Book/Plan Number: 178
Zoning District: RR Acreage: 1.38 acres
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

Proposal
Brief description of the proposal: Permit to house 9 pet chickens; Not used in any way for production, business, or income. None of these hens have ever been housed in an open-topped enclosure or exposed to wildlife in any way. Domestic pet hens only.

Sign
Applicant's signature: Delia Wolfe, RVT
Owner's signature: _____
Date: 03/16/23

Official Use Only: Preliminary Review By: _____ Date: _____	
Fee: <u>\$100.00</u>	Date Paid: <u>03/16/2023</u> Check #: <u>124</u>
Date of Public Hearing: <u>4/6/2023</u>	
Decision of Board: _____	
Date of Decision: _____	Expiration Date: _____

Town Clerk's stamp:





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 3/23/2023 and 3/30/2023

Pursuant to MGL Ch. 40A, Sec. 5, the Ware Planning Board will hold a public hearing on **Thursday, April 6th, 2023 at 7:30pm** in the Selectboard Meeting Room, Town Hall, 126 Main Street, Ware, MA. The purpose of this hearing is to consider an addition to the Zoning Bylaws by including a section to regulate Battery Energy Storage Systems (BESS).

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 Selectboard Meeting Room, Town Hall, 126 Main 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 and on the Town of Ware website under "Popular Links". 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

Proposed Additions to Section 2.2 (Definitions)

ANSI: American National Standards Institute

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM (BESS): One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A Battery Energy Storage System is classified as a Tier 1, Tier 2, or Tier 3 BESS as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity greater than or equal to 20KWh and, whose purpose is to store energy from residential solar energy systems if in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems are defined as those that are interconnected to utility distribution lines and have an aggregate energy capacity greater than 20KWh but less than or equal to 10 MWh.

C. Tier 3 Battery Energy Storage Systems are defined as those that are interconnected to high voltage transmission lines and have an aggregate energy capacity greater than 10 MWh.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

Proposed addition to **Special Use Regulations (Section 4.8)**

4.8.9 *Battery Energy Storage Systems (BESS)*

A. Purpose

The purpose of this bylaw is to provide for the construction and operation of Battery Energy Storage Systems (BESS) and to provide standards for the placement, design, construction, monitoring, modification and removal of energy storage systems that address public safety, minimize impacts on scenic, natural and historic resources of the Town of Ware and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of Battery Energy Storage Systems.

B. Definitions

BATTERY ENERGY STORAGE SYSTEM – a physical container providing secondary containment to one or more battery cells for storing electrical energy derived from solar or sourced directly from the grid that is equipped with cooling, ventilation, fire suppression, and an electronic battery management system. It may be a primary use or accessory to a solar energy facility, power generation facility, an electrical sub-station, or other similar uses. A Battery Energy Storage System can be classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System, as follows:

1. Tier 1 Battery Energy Storage Systems are defined as those that have an aggregate energy capacity equal to 20KWh and greater and, whose purpose is to store energy from residential solar energy systems if in a room or enclosed area, consist of only a single energy storage system technology. The facility must comply with the State's electrical code (527 CMR. 12.00) and the State's Fire Code (527 CMR 1.00).
2. Tier 2 Battery Energy Storage Systems are defined as those that are interconnected to utility distribution lines and have an aggregate energy capacity greater than 20KWh but less than or equal to 10 MWh. The facility must comply with the State's electrical code (527 CMR. 12.00) and the State's Fire Code (527 CMR 1.00).
3. Tier 3 Battery Energy Storage Systems are defined as those that are interconnected to high voltage transmission lines and have an aggregate energy capacity greater than 10 MWh. The facility must comply with the State's electrical code (527 CMR. 12.00) and the State's Fire Code (527 CMR 1.00).

C. Applicability

1. Building-integrated Battery Energy Storage Systems

- a) Battery Energy Storage Systems that are building-integrated, whether a residential or commercial building, energy storage systems shall not be erected, constructed, installed, or modified as provided in this section without first obtaining a building permit from the Building Inspector.
- b) Building-integrated energy storage systems may be coupled with rooftop solar or behind the meter applications for peak shaving.
- c) Building-integrated battery energy storage systems may be located in any zoning district of the Town of Ware.

