



# TOWN OF WARE

## Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

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## Planning Board

Meeting Minutes from

**Wednesday, July 17, 2019**

Select Board Room, Town Hall

### Planning Board Members Present:

Rick Starodoj (Chairman), Edward Murphy, Fred Urban and Jennifer Muche (Alternate)

### Planning Board Members Absent:

Josh Kusnierz and Joe Knight

### Staff Present:

Rebekah DeCoursey, Director of Planning & Community Development and Nicole Croteau, Assistant to the Director, and Anna Marques, Building Inspector

### Applicants in Attendance:

Steve Broyer, Ecos Energy and Atty. James Martin for Ecos Energy

### Public in Attendance:

Karen Brodeur, Diana Hervieux, Jaime Muche, Eileen Kennedy and Kathleen Cronin

Chairman R. Starodoj called the meeting to order at 7:00 pm and the Board said the Pledge of Allegiance.

### Administration

Meeting Minutes – Reviewed minutes from June 5, 13, 26, 2019.

F. Urban made a motion to approve the minutes as presented. All in Favor.

### Town Planner Updates (R. DeCoursey):

- Stated she met with Steve Broyer from Ecos Energy earlier today and the project has taken a 180-degree turn and seems to be on the right track for development now, much improvement has been made.
- The continuation for Melink Solar Development applications are to be heard at the July 31<sup>st</sup> meeting at 7:05 pm.
- Ware Palmer Road Solar (313 Palmer Road) is requesting a continuation as well at the July 31<sup>st</sup> meeting and scheduled at 7:00 pm.
- Solar Bylaws have begun to take shape and will follow up in August for further discussion.

7:05 pm – Public Hearing (continued) – Special Permit and Site Plan Approval. Ecos Energy, LLC for a Special Permit (SP-2018-04) and Site Plan Review (SPR-2018-06) for a large ground-mounted solar energy facility. The project is proposed on the property located on Monson Turnpike Road, also known as Yorkshire Estates an approved subdivision.

Chairman opened meeting and Atty. James Martin introduced Mr. Steve Broyer as a representative from Ecos Energy to the Board and audience.

S. Broyer stated he is a Professional Engineer (PE) in Minnesota but not in Massachusetts and has completed numerous projects in the surrounding states similar to this project. S. Broyer presented a slide show and the Board/audience had the following questions and comments:

Proposed ANR Plan – Chairman Starodoj asked why is Ecos keeping the approved subdivision roadway and not having only an access road.

S. Broyer stated that the footprint is smaller and would like to keep the frontages on the ANR lots.

Chairman asked why not eliminate the subdivision altogether because Ecos would be paying taxes on the roadway as well.

S. Broyer had no response.

Clearing & Stormwater – S. Broyer stated he likes to have construction completed in phases such as: clearing Section "A", add erosion control measures, seed and then proceed to Section B, rather than clearing the whole construction area all at once and proceeding with development.

Chairman asked how much time before moving onto next phase.

S. Broyer replied that seed germinates within 7 to 9 days typically.

Chairman asked how long into the season can you plant seed.

S. Broyer replied that since at least 6-inches of mulch is laid, then planting of grass can be late in the season.

Grading of Roadway – S. Broyer stated that there are no grades over 10% and the proposed roadway is 16-feet wide. On other projects solar panels are installed on slopes up to 16%. This site has similar conditions, but won't go as high as 16%.

Chairman had concerns about the wildlife entering the arrays. Stated there was a fence around the proposed arrays and now just a gate at the entrance.

S. Broyer stated that the NEC Code did not require fences around the arrays when the plans were submitted in 2018. Ecos was fencing the transformers and inverters, in the first plan. Due to the increase in voltage in the solar arrays, NEC now requires fencing around the entire project.

J. Muche stated that there appears to be a drainage design off of the property and on an abutters property.

S. Broyer stated this was an oversight and will be revised.

J. Muche ask about the lack of swales on the eastern side of the "Ava" solar array.

S. Broyer stated that the plans in his opinion are 60-70% complete but not 100%, although heading in the right direction. The next revision of plans will have the swales to collect the runoff and direct it into the detention basins.

Chairman stated the plans are headed in the right direction. The details will be worked out at different level, many of the initial issues of the Board are being addressed.

Atty. Martin stated that the big issues were regarding the stormwater and all parties can see improvements have been made to the plan.

Chairman stated that the Board knows they won't see 100% plans, but the plans look much better than from the June 5<sup>th</sup> public hearing.

J. Muche asked about re-grading the slope to what percentage.

S. Broyer stated 16% but aren't large cut and fill. 15.9-16.7% - smooth land vs rough change.

J. Muche asked if mulch can be made on site from the trees killed by the Gypsy Moth infestation.

S. Broyer stated yes, its free erosion control and trees still have hardwood within themselves even if exterior damage is visible. There are different types of mulch which can be made and for different purposes as well.

Chairman asked if mulch needs to be brought on site.

S. Broyer stated there is a site in VT which has a stockpile of mulch of approximately 55x16x20 feet and still needed to import some, so it is possible mulch will also be brought in.

