



TOWN OF WARE

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

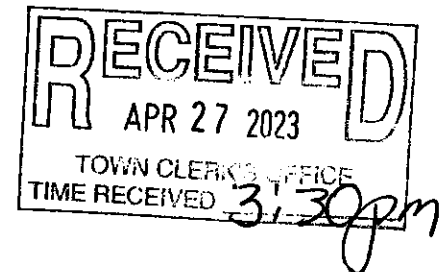
PLANNING BOARD

MEETING AGENDA

Location: Board of Selectmen's Meeting Room
Town Hall, 126 Main Street, Ware, MA 01082
Date & Time: Thursday, May 4th, 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 April 20th, 2023
 - Public Hearings
 - 7:05pm: SP-2023-04 Greenwich Road Realty, LLC
Special Permit for annual renewal (SP-2023-04) of an approved earth removal operation under Section 4.8.5, of the Zoning Bylaw. Site Location: Greenwich Road, Ware MA 01082. Hampshire County Registry of Deeds, Book 14542, Page 232. Property is also identified as Assessor's Parcel # 35-12-1. Zoned: Rural Residential (RR).
 - 7:20pm: Battery Energy Storage Systems Public Hearing (Continued)
Proposed addition to the zoning bylaws regarding battery energy storage systems.
Recommendation for Town Meeting.
 - Old Business
 - New Business
 - Planning & Community Department Update



The next Planning Board meeting will be held May 18th, 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, April 20 2023

Selectboard Meeting Room

126 Main Street, Ware MA 01082

Planning Board Members in Attendance:

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

Staff Members in Attendance:

Stuart Beckley	Town Manager
Kristen	PCD Dept. Admin. Assistant
Jacobsen	
Anna	Building Commissioner/ Zoning
Marques	Enforcement Officer
Nancy Talbot	Town Clerk

Members of the Public in Attendance:

Jodi Chartier

PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:02pm and led the Pledge of Allegiance.

ADMINISTRATIVE

- Approval of minutes from April 6th, 2023

Motion by E. Murphy to approve the April 6, 2023, meeting minutes. **Seconded** by C. DiMarzio . **Discussion** None

R. Starodoj		Aye
E. Murphy		Aye
K. Crosby		Absent
C. DiMarzio		Aye
Three in favor. One Absent. Approved 3/0/1.		

New Business

Planning Board vacancy due to resignation

The Planning Board congratulated N. Talbot on her appointment to the Selectboard

R. Starodoj recommended the appointment of E. Hancock

S. Beckley suggested that a letter of recommendation be submitted to the Selectboard and asked if members could attend the May 2, 2023, Selectboard meeting. C. DiMarzio stated he may have a conflict that evening.

Public Hearing

7:05pm: Battery Energy Storage Systems Public Hearing (Continued)

- Proposed addition to the zoning bylaws regarding battery energy storage systems and recommendation for Town Meeting.
- The Planning Board continued the discussion regarding Battery Energy Storage Systems Public Hearing
- S. Beckley presented the board with information from the town attorney (included in meeting packet)
- The board discussed potential placement and water supply for fire suppression. The board questioned if the Battery Storage Systems are dangerous, would it be better if they were located away from industrial, commercial, and residential areas to lessen the potential impact on those areas in case of emergency. The board added that could lead to potentially massive storage facilities and that could be an issue.
- J. Chartier presented reports regarding an explosion at an AZ. Facility
- E. Hancock presented reports on the reuse of batteries.
- The board spoke about how some batteries may be safely refurbished and resold, while the batteries that cannot be refurbished are sent to TX for recycling.
- The board and S. Beckley discussed zoning districts and the possibility of restricting certain sizes to certain zones.
- The board and J. Chartier discusses the protection of public water supply.

- E. Hancock read from research documents
The board discussed marking the zoning allowance on the use table
- Marques discussed the information she had on the International Building Code

The board discussed proposed changes to the bylaw.