2. Co-located Battery Energy Storage Systems

- a) Battery Energy Storage Facilities are encouraged to co-locate with solar photovoltaic installations, energy, power generation stations, and electrical substations.
- b) Battery Energy Storage Systems associated with on-site solar power generation shall be permitted in the same districts as Large-Scale Solar Arrays by Special Permit and Site Plan Review.
- c) If co-located with a solar photovoltaic installation, the BESS shall not exceed the necessary capacity and size generated by the output of the co-located solar photovoltaic installation.

3. Battery Energy Storage systems not associated with on-site solar generation shall only be permitted in the Commercial Industrial (CI) and Industrial (I) Districts, and shall require a Special Permit and Site Plan Review from the Planning Board.

- i. The nameplate capacity of an Energy Storage system shall not exceed the total kw of renewable energy being produced on the 3-phase distribution line that the energy storage system will be interconnected to.
- ii. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this bylaw.
- iii. Battery Energy Storage Systems not associated with on-site solar generation are prohibited in the Aquifer Protection Overlay District.
- iv. Battery Energy Storage Systems not associated with on-site solar generation must be located in-proximity to the public water supply system for the purposes of fire suppression.

D. General Requirements

1. All Tier 2 and 3 battery energy storage systems shall require a special permit and site plan approval by the Planning Board prior to construction, installation, or modification as provided in this bylaw.
2. The construction, operation, and decommissioning of all battery storage energy storage systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable environmental, safety, construction, fire, and electrical requirements.
3. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

E. Application Materials

1. In addition to requirements for Special Permit and Site Plan Approval, the application shall include the following:
 - a) A site plan prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts, that shows the following:
 - 1) An existing conditions plan with property lines and physical features, including topography and roads, characteristics of vegetation (trees- mature, old growth, shrubs, open field, etc.), wetlands, streams, ledge, for the project site;
 - 2) Proposed changes to the landscape of the site, including grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures, driveways, snow storage, and storm water management systems; including total acreage of disturbed area, total vegetation cleared, not including mowed fields;
 - 3) Trees with a DBH of 20" or greater within project parcel(s) shall be identified to determine tree loss, along with inventorying of diseased or hazard trees slated to be removed due to proposed development;
 - 4) Property lines and physical dimensions of the subject property with contour intervals of no more than 10 feet;
 - 5) Property lines of adjacent parcels within 30 feet;
 - 6) Location, dimensions, and types of existing major structures on the property;
 - 7) Location of the proposed battery energy storage structures, foundations, and associated equipment;
 - 8) The right-of-way of any public road that is contiguous with the property;
 - 9) Any overhead or underground utilities.

- 10) At least one color photograph of the existing site, measuring eight inches by 10 inches.
 - 11) Locations of active farmland and prime farmland soils, wetlands, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP.
 - 12) Locations of floodplains or inundation areas for moderate or high hazard dams;
 - 13) Locations of local or National Historic Districts.
 - 14) Stormwater management and erosion and sediment control
-
- b) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed, including manufacturer and model. A final equipment specification sheet shall be submitted prior to the issuance of building permit;
 - c) One- or three-line electrical diagram showing associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices;
 - d) Contact information and signature of the project proponent, as well as all co-proponents, if any, and all property owners;
 - e) Contact information and signature of agents representing the project proponent, if any;
 - f) Contact information for the person(s) responsible for public inquiries throughout the life of the system;
 - g) An operations and maintenance plan for Battery Energy Storage System. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information;
 - h) Energy Storage System technical specifications, including manufacturer and model;
 - i) Electrical schematic;
 - j) Documentation that shows the owner of the Energy Storage System has site control, which shall include easements and access roads;
 - k) Documentation that shows the owner of the Energy Storage System has notified the electric utility of this installation.

- l) Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
- 1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - 2) Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - i. This includes hazmat appliances for conducting atmospheric monitoring with a scientific officer to support.
 - 3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - 4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - 5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - 6) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - 7) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
 - 8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
 - i. Trainings must be provided and organized by the applicant.

- m) Proof of liability insurance: The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and property caused by the failure of the system.
- n) A noise study, prepared by a qualified individual with experience in environmental acoustics, to assess the impact of all noise sources generated from the project to abutting properties, and determine the appropriate layout, design, and control measures. The report should include details of assessment methods, summarize the results, and recommend the required outdoor as well as any indoor control measures.

