



TOWN OF WARE  
Planning & Community Development  
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## PERMIT SUMMARY REPORT

To: Planning Board  
From: Robert A. Watchilla, Director of Planning & Community Development  
Date: May 19, 2022  
Permit: **Definitive Subdivision Plan Review for  
John Soper (45 Greenwich Plains Road)**

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The applicant is requesting the approval of a Definitive Subdivision Plan Review to create two new parcels at 45 Greenwich Plains Road, . The following materials were submitted to the Planning & Community Development Office on April 21, 2022:

- Definitive Subdivision Application
  - John Soper is indicated as the Applicant and Owner of the property
  - The Subdivision (known as Field Stone Commons) will resize two existing parcels which are identified as 27-0-12 & 22-0-1.
  - Both properties combine to a total of 80.56 acres.
  - This Subdivision will not propose any new streets and will utilize an existing driveway for access for both parcels.
    - This waiver was requested and granted by the Board during the Preliminary Plan Review
- Seven sets of Definitive Subdivision Plans were also submitted
  - Scaled at 1"=120'
  - Plans were prepared by Bertin Engineering
    - Calisto J. Bertin, P.E. as the engineer
    - Bruce A. Fitzback, P.L.S. as the surveyor
  - Page C2.0 shows the parcel lines for the proposed subdivision with the proposed location of the already approved solar array
    - It also highlights the access roadway which will provide access for both parcels
  - Page C2.1 shows the Wetland Resource Areas with contours, waterways, and drainage patterns.

### Comments from Other Departments

- **Health Department**
  - To date, the PCD office has not received confirmation that the Board of Health has approved this particular subdivision.
  - They have until June 6<sup>th</sup> to give the Board their decision in writing before it is considered an automatic approval by the Board of Health, per the Ware Subdivision Regulations.

- Therefore, the Planning Board cannot vote upon nor close this public hearing at this time.
- Former Health Director Judy Metcalf, provided the following comments:
  - Title V Regulation 15.226 (3) states :Tanks, covers, connections and piping shall be designed and constructed so as to withstand an anticipated minimum H-10 loading. Any tank installed in a location where there is the potential for vehicles or heavy equipment to pass over it shall be designed to withstand an H-20 loading. As the building sewer from the house to the septic tank goes under the current drive which will become the access road for development, Bertin Engineering needs to provide this office with H-20 loading calculations which show the existing 4 inch schedule pipe can withstand weight of anticipated traffic ( specifically delivery and equipment for installation of solar panels, ballasts, etc..)
  - The Applicant’s engineer responded by indicating that the existing 4 inch schedule 40 pipe is approximately buried 2 feet underground. The existing pipe has not been surveyed and the depth of 2 feet has been provided to Bertin Engineering by Mr. Soper. According to calculations provided, the results indicate that the existing pipe will experience approximately 1.82% of deflection, well under the 7.5% maximum deflection as required by the Board of Health.
  - I also recommended to Bertin Engineering that the building sewer pipe under the driveway/access road be upgraded with the “sleeve” so that any repairs or replacement of the pipe can easily be accomplished without excavating the drive/access.
    - The Applicant’s engineer responded by stating that the existing pipe will not need any upgrades. Bertin recommends that the applicant places down steel plates on top of the roadway at the septic pipe crossing to redistribute the load when heavy vehicles are crossing.
- **Conservation Department**
  - Since DEP File Number 317-0454 has a Superseding Order of Conditions issued, has the applicant submitted a copy of the subdivision plans to DEP for review and approval?
    - Applicant’s attorney stated that It is not our intention to do so, as the Superseding Order of Conditions applies to the entire parcel being subdivided, has been recorded in the Registry of Deeds, and will be, forever, an encumbrance on the entirety of the property, running with the land. Any subsequent holder of any title interest in any portion of the property will be bound by the terms of that complete order and will be required to comply with it. The Superseding Order will be noted on any deed of transfer to any part of the property, by book and page in the Registry of Deeds, in order to provide notice to any subsequent fee interest holder of the encumbrance.
  - A Registry of Deeds Recording box should be included. This should be corrected on all 3 plan pages.
    - Bertin has updated their plans accordingly
  - The note "Planning Board Approval under the Subdivision Control" is referenced incorrectly. 81 P is an ANR Plan note, not Subdivision. This should be "81 U" and be corrected on all 3 plan pages.
    - Bertin has updated their plans accordingly
  - Will the applicant be creating an easement for the house owned by John S. Majocka, ET UX at the end of Howard Road?

- The Applicant's Attorney responded by saying although this question seems to be not a conservation department issue, it continues to come up, even though we have addressed it before the Planning Board in at least the last two public meetings. An accurate survey of the property has disclosed the town has, and has had, a right of way over Mr. Soper's property, has had the right of way for at least the required length of time in Massachusetts for the Town of Ware to make a claim to quiet title, ten years. The town could initiate a Land Court action to quiet title to the road, and as Mr. Soper has noted, no objection would be filed. But this would entail cost and effort to the town.
  - As has been noted during Planning Board's approval of the preliminary subdivision application, and apparently made a condition of that approval, Mr. Soper has agreed to acknowledge the Town of Ware's encumbrance upon his property, running with the land, giving the Town of Ware the right of way to the use of Howard Road. Which also allows public use (i.e., Mr. Majočka's access, those of his guests, his subsequent property owner, etc.) This will alleviate cost and effort to the town (and, admittedly, to Mr. Soper) and is the most efficient means to address any complications. This can be noted, without objection, as a condition of the subdivision approval, which condition shall also require that the encumbrance be noted on any deed of transfer.
- There are numerous courses with referenced arrows which do not correspond correctly with the North Arrow provided on the plans. Please see highlighted courses. This should be corrected on pages C2.0 and C2.1.
  - Bertin has updated their plans accordingly
- There is a course missing along the northerly sideline of Lot 1 and abutter Anthony J. DeSantis.
  - Bertin has updated their plans accordingly
- Please verify the course N 00° 00' 00" W, 509.37' is the correct course numbers.
  - Bertin has updated their plans accordingly
- Please provide courses for the 25ft wide access easement along the roadway and the proposed Lot 1 lot line. Both courses should be pin-to-pin.
  - Bertin has updated their plans accordingly

END OF REPORT