



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 186 / f. 413.967.9642

Planning Board

Meeting Minutes from

Thursday, July 16, 2020

Select Board Room, Town Hall

Planning Board Members Present:

Rick Starodoj (Chairman), Josh Kusnierz, Ed Murphy III, Joseph Knight, and Ken Crosby

Staff Present:

Rebekah DeCoursey, Director; Jack Carolan, Assistant; Anna Marques, Building Inspector; Stuart Beckley, Town Manager

Public in Attendance:

Elizabeth Hancock, Keith Kruckas, Tom Barnes, Karen Hubacz Kiley, Dale Kiley, Don Frydryk.

PLEDGE OF ALLEGIANCE

Vice chairman J. Kusnierz called the meeting to order at and the Board led the Pledge of Allegiance.

ADMINISTRATIVE

Motion by J. Knight to approve J. Kusnierz as PVPC delegate and J. Knight as the alternate. Seconded by E. Murphy. All in favor. Approved 3-0

Approval of Minutes

Motion by J. Knight to approve the meeting minutes from 7/2/2020. Seconded by E. Murphy. All in favor. Approved 3-0

Public Hearing: Rules and Regulations of the Planning Board. A public hearing to consider adoption of Rules and Regulations of the Planning Board.

J. Knight read the legal notice.

R. DeCoursey explained that it was recommended by counsel the Board adopt Rules and Regulations. The Board had previously been presented with the draft, and discussed the changes in language regarding accounting practices. T. Barnes asked a question regarding if a cash bond stays with the project even if the owner changes – which was confirmed. J. Knight asked if there were any other major changes to the Rules and Regulations that the board should be aware of. R. DeCoursey stated there is some changes to language on the

first page as suggested by the Chairman and the section on the last page addressing how the Town will handle a cash deposit of a bond.

K. Crosby joined the meeting at 7:10 pm.

Motion by E. Murphy to close the public hearing and adopt the Rules and Regulations of the Planning Board as presented. Seconded by J. Knight. All in favor. Approved 4-0

Public Hearing: Fee Schedule. A public hearing to consider proposed changes to increase ANR fee and Large Scale Solar Facilities fee.

J. Knight read the legal notice out loud.

E. Murphy asked if the proposed fee changes were in line with surrounding communities. R. DeCoursey stated that there are similar fees for solar facilities and J. Carolan added that Littleton and Stow were two towns that the department found to have similar solar facility fees as to what Ware is proposing. Littleton charges \$2000 for a special permit for large scale solar facilities while Stow charges \$2500. Ware is proposing a \$2000 fee. Ware is also proposing a change to the ANR fee by requiring an additional \$25 fee per lot on top of the flat \$50 fee.

J. Kusnierz proposed closing the public hearing

Motion by E. Murphy to approve the changes to the fee schedule. Seconded by J. Knight. All in favor. Approved 4-0.

R. DeCoursey noted that those changes go into effect immediately, including the Rules and Regulations of the Planning Board.

OLD BUSINESS

R. DeCoursey stated that there are questions regarding the utility scale solar submission. She also stated that because there is not a current open public hearing that the discussion should not go into details of the project.

K. Kruckas asked if an applicant should be allowed to sit on an application for a large scale solar facility without having all of their easement signoffs.

There was a general discussion regarding the process of submitting incomplete applications and whether or not this creates a waste of time and money for the Planning Department to work on projects that may never come to fruition. R. DeCoursey stated that there is nothing preventing the town for accepting incomplete applications. T. Barnes asked if there was any way to have a process where there could be a "back up buyer" in the case of someone submitting an application after one has already been submitted to the town.

J. Knight asked the question if ownership of a solar project were to change hands during the permitting process, would the \$2000 fee be charged again to the new owner. R. DeCoursey stated that that scenario is highly unlikely. She went on to summarize how solar companies tend to operate noting that some companies simply find the land and go through the permitting process then they sell the project to the actual solar developer. Other companies find, permit, and construct the whole project themselves.

NEW BUSINESS

Kulas Farm – Babcock Tavern Road. Discussion of earth removal (J. Knight recused himself from this discussion and joined the audience).