F. Design and Site Standards

1. In addition to the standards for Special Permit and Site Plan Review in the Zoning Code, the applicant shall adhere to the following standards and provide such information on the site plan:
 - a) Utility Lines. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility.
 - b) Signage. The signage shall include the type of technology associated with the systems, any special hazards associated, the type of suppression system installed, and 24-hour emergency contact information. All information shall be clearly displayed on a light reflective surface. Clearly visible warning signs concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
 - c) Lighting. Lighting of the systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
 - d) Setbacks. Battery Energy Storage Systems not co-located with solar photovoltaic installations shall adhere to a one hundred (100) foot setback from the front, side, and rear property lines. BESS's shall also adhere to a one hundred (100) foot setback from water wells (both private and public) located either on-site or on abutting properties.
 - e) Vegetation and Tree-Cutting. Areas within ten (10) feet on each side of a system shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees or shrubbery and cultivated ground covers such as green grass, ivy, succulents, or similar plants shall be exempt provided that they do not form a means of readily transmitting fire. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and

maintenance of the system and that which is otherwise prescribed by applicable bylaws and regulations.

- f) Noise. The 1-hour average noise generated from the systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the property line.

G. Safety

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
 - a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
 - b) UL 1642 (Standard for Lithium Batteries),
 - c) UL 1741 or UL 62109 (Inverters and Power Converters),
 - d) Certified under the applicable electrical, building, and fire prevention codes as required.
 - e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

H. Special Permit Criteria

1. The Planning Board may approve an application if the Board finds that the system complies with the Site Plan Review and Approval criteria and with the conditions for granting Special Permits. Battery energy storage systems shall also satisfy the following additional criteria:
 - a) Environmental features of the site are protected, and surface runoff will not cause damage to surrounding properties or increase soil erosion and sedimentation of nearby streams and ponds.
 - b) The Planning Board may also impose conditions as it finds reasonably appropriate to safeguard the town or neighborhood including, but not limited to, screening, lighting, noise, fences, modification of the exterior appearance of electrical cabinets, battery storage systems, or other structures, limitation upon system size, and means of vehicular access or traffic features.
 - c) No occupancy permit shall be granted by the Building Commissioner, nor shall the site be energized or interconnected to the utility until the Planning Board has

received, reviewed, and approved an as-built plan that demonstrates that the work proposed on the approved site plan, including all stormwater management components and associated off-site improvements, have been completed in accordance with the approved plan and certified same to the Building Commissioner.

- d) The Planning Board may, in its discretion, approve an as-built plan upon provision of a proper bond, covenant, or third-party agreement to secure incomplete work where such work is not immediately necessary for lawful operation of the system without negative effect on public health and safety and surrounding properties.
- e) The applicant shall make every effort to coordinate necessary surveying and finalization of the as-built plans and submission of required construction control documents prior to the conclusion of construction. Notwithstanding the above, a temporary occupancy permit may be granted with the approval of the Planning Board subject to conditions for completion of work imposed by the Board.

Commented [WR1]: Should this only be a decommissioning bond? Maybe mimic what we have for solar?

I. Decommissioning

1. As part of the applicant's submission to the Board, the applicant shall submit a decommissioning plan, to be implemented upon abandonment or in conjunction with removal from property. The plan shall include:
 - a) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the property.
 - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal regulations.
 - c) The anticipated life of the battery energy storage systems.
 - d) The estimated decommissioning costs and how said estimate was determined.
 - e) The method of ensuring that funds will be available for decommissioning and restoration.
 - f) The method by which the decommissioning cost will be kept current.
 - g) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems,

will be protected during decommissioning and confirmed as being acceptable after the system is removed.

- h) A listing of any contingencies for removing an intact operational battery energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Town, in an approved form for the removal of the battery energy storage system, in an amount to be determined Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Commented [WR2]: Again, should this just be a bond?

3. An inspection of the completed decommissioned area shall be reviewed by a consultant hired by the Planning Board before approving the decommissioning work in accordance with the Decommissioning Plan. The owner and/or operator shall pay for the cost of this review with such payment being provided by the owner and/or operator prior to the consultant undertaking said review, in accordance with MGL Chapter 44, Section 53G.