- Locations (MY, CI, I) allowed by Special Permit and Site Plan approval
- Tier 2 & 3 with solar to require Special Permit
- Must be able to be served by the public water system or a system approved by the Fire Department and Planning Board.
- Increase distance when abutting a residence
- 50' in Mill Yard

Motion by E. Murphy to continue the Public Hearing until the Planning Board meeting on May 4, 2023 at 7:05 pm. **Seconded** by C. DiMarzio . **Discussion** None

R. Starodoj		Aye
E. Murphy		Aye
K. Crosby		Absent
C. DiMarzio		Aye
Three in favor. One Absent. Approved 3/0/1.		

S **OLD BUSINESS**

- Appointment of PVPC Commission Member and alternate.

Motion by C. DiMarzio to postpone discussion until May 4, 2023 meeting. **Second** E. Murphy
Discussion None.

R. Starodoj		Aye
E. Murphy		Aye
K. Crosby		Absent
C. DiMarzio		Aye
Three in favor. One Absent. Approved 3/0/1.		

TOWN MANAGER UPDATE

The board thanked N. Talbot for her service

Motion made by C. DiMarzio to **ADJOURN at 8:04pm. Seconded** by E. Murphy **Discussion:**
none

R. Starodoj		Aye
E. Murphy		Aye
K. Crosby		Absent
C. DiMarzio		Aye
Three in favor. One Absent. Approved 3/0/1.		

NEXT PLANNING BOARD MEETING DATE:

Thursday, May 4, 2023 at 7:00pm.

Minutes from Thursday, April 20, 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 4/20/2023 and 4/27/2023

SP-2023-04

NOTICE is hereby given that the Ware Planning Board, acting as the Special Permit Granting Authority, will hold a Public Hearing on **THURSDAY, MAY 4, 2023 at 7:05 PM** on the application of Greenwich Road Realty, LLC, for a Special Permit for annual renewal (SP-2023-04) of an approved earth removal operation 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 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: Greenwich Road, Ware, MA. Said premises being further described in deeds recorded in the Hampshire County Registry of Deeds, Book 14542, Page 232. Property is also identified as Assessor's Parcel # 35-12-1. 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

Town of Ware
Planning &
Community Development

Planning Board &
Zoning Board of Appeals

Robert A. Watchilla
Director of Planning &
Community Development

Request for Extension of
Site Plan / Special Permit / Variance /
Definitive Subdivision

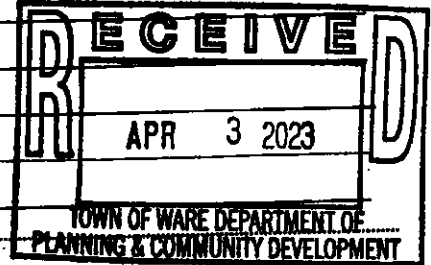


126 Main Street
Ware, MA 01082
413.967.9648 ext. 120
www.townofware.com

SP -2023 -04(Ext)

Applicant

Name of Applicant (primary contact): Greenwich Road Realty, LLC
Company: c/o Thomas R. Reidy, Esq. (413-256-6701)
Address: 6 South East Street, Amherst, MA 01002
Phone: 413-256-6701 Cell: _____
Email Address: treidy@baconwilson.com



Owner

Name of Owner: Greenwich Road Realty, LLC
Address: c/o Thomas R. Reidy, Esq., 6 South East Street Amherst, MA 01002
Phone: 413-256-6701 Cell: _____
Email: treidy@baconwilson.com

Proposal

The undersigned herewith resubmits the accompanying additional plan, materials, information, etc., relative to the previously filed Site Plan Application No. _____ and/or Special Permit Application No. SP-2022-03 and/or Variance Application No. _____ for property located on/at Greenwich Road (Assessor's Parcel 35-12-1) and decision recorded at the Hampshire Registry of Deeds, Deed Book 14542, Page 232, dated 05/04/22 and/or Plan Book _____, Page _____.

With this submission of this form, and any other materials requested by the Planning and Community Development Department, I am hereby requesting a 12 month extension, to commence work on said project as described in the original Decision.

