



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Zoning Board of Appeals / Planning Board

Joint Meeting

Meeting Minutes from

June 1, 2022

Select Board Room, Town Hall

Zoning Board Members Present: Lewis Iadarola, Chairman (remote)
Jodi Chartier, Vice Chairwoman
Chuck Dowd
David Skoczylas, Alternate

Zoning Board Members Absent: Greg Eaton
Phil Hamel
George Staiti, Alternate

Staff Present: Rob Watchilla, PCD Department Director
Stuart Beckley, Town Manager (remote)
Laura White, PCD Dept. Admin. Assistant (remote)

Public in Attendance: Jonathan Murray, Town Counsel

PLEDGE OF ALLEGIANCE

Chairman L. Iadarola called the meeting to order at 7:02pm and, at the Chairman's request, C. Dowd led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of minutes from joint meeting with the Planning Board Thursday, February 10th, 2022.

Motion made by J. Chartier to approve minutes from February 10th, 2022. Seconded by C. Dowd.

L. Iadarola	Aye
J. Chartier	Aye
C. Dowd	Aye
G. Eaton	Absent
P. Hamel	Absent
D. Skoczylas	Aye, Alternate
G. Staiti	Absent, Alternate

All in favor. Approved 4/0/2.

Approval of minutes from joint meeting with the Planning Board Thursday, February 24th, 2022.

Motion made by C. Dowd to approve minutes from February 24th, 2022. Seconded by J. Chartier.

L. Iadarola	Aye
J. Chartier	Aye
C. Dowd	Aye
G. Eaton	Absent
P. Hamel	Absent
D. Skoczylas	Aye, Alternate
G. Staiti	Absent, Alternate

All in favor. Approved 4/0/2.

OLD BUSINESS

Large Scale Battery Storage Discussion

R. Watchilla informed the Board there are not many federal or state guidelines regarding large scale battery storage facilities. He stated there is a utility scale battery storage facility in Sterling, connected to the Town's electrical grid, acting as a generator for the police and fire stations in the event of a power outage.

J. Chartier asked if Sterling has anything in their bylaws regarding large scale battery storage and if the Town of Ware could look into any information Sterling may have regarding this topic.

R. Watchilla stated he would look into it more over the next several weeks, and added Pioneer Valley Planning Commission (PVPC) applied for a Planning Assistance Grant to help create draft zoning bylaw language and allow other local towns to collaborate on this.

J. Chartier stated concerns about the lack of federal and state guidelines and emphasized the importance of doing research before any decisions can be made.

J. Murray informed the Board he is working with the Town of Oakham on their zoning bylaw and knows of a few other towns that are in the process of creating similar bylaws. He stated he will consult with his colleagues, who are doing similar work, and contact R. Watchilla with more information.

L. Iadarola requested J. Chartier follow up with R. Watchilla and J. Murray.

NEW BUSINESS

Discussion with J. Murray from Town Counsel

J. Murray informed the Board a "pre-existing nonconforming protection" is a use or structure which complies with zoning, but is rendered non-conforming as a result of a subsequent zoning amendment. These uses are given special protections as they existed prior to the zoning amendment. He stated this used to be referred to as "Grandfathering." However, due to racist origins, the term is no longer used.

L. Iadarola asked about uses that are not listed in the Town bylaw and if those uses are considered pre-existing nonconforming uses.

J. Murray stated there is a difference between pre-existing nonconforming uses and lawfully pre-existing nonconforming uses. The protections only apply to pre-existing nonconforming uses, if they were specifically allowed at one point, and are no longer allowed due to a zoning amendment. If a use was not allowed and was later allowed, but not in that particular zoning district, the zoning amendment does not make it lawful. If a use predates zoning bylaws in a Town, it would be lawfully allowed.

L. Iadarola asked, if a use was not protected as a legally pre-existing nonconformity, and a new zoning amendment allowed it, with restrictions, would the use be required to comply with the new restrictions.

J. Murray confirmed that, in general, the use would be required to comply with the new restrictions.

J. Murray stated one and two-family residential uses are entitled to extra protections due to the Zoning Act.

L. Iadarola asked if the Board is limited to size, shape, and topography for appeals.

J. Murray stated size, shape, and topography only apply to variances. The Board is not limited to only these criteria when making determinations on appeals.

L. Iadarola asked if the Board is able to apply additional criteria for variances.

J. Murray stated the Board is not able to apply additional criteria, however, the Board is able to impose reasonable conditions to variances, and no one is entitled to a variance.

L. Iadarola asked about the 6-10 year statute of limitations on nonconformities and how that applies to Board decisions.

J. Murray stated this depends on when and if a permit has been issued to the use. If no permit was issued, the applicant must submit any proof when their use was established. He added that the statute was passed to ensure towns address zoning issues within a reasonable time period.

L. Iadarola asked if licensing authorities are able to issue licenses in zones where they are not allowed.

J. Murray stated licensing authorities may issue licenses in zones where they are not allowed, however, the applicant must comply with all laws, and obtain all permits.

J. Chartier asked about the laws for allowing a subdivision on a nonconforming lot.

J. Murray stated subdivisions and zoning are two different things. The Planning Board's decision to approve a subdivision does not make a determination on pre-existing nonconforming status or zoning compliance. The applicant must still comply with zoning.

J. Chartier asked about what rights a Board member has as an abutter to a property that comes before the Board.

J. Murray stated the Board member needs to recuse themselves with a statement before any deliberation can take place regarding the property. The Board member still has the right to remain in the room and can listen to any discussion that takes place after they recuse themselves.

J. Chartier asked if the Board member would be allowed to ask questions or state facts during the hearing.

J. Murray stated, once the Board member is recused, they are only allowed to listen, not participate in the deliberation. They may still ask questions, but should be careful not to participate in the same way they would as a member of the Board.

ADJOURN

Motion made by J. Chartier to adjourn at 8:19pm. Seconded by D. Skoczylas.

- L. Iadarola Aye
- J. Chartier Aye
- C. Dowd Aye
- G. Eaton Absent
- P. Hamel Absent
- D. Skoczylas Aye, Alternate
- G. Staiti Absent, Alternate

All in favor. Approved 4/0/2.

Minutes from June 1, 2022
Respectfully submitted by,

Laura White
Administrative Assistant
Planning & Community Development

Minutes Approved on: 8/24/2022

Iadarola	<i>[Signature]</i>
Chartier	<i>[Signature]</i>
Hamel	<i>[Signature]</i>
Dowd	<i>[Signature]</i>
Eaton	<i>[Signature]</i>
Skoczylas	<i>[Signature]</i>