J. Abandonment

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than twelve (12) months. The system shall be presumed abandoned if the owner and/or operator fails to respond affirmatively within thirty (30) days to a written inquiry from the Building Inspector as to the continued validity and operation of the system. If the owner or operator fails to comply with decommissioning upon any abandonment, the Town, may, at its discretion, and utilize the available bond or surety for the removal of a system and restore the site in accordance with the decommissioning plan.

Commented [WR3]: Should it be just a bond?

K. Severability

If any provision of this By-Law is found to be invalid by a court of competent jurisdiction, the remainder of this By-Law shall not be affected but remain in full force. The invalidity of any provision of this By-Law shall not affect the validity of the remainder of the Ware Zoning By-Law.

Planning Board

Rebekah DeCoursey
Director of Planning &
Community Development

Town of Ware
Planning & Community Development
Application for ANR

(Approval Not Required under the Subdivision Control Law)

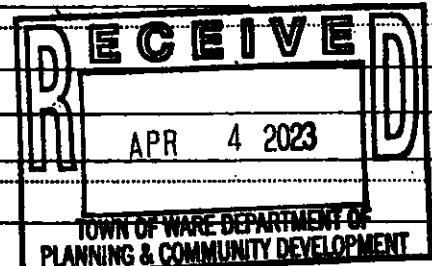


126 Main Street
Ware, MA 01082
413.967.9648 ext. 186
www.townofware.com

ANR 2023 - 02

Applicant Name of Applicant (primary contact): MARK MAKUCH
Address: 70 BONE MILL ROAD STORRS, CT. 06268
Phone: (860) 429-5768 Cell: (860) 420-7845
Email Address: MAKUCH@SBCGLOBAL.NET

Owner Name of Owner(s): Mark Makuch Address: _____
David Makuch, Frances Strychaz,
Frank Strychaz, Andrew Strychaz,
Donald Sygiel, Ronald Sygiel



Surveyor Name of Surveyor: GARY D. LANPHER, JR.
Company: SAME
Address: 148 NICHEWAUG ROAD PETERSHAM, MA. 01366
Phone: (978) 724-6673 Email: GOLANPHER@GMAIL.COM

Request Check one: ☐ Boundary Line Adjustment ☒ Create new lot(s); indicate total number including original parcel: 3
Description of proposal: SEEKING ENDORSEMENT OF LOTS 1B AND 1C

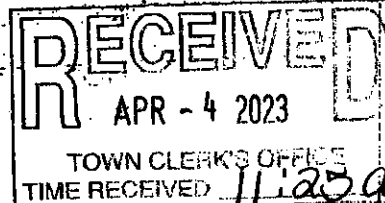
Property Location of Property: LOCATED ON THE WESTERLY SIDE OF SCZYGIEL ROAD
Assessor's Tax Map/Lot Number: MAP 13 LOT 8
Deed Reference - Hampshire District Registry of Deeds Book/Page Number: BK. 14340 PG. 247
Plan Reference - Hampshire District Registry of Deeds Book/Plan Number: PL. BK. 248-39, PL. BK. 187-119
Zoning District: RURAL RESIDENTIAL (RR)