R. DeCoursey introduced the topic by discussing the meeting from October 2, 2019 in which the building inspector A. Marques had issued a cease and desist order regarding earth removal. There was then a site visit by the board on October 19, 2019. At the site visit it was discussed that if the project were to go ahead with Phase 3 they would need to come before the board either for an agricultural exemption or a special permit for earth removal.

J. Knight was present representing the farm. D. Frydryk was present as the surveyor who drew the plans for the Kulas Farm project. D. Kiley was also present as the corporate council for Bond Construction.

D. Kiley stated that they are requesting an extension of finding that it is exempt as an agricultural use for phase 3 of the project. He referenced what is known as the "Henry Test" for determining whether or not earth removal on agricultural land is an incidental use. Intensity, duration, and profit are all factors considered when determining whether or not a use is incidental to the primary use. In the case of Kulas Farm, the argument is that not all of the potential gravel is being removed and sold but only the necessary amount of gravel to allow for a new field to be created.

J. Kusnierz asked if there was an estimate of the total cubic yards to be removed in Phase 3. D. Frydryk presented the site plan for Phase 3. He stated that they have calculated that they will be removing approximately 190,000 cubic yards of material. K. Crosby asked several questions regarding the grade of the site as well as the soil composition.

K. Kruckas made the accusation that the farm will be making more money off of the earth removal than it will from selling corn and hay. J. Knight argued against that stating that the ultimate goal of the project is to create more farmland. D. Kiley noted that only the actual profit gained by the land owner can be considered when it comes to the board determining the amount of money being made from the earth removal.

E. Hancock answered the question regarding the amount of earth that was removed during the other 2 projects in town. She stated that during the Klassanos project 6,000 to 8,000 cubic yards were removed and during the Campbell project no earth was ever actually

removed from the property. E. Hancock also raised issue with the fact that J. Knight's mother's property is also part of the project and believes her property should be considered as a separate parcel from the Kulas Farm project.

J. Knight expressed his point that at the end of the day all he is trying to do is make a hay field to enhance the viability of the farm and that he is not seeking to establish an earth removal business. J. Kusnierz asked if there was a current timeline for earth removal under the agricultural exemption or of one could be imposed. T. Barnes asked whether or not that would be a tree buffer and J. Knight answered by stating that existing trees would be kept in place to act as a buffer.

R. Starodoj joined the meeting at 8:20 pm

R. DeCoursey stated that between Phases 1 and 2 roughly 85,000 cubic yards of earth were removed from the Kulas Farm property.

J. Kusnierz asked E. Hancock how she would feel if the special permit for earth removal is granted and the number of trucks going in and out for earth removal increases. E. Hancock stated that she prefers the special permit to the agricultural exemption because it provides more accountability. E. Hancock also expressed her frustrations with how the project keeps evolving and the timeline extended. She also raised concerns over the water table and her well on her property. R. DeCoursey addressed E. Hancock's concerns by stating that if a special permit was granted they would be eligible for a yearly extension which does not solve the issue regarding a timeline. E. Hancock responded by saying at least she would have the opportunity to address her concerns during the extension request.

E. Hancock continued to air her grievances by reading off a number of past quotes made by R. Starodoj regarding earth removal and the Kulas Farm project dating back to 2010. An issue was raised by K. Kruckas as to why the town would disregard the town counsel's opinion from 2010. D. Kiley interjected to state that town council is only responsible for providing fact based information and that it is up to the planning board to make the decision regarding granting an exemption or special permit.

J. Kusnierz proposed to end the discussion regarding Kulas Farm.

TOWN PLANNER UPDATE

Food bank distribution at Greenville will occur Tuesday, July 21, 2020 at 1 pm.

ADJOURN

Motion by R. Starodoj to adjourn the meeting at 8:52 pm. Seconded by E. Murphy. All in favor. Approved 4-0

Minutes from July 16, 2020

Respectfully submitted by,
Jack Carolan- Department Assistant

Minutes Approved on:	<u>7/16/20</u>
Starodaj	<u>[Signature]</u>
Kusnierz	<u>[Signature]</u>
Knight	<u>_____</u>
Murphy	<u>[Signature]</u>
Crosby	<u>[Signature]</u>