Signature

Original Owner's Signature (Blue Ink Only): _____ as attorney for Applicant Date: 3 / 31 / 23
Mailing Address: 6 South East Street Town/State/Zip: Amherst, MA 01002
Phone Number: 413-256-6701 Email: treidy@baconwilson.com

Office Use only

Official Use Only: Date Received: 4/3/2023 Date of Public Hearing: 5/4/2023
Fee: \$ 250.00 Check Dated: 4/3/2023 Check #: 6895
Check Name: Bacon Wilson, P.C.
Decision of Board: ☒ Approved ☐ Approved with Conditions ☐ Denied
Date of Decision: _____ Expiration Date: _____

Town Clerk's stamp:

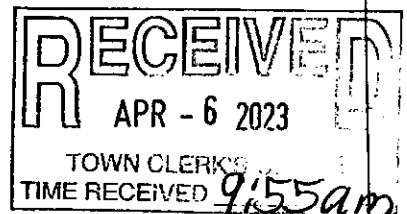


Table 1

Ware Pit Totals 2022						
Date	CY	Loads	Total			
1/6/2022	18	6	108			
1/6/2022	18	10	180			
1/10/2022	18	10	180			
3/23/2022	18	4	72			
3/24/2022	18	4	72			
3/24/2022	18	3	54			
3/29/2022	18	8	144			
6/4/2022	18	6	108			
6/25/2022	18	14	252			
6/25/2022	18	14	252			
		Total	1530			

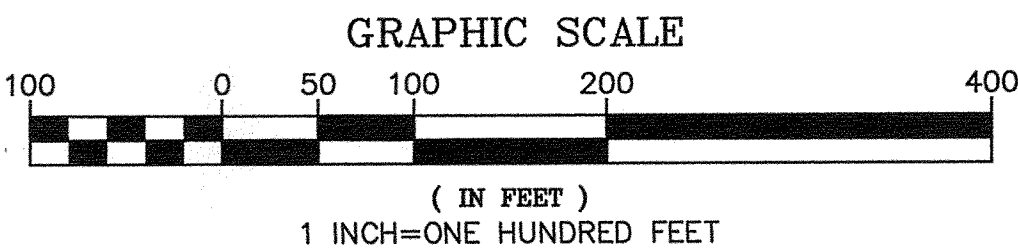
LEGEND & ABBREVIATIONS

- S.B. FD. STONE BOUND FOUND
- C.B. FD. CONCRETE BOUND FOUND
- R.R. SPK. FD. RAILROAD SPIKE FOUND
- I.P. FD. IRON PIN FOUND
- D.H. FD. DRILL HOLE
- G.B. FD. FOUND GUN BARREL
- G.B. FD. FOUND SANITARY MANHOLE
- ⊙ DRAIN MANHOLE
- CB CATCH BASIN
- HYDRANT
- FLOW DIRECTION
- U.P. UTILITY POLE
- GUY
- M.W.#4 MONITORING WELL
- TP-01 TEST HOLE LOCATION
- 1230 SIGN
- TREE STUMP
- TREE LINE
- LOW WORK LIMIT LINE
- 400 EXISTING CONTOURS
- 100 PROPOSED CONTOUR
- GROUNDWATER CONTOURS

- H.M.A. HOT MIX ASPHALT
- BIT. CONC. BITUMINOUS CONCRETE
- C.M.P. CORRUGATED METAL PIPE
- CONC. CONCRETE



- NOTES:
- LOCATIONS OF UTILITIES SHOWN HEREON ARE THE RESULT OF SURFACE EVIDENCE AS LOCATED BY FIELD SURVEY, PLANS OF RECORD, AND OTHER AVAILABLE SOURCES. THIS PLAN DOES NOT NECESSARILY DEPICT THE EXACT LOCATIONS OF ALL UTILITIES WHICH MAY EXIST AT THIS TIME WITHIN THE PREMISES SURVEYED.
 - THE CONTRACTOR SHOULD VERIFY THE EXISTING CONDITIONS TO HIS SATISFACTION PRIOR TO BEGINNING ANY EXCAVATION. "DIG SAFE" SHALL BE NOTIFIED AT LEAST 72 HOURS PRIOR TO BEGINNING ANY WORK.