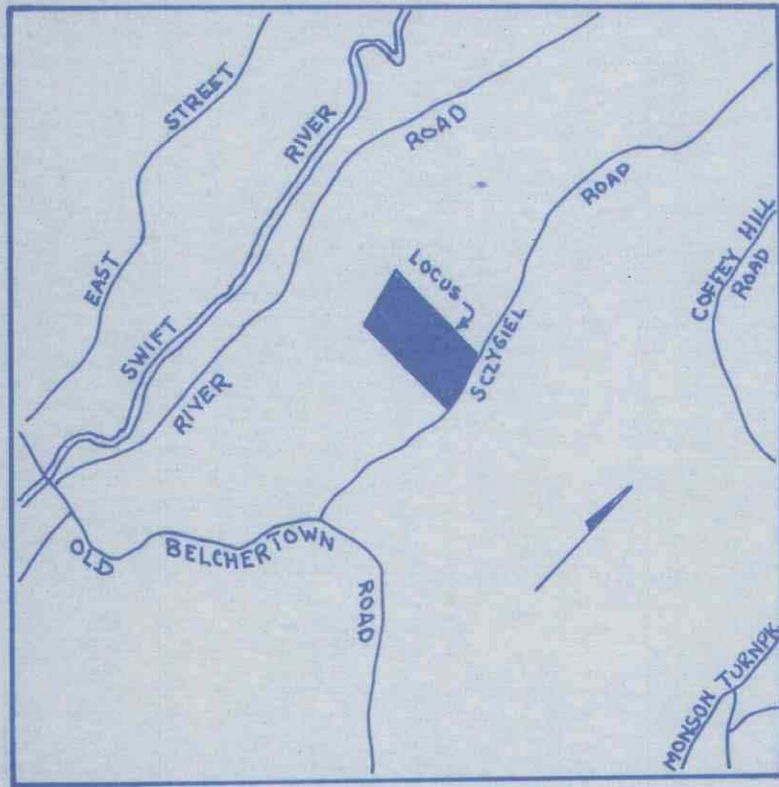
Sign Applicant's signature: Mark Makuch Date: 3-8-2023
Owner's signature(s): Mark Makuch
Frances Strychaz
Frank Strychaz
Donald Sygiel
Ronald Sygiel
Note: All affected owners must sign the application.

Official Use Only:

Fee: \$ 100.00 Date Paid: 4-6-23 Check #: 1067
Meeting Date: 04-06-23
Planning Board Decision: _____
Date of Decision: _____
Submitted to Assessors' Office on: _____

Town Clerk's Stamp:





LOCUS MAP
(1"=2083')

NOTES

LOTS 1B AND 1C REPRESENT A PORTION OF THE PREMISES DESCRIBED IN A DEED CONVEYED TO DAVID & MARK MAKUCH, FRANCES, FRANK, & ANDREW STRYCHAZ, AND DON & RON SYGIEL AS RECORDED AS TRACT III IN DEED BK.14340 PG.247.

THE REMAINING LAND OF DAVID & MARK MAKUCH, FRANCES, FRANK, & ANDREW STRYCHAZ, AND DON & RON SYGIEL CONFORMS WITH THE AREA AND FRONTAGE REQUIREMENTS OF THE ZONING BYLAWS OF THE TOWN OF WARE AS A BUILDING LOT. (48.43 ACRES AND 2,543.49 FT. OF FRONTAGE ON RIVER ROAD)