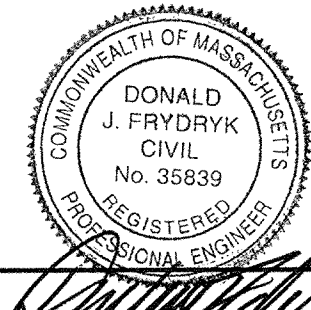


NO.	DATE	BY	REVISIONS

SHERMAN & FRYDRYK, LLC
Land Surveying and Engineering
3 Converse Street, Suite 203
Palmer, MA 01069



DESIGN: KTT
DRAFTING: KTT
CHECKED: DJF
APPROVED: DJF



SCALE:
HORZ: 1"=100'
VERT: N/A
DATE: 12/8/17

PROJECT OVERVIEW

GREENWICH REALTY TRUST
EARTH REMOVAL PERMIT PLAN
PARCEL 35-12-1, GREENWICH ROAD
WARE, MA

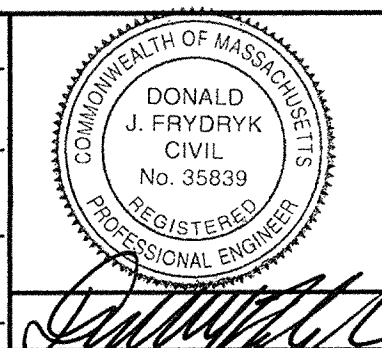
PROJECT NUMBER
17126
SHEET NUMBER
1 OF 2



NO.	DATE	BY	REVISIONS

SHERMAN & FRYDRYK, LLC
Land Surveying and Engineering
3 Converse Street, Suite 203
Palmer, MA 01069

DESIGN: KTT
DRAFTING: KTT
CHECKED: DJF
APPROVED: DJF



SCALE:
HORZ: 1"=50'
VERT: N/A
DATE: 12/8/17

EARTH REMOVAL PLAN

GREENWICH REALTY TRUST
EARTH REMOVAL PERMIT PLAN
PARCEL 35-12-1, GREENWICH ROAD
WARE, MA

PROJECT NUMBER
17126
SHEET NUMBER
2 OF 2

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, protection of the Town and private drinking water supply, minimize impacts on scenic, natural and historic ~~resources~~ 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 sub-stations.
- 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), Millyard (MY) and Industrial (I) Districts, and shall require a Special Permit and Site Plan Review from the Planning Board. Battery Energy Storage Systems not associated with on-site solar generation are prohibited in the Aquifer Protection Overlay District.

- 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.~~

Commented [JGM1]: This definition does not match the definition proposed for Section 2.2. I recommend either:

A) Simply referencing the definition of BESS proposed in Section 2.2; or

B) Making sure the definition here and in Section 2.2 are the same.

Commented [JGM2]: Already stated above in Section C.3 above. If you would prefer to have the prohibition as a subsection under Section C.3, I recommend deleting the sentence from the paragraph above.

- ~~iv~~-iii. 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.

Commented [JGM3]: The above Section C.2 and C.3 already requires a special permit and site plan review for co-located BESS, and non-associated BESS, regardless of Tier.

In addition, why are only Tier 2 and Tier 3 called out here, and not Tier 1?

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 condition~~existing condition 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 (8) inches by ~~ten~~ (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~~;~~ and
 - 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~~Bylaw, 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 fifty (50) foot setback from the front, side, and rear property lines and shall adhere to a one hundred fifty (150) foot setback from any residential buildings. . 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) Fire protection. Battery Energy Storage Systems not co-located with solar photovoltaic installations shall be located on properties serviced by the public water system or by a water supply acceptable to the Planning Board and Ware Fire Department.
- f) 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.
- g) 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 [WR4]: Should this only be a decommissioning bond? Maybe mimic what we have for solar?