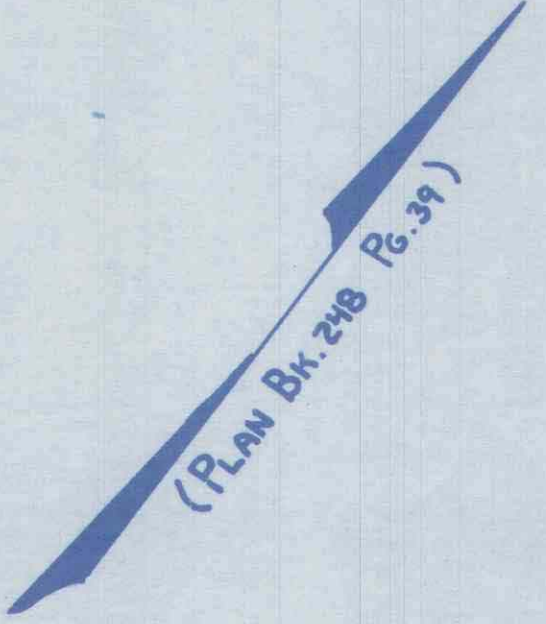
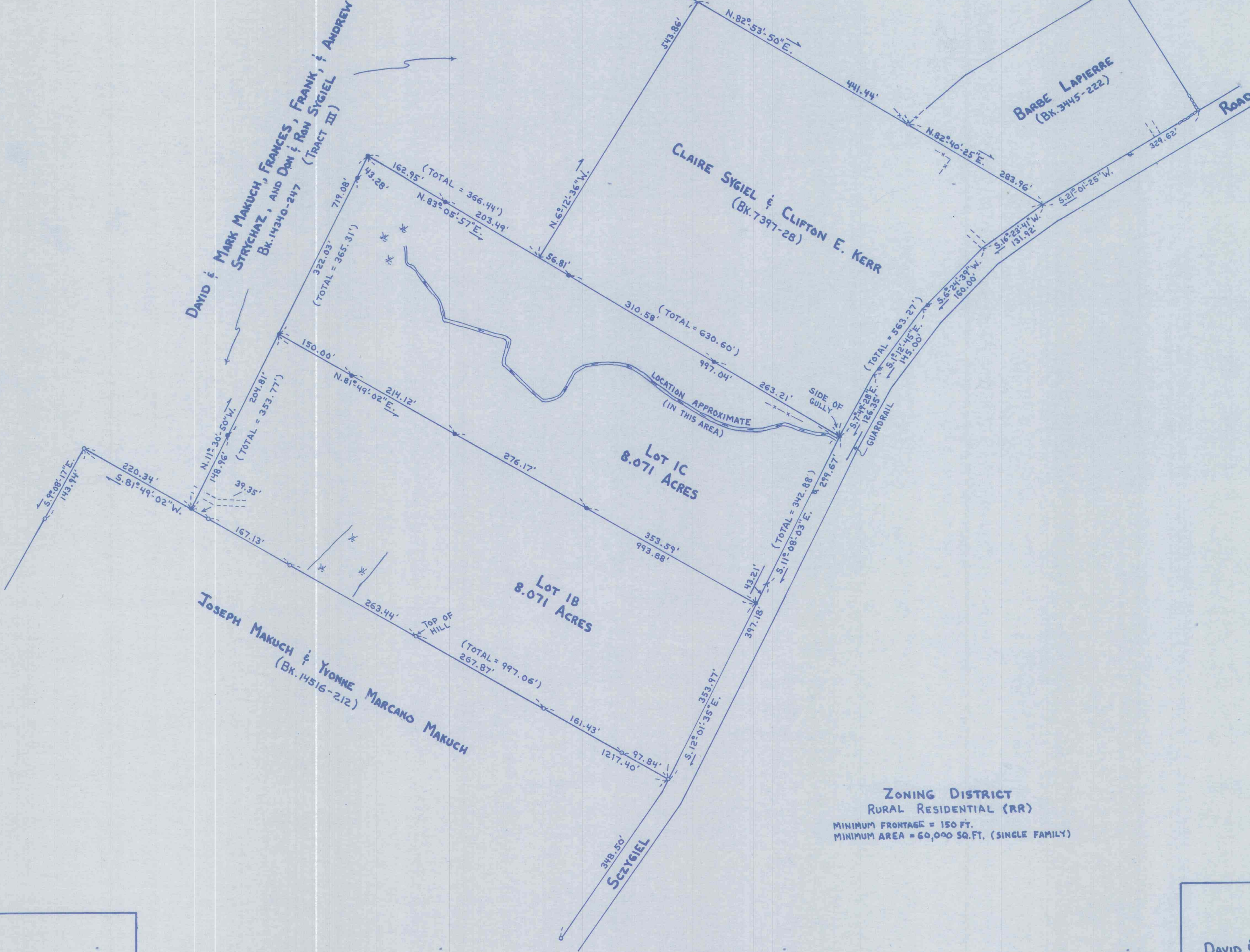
LOTS 1B AND 1C ALSO REPRESENT A PORTION OF THE PREMISES SHOWN AS A TRACT OF LAND CONTAINING 74.219 ACRES IN PLAN BK.185 PG.195, AND A PORTION OF THE 81.219 ACRE TRACT SHOWN AS LOT C IN PLAN BK.118 PG.95.

THE PROPERTY SHOWN AS BEING OWNED BY JOSEPH MAKUCH & YVONNE MARCANO MAKUCH WAS PREVIOUSLY SHOWN AS LOT 1A CONTAINING 9.647 ACRES AS RECORDED IN PLAN BK.248 PG.39.

THE PROPERTY SHOWN AS BEING OWNED BY CLAIRE SYGIEL & CLIFTON E. KERR WAS PREVIOUSLY SHOWN AS A TRACT OF LAND CONTAINING 8.143 ACRES AS RECORDED IN PLAN BK.186 PG.223.