Commented [JGM5R4]: The Town is free to choose what types of surety it accepts for decommissioning. If the Town wishes to accept a bond here to be consistent with the solar decommissioning bond requirements, that would be reasonable.

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.
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.

Commented [WR6]: Again, should this just be a bond?

Commented [JGM7R6]: See comment above.

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 [WR8]: Should it be just a bond?

Commented [JGM9R8]: See comment above.

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.

Add to Section 4.9.2 Aquifer Protection Overlay District

2. Prohibited Uses:

- a) disposal of leachable wastes with the exception of subsurface waste disposal systems approved through Title V;
- b) Battery Energy Storage Systems per section 4.8.9

Ware Zoning Bylaw Approved at Town Meeting May 23, 2022						Proposed Changes are highlighted Pending Attorney General Approval					
§ 4.2 Use Table						Mixed ¹			Commercial/Industrial		
	RQ	RR	SR	BLR	DTR	RB	DTC	MY	HC	CI	I
A Residential Uses											
1 Single Family	SP	Y	Y	Y	Y	Y	Y	Y	Y	N	N
2 Two-Family	N	SP	Y	N	Y	SP	Y	Y	SP	N	N
3 Multi-Family	N	N	SP	N	Y	N	Y	Y	Y	N	N
4 Mobile Home Park	N	SP	N	N	N	N	N	N	N	N	N
5 Flexible Resid. Open Space Development (see § 4.8.1)	N	Y	Y	N	Y	Y	N	N	N	N	N
B Public & Civic Uses²											
1 Private Nonprofit Library or Museum	N	SP	SP	SP	SP	Y	Y	Y	Y	Y	N
2 Government Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3 Community Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
4 Recreation, publicly owned lands	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5 Family Daycare Home	N	Y	Y	Y	Y	Y	SP	N	N	N	N
6 Large Family Daycare Home	N	SP	SP	SP	SP	SP	SP	N	N	N	N
7 Adult Daycare Center	N	N	SP	N	SP	SP	Y	Y	Y	N	N
8 Nursing or Convalescent Home	N	SP	SP	N	SP	SP	SP	SP	SP	N	N
9 Hospital	N	N	SP	N	N	N	SP	SP	SP	N	N
10 Cemetery	N	SP	SP	N	SP	SP	N	N	SP	N	N
11 Utility, Minor	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12 Utility, Major	N	SP	SP	N	SP	SP	SP	SP	SP	SP	Y
13 Large Ground Mounted Solar Facility (see § 4.8.3)	SP	SP	N	N	N	SP	N	N	Y	Y	Y
14 Wind Energy Facility (see § 4.8.4)	SP	SP	N	N	N	N	N	N	N	N	N
15 Wireless Communication Facilities (see § 4.8.2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
16 Battery Energy Storage System (stand alone)	N	N	N	N	N	N	N	SP	N	SP	SP
17 Battery Energy Storage System associated with large solar facility	SP	SP	N	N	N	SP	N	N	SP	SP	SP
C Agricultural Uses³											
1 Farm at least 5 acres in size ³	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2 Farm less than 5 acres in size ³	Y	Y	SP	N	SP	Y	N	SP	Y	N	Y
3 Commercial Greenhouse	N	SP	SP	N	SP	Y	N	Y	Y	Y	Y
4 Smokehouses	N	SP	SP	N	SP	N	N	N	SP	N	Y
5 Equestrian Stable	N	Y	SP	N	SP	Y	N	N	Y	N	N
D Office and Research Uses²											
1 Business, Finance, or Other Professional Offices	N	N	SP	N	SP	Y	Y	Y	Y	Y	Y
2 Office or clinic for health services	N	N	SP	N	SP	Y	Y	Y	Y	N	N
3 Trade, Professional, or Other School (Private, for Profit)	N	N	N	N	N	Y	Y	Y	Y	N	N
4 Laboratory	N	N	SP	N	N	SP	SP	Y	Y	Y	Y
5 Research Facility	N	N	SP	N	N	SP	SP	SP	SP	SP	SP
6 Radio or Television Studio	N	N	N	N	N	Y	Y	Y	Y	Y	N
E Retail Business & Consumer Service Uses²											
1 Adult entertainment establishment (See § 4.8.6)	N	N	N	N	N	N	N	N	N	N	SP
2 Auto Body Shop	N	N	N	N	N	Y	SP	N	Y	Y	SP
3 Auto Fuel Station (with or without convenience store)	N	N	N	N	N	Y	N	N	Y	Y	Y
4 Auto Service	N	N	N	N	N	Y	SP	SP	Y	Y	Y
5 Banks	N	N	N	N	N	Y	Y	Y	Y	Y	N
6 Campground	N	Y	N	N	N	N	N	N	Y	N	N
7 Car Wash	N	N	N	N	N	Y	N	N	Y	Y	Y
8 Construction Trades	N	SP	N	N	N	Y	N	SP	Y	Y	Y
9 Eating establishment, drive-in/drive-thru	N	SP	N	N	N	SP	N	N	Y	Y	N
10 Eating establishment, high turnover	N	N	N	N	SP	Y	Y	Y	Y	Y	N
11 Eating establishment, low turnover	N	SP	N	N	SP	Y	Y	Y	Y	Y	N
12 Eating establishment, specializing in serving alcohol	N	N	N	N	N	SP	SP	SP	SP	Y	N
13 Microbrewery (See § 2.2)	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
14 Craft Distillery	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
15 Winery ⁴	N	SP	SP	N	N	SP	SP	SP	SP	SP	N
16 Funeral home, mortuary, or undertaking establishment	N	N	SP	N	SP	Y	N	N	Y	N	N
17 Hotel	N	N	N	N	N	SP	SP	SP	Y	N	N
18 Indoor entertainment or recreation facility ⁴	N	N	N	N	N	Y	Y	Y	Y	Y	N
19 Inn, Bed & Breakfast, Tourist House	N	SP	SP	SP	SP	Y	Y	SP	Y	N	N
20 Kennels, pet day care establishments	N	SP	N	N	N	SP	N	N	Y	Y	N
21 Motor Vehicle Sales	N	N	N	N	N	Y	N	N	Y	N	N
22 Non-Family Accommodations	N	SP	SP	N	N	SP	SP	SP	Y	N	N
23 Outdoor recreation facility ⁵	N	Y	SP	SP	N	Y	N	SP	Y	Y	N
24 Parking facilities	N	N	N	SP	N	N	Y	Y	Y	Y	N
25 Personal Service ⁶	N	N	SP	N	SP	Y	Y	Y	Y	Y	N
26 Private membership club or lodge	N	Y	SP	SP	SP	Y	Y	Y	Y	N	N
27 Recycling Center, Composting Facility	N	N	N	N	N	N	N	SP	SP	SP	SP
28 Retail sales & service, Large scale ⁷ w/outside storage	N	N	N	N	N	N	N	N	Y	Y	N
29 Retail sales & service, Large scale ⁸ w/no outside storage	N	N	N	N	N	N	SP	SP	Y	Y	N
30 Retail sales & service, small scale ⁹ w/outside storage	N	N	N	N	N	Y	N	SP	Y	Y	Y
31 Retail sales & service, small scale ¹⁰ w/no outside storage	N	SP	SP	N	SP	Y	Y	Y	Y	Y	Y
32 Sales of agricultural or horticultural products and associated supplies, partly or wholly outdoors, not associated with an agricultural use (category C above)	N	SP	N	N	N	Y	SP	Y	Y	Y	N
33 Self-service storage facility	N	N	N	N	N	Y	N	Y	Y	Y	Y
34 Taxicab Business	N	N	N	N	N	SP	SP	Y	Y	Y	Y
35 Tow Service	N	N	N	N	N	SP	N	N	SP	SP	SP
36 Veterinary or pet grooming establishment	N	SP	SP	N	SP	SP	Y	Y	Y	Y	N
F Industrial Uses²											
1 Auto Salvage	N	N	N	N	N	N	N	N	N	N	SP
2 Aviation field	N	SP	N	N	N	N	N	N	N	SP	SP
3 Earth Removal (see § 4.8.5)	N	SP	N	N	N	N	N	N	N	SP	SP
4 Earth Processing (see § 4.3.2.7)	N	N	N	N	N	N	N	N	SP	SP	SP
5 Freight or trucking terminal	N	N	N	N	N	N	N	N	N	SP	Y
6 Industry, Heavy ¹¹	N	N	N	N	N	N	N	N	N	SP	SP
7 Industry, Light ¹²	N	N	N	N	N	SP	N	SP	SP	Y	Y
8 Solid Waste Disposal Facilities ¹³	N	N	N	N	N	N	N	N	N	SP	SP
9 Tank Farm	N	N	N	N	N	N	N	N	N	SP	SP
10 Warehouse	N	N	N	N	N	SP	N	Y	N	Y	Y
11 Wholesale	N	N	N	N	N	SP	SP	Y	SP	Y	Y
12 Wood processing, lumber mill	N	SP	N	N	N	SP	N	N	SP	SP	Y
G Marijuana (Cannabis)¹⁴											
1 Marijuana Cultivation Facility	N	SP	N	N	N	N	N	SP	N	SP	SP
2 Medical, Recreation or Hybrid Marijuana Sales	N	N	N	N	N	N	SP	SP	SP	N	N
3 Marijuana Delivery	N	N	N	N	N	N	SP	SP	SP	N	N