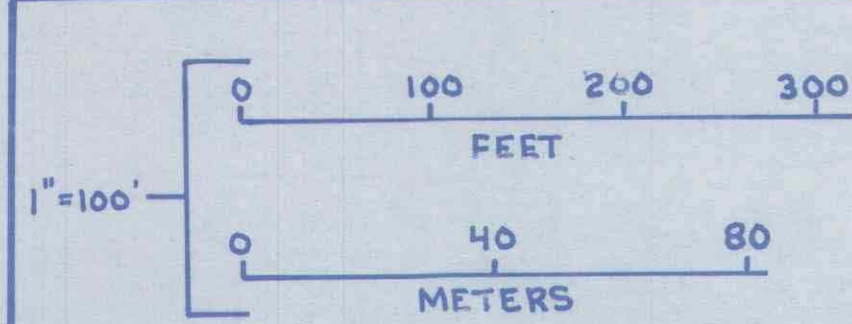


WARE PLANNING BOARD	
APPROVAL UNDER SUBDIVISION CONTROL LAW NOT	
REQUIRED. C41 SBI-P	DATE:



- LEGEND
- SET IRON ROD
 - FOUND IRON PIPE
 - IRON ROD PREVIOUSLY SET
 - ✕ UTILITY POLE
 - STONE WALL
 - FENCE
 - STREAM/BROOK
 - DRIVEWAY
 - AREA OF WETLANDS

ZONING DISTRICT
RURAL RESIDENTIAL (RR)
MINIMUM FRONTAGE = 150 FT.
MINIMUM AREA = 60,000 SQ.FT. (SINGLE FAMILY)



I CERTIFY THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

JAN. 2, 2023
DATE

GARY D. LANPHER, JR.
SURVEYOR #34318

LAND IN
WARE, MASS.
OWNED BY
DAVID & MARK MAKUCH, FRANCES, FRANK, &
ANDREW STRYCHAZ, AND DON & RON SYGIEL
SCALE: 1"=100'
JANUARY, 2023

GARY D. LANPHER, JR.
REGISTERED PROFESSIONAL LAND SURVEYOR
148 NICHEWAUG ROAD PETERSHAM, MASS. 01366
TEL. (978-724-6673) OFFICE (774-479-9953) MOBILE

PLAN NO. 554

rules and regulations not be completed within the allotted time period as specified and such increase would take into consideration increased construction costs.

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

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

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

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

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

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

the approved plans and are functioning as designed and intended.

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

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

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

- vii. Obtain from the applicant a set of record "as-built" construction plans. Approval of said plans by the Planning Board shall take place after review of the former by the Director of Public Works.
 - viii. Receive from the applicant street acceptance plan or plans and necessary documents. Said plans and documents, after approval by the Planning Board and the Director of Public Works, shall be presented by the Planning Board to the Town Meeting for a formal street acceptance in accordance with the Town Street Acceptance Policy.
 - ix. Copies of all of the recorded lot deeds showing that the applicant has retained their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his rights to the right-of-way(s).
 - x. All "as-built" Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format acceptable to the Town using drawing interchange files (AutoCAD compatible files). Horizontal and vertical control shall have at least two (2) points tied (in feet) into the most recent Massachusetts State Plane Coordinate System using municipal GIS monuments stationed throughout the Town. Horizontal control shall have a closure of 1:12,000 or better. Vertical control must be of second order D Class 2 accuracy or better and be tied to USGS datum. All records of control shall be delivered to and reviewed by the Town.
 - xi. All "as-built" Definitive Subdivision Plan, Record and Street Acceptance Plan information shall also be submitted in pdf and AutoCAD compatible format or in another digital format acceptable to the Town.
2. If the Planning Board determines that all improvements as shown on the endorsed definitive plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.

3. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these rules and regulations, the Planning Board shall send by registered mail to the applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.
4. The applicant shall have 30 days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said 30 days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
5. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Ware, as provided in MGL c. 41, § 81, upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

2.4.11 Recording of plan

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

2.4.12 Rescinding Approval of the Plan

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

Commented [WR9]: Going back to the earlier question, is there better language to use here than "rescinding approval of the plan"?

2.4.13 Preconstruction Conference

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

2.4.14 Road Acceptance

Commented [WR10]: See earlier question regarding generic transfer of title deed for private roadways.

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

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

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

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

the road or way shall be recorded with the Hampshire County Registry of Deeds by the Town Clerk.

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