Footnotes:

1. In a Mixed Use district, one parcel can have more than one principal use. See § 4.1.1.E.

3. See also § 7.6.4 for limitations of a proposed project with respect to site plan review.

3. Definition of farm includes the use of land for agriculture, horticulture, silviculture, aquaculture, or related uses. See § 2.2.

4. If on a parcel of 5 acres or greater, this use is exempt from Zoning but must comply with the dimensional requirements in Article 5.

5. This excludes farm-ventures or wineries that grow and use grapes on site.

6. Indoor entertainment or recreation facility examples: bowling alley, arcade, roller rink, tennis courts, swimming, theater, etc.

7. Outdoor recreation facility examples: ~~amusement park~~, country club, golf course, tennis courts, etc.

8. Personal service examples: hair salon, barber, tanning salon, massage therapist, nail salon, tattoo, shoe repair, etc.

9. Large scale retail sales and service examples: "big box" stores, full service grocery stores, shopping centers, etc.

10. Small scale retail sales and service examples: gift shops, clothing stores, small specialty stores, convenience stores (without fuel sales), etc.

11. Specific uses listed in the Table of Uses that could also be categorized as heavy industry shall be regulated under the specific uses.

12. Specific uses listed in the Table of Uses that could also be categorized as light industry shall be regulated under the specific uses.

13. As defined in MGL c. 111 § 150A.

14. Per Article 4.7.1 Any use not specifically or generically listed in § 4.2, Use Table, or not otherwise permitted in a district shall be deemed as prohibited. See also § 7.5.1.

15. Subject to MGL Chapter 40A and 105 CMR 725.000, Registered and Off-site Medical Marijuana Dispensaries; and 935 CMR 800.00.

Commented [JGM1]: As previously discussed, please be aware that the Courts and the Attorney General have taken the position that G.L. c. 40A, s. 3, restricts a Town from prohibiting *solar* in entire zoning districts. Furthermore, battery storage use associated with solar may be subject to the same protection.

I raise this issue because BESS associated with solar is prohibited in some portion of the zoning districts. While, in my opinion, this amendment does not prohibit solar-associated BESS throughout an entire district, please be aware that this is an open issue of law, and the Attorney General may have further questions regarding this provision.