K. Brodeur (97 Coffey Hill Road) asked the Board if the last meeting was recorded and it was confirmed the June 5<sup>th</sup> meeting was recorded by Ware TV. Ms. Brodeur expressed her concerns over a single Board Member stating at the June 5<sup>th</sup> public hearing that these meetings won't change this Board Member's decision, they will be voting the same. She feels that this is not fair to the citizens. If this Member has already made their mind up, feels it is unfair to the abutters and residents and what is best for the Town.

Chairman understands and hears the concerns in K. Brodeur's comments. He felt the tension and frustration in the prior meeting and felt this is where the comment was coming from.

K. Brodeur stated that is decision could "make or break" her in her hay business. She continued to express her frustration on this comment. Ms. Brodeur stated she does notice positive improvement on the plans although still not personally satisfied. Ms. Brodeur asked S. Broyer how will the drainage and swales protect her property from the proposed project drainage failure if it happens.

S. Broyer explained the drainage of the site near her property in detail. Mr. Broyer explained the State guidelines of drainage design and feels this project will not put Ms. Brodeur out of business. All stormwater will be kept on site.

J. Muche asked for clarification of the power lines installation.

S. Broyer stated the inner-connection to the nearest point will be open trench and then bore under wetlands.

Chairman referred to Sheet 3 of the site plans and stated that the slope of the site pitches into towards the site and not towards Ms. Brodeur's property (hay-field). There should be no way for water to enter onto Ms. Brodeur's property.

S. Broyer stated that the drainage design requires the runoff from proposed conditions must be equal to or less than existing conditions according to the regulations.

R. DeCoursey stated that Ecos Energy has agreed to pay McClure Engineering's peer review fee. Stated Mr. Broyer is addressing drainage and stormwater and wants the reassurance from the peer review that the drainage will comply with MassDEP and the site design.

K. Cronin asked Mr. Broyer what types of issues were at the Spencer site regarding drainage.

S. Broyer stated that the problem there was high water table. A 3<sup>rd</sup> party review recommended for the project a sub-drain. This subdrain caused water to leave the detention ponds very quickly, at high speeds. The problem was fixed by widening the swale and by extending the subdrain pipe. This is now Ecos standard in design criteria.

J. Muche asked if the Wildlife Corridor can be put back on the Table?

S. Broyer stated that the area is wetlands and can't be developed so why put a protection already on a protection, simply can't do anything anyways.

Chairman stated it's a protection within itself.

K. Cronin stated there were conditions previously drawn up and wanted to know if any were put back on the final decision list.

J. Muche read the conditions while comparing old to the new proposed conditions. General comments were made as follows: Below is the list of preliminary conditions that were on the previous decision and may be amended as follows (subject to final discussion/decision):

#### GENERAL

1. **KEEP** Developer will be held to all applicable state and local requirements

2. **KEEP** Prior to construction/building permit issuance, a final plan consistent with the plan (i.e. 16 lot proposal) presented to the Planning Board on October 17, 2018 outlining reconfiguration and consolidation into 16 lots will be submitted
3. **TO BE REMOVED** Prior to construction/building permit issuance, a public hearing will be held to rescind the 2007 subdivision
4. **TO BE REMOVED** Between the time of approval and decommissioning of the project, a plan will be submitted to:
  - a. Return the parcel to one single lot
  - b. Remove the Yorkshire Estates subdivision plan (Plan Book 215, Page 68)
5. **TO BE REMOVED** Prior to construction/building permit issuance, there will be a mutually-agreed upon Memorandum of Understanding between the applicant and the Town that permits granted are conditional on removing the Yorkshire Estates subdivision (Plan Book 215, Page 68)
6. **KEEP WITH REVISIONS** Prior to construction/building permit issuance, a delineated Conservation Restriction (CR) will be approved and recorded; said CR shall be comprised of approximately 20% of the entire parcel and CR will indicate that the top of the ridge shall remain a north/south wildlife corridor.  
**POSSIBLY KEEP UPON DECOMMISSIONING**
7. **KEEP** Prior to applying for a construction/building permit, the construction bond, in an amount agreed upon, shall be paid; proof to be submitted to the Planning Board
8. **KEEP** Prior to building, applicant shall meet with all applicable boards and commissions for a preconstruction meeting to determine current best practices
9. **KEEP** All third party inspections and reviews will be at the applicant's expense including during the construction phase, and for erosion and sedimentation controls
10. **KEEP** The Ware Planning Board reserves the right to conduct site visits during construction and upon completion of the project scheduled with the developer. The Planning Board reserves the right to modify the screening within reason, at the cost of the applicant
11. **KEEP WITH REVISIONS** During construction, at the cost of the applicant, a third party inspector shall submit twice-monthly reports to the Board; inspector shall go to site after significant storm events **ADD: SHALL COMPLY WITH ALL SWPPP**
12. **KEEP WITH REVISIONS** Any changes to the plans approved by this permit must be reviewed by the Director of Planning & Community Development (PCD), prior to implementation, to determine if they constitute a significant change to require modifying the existing Special Permit and additional public hearings
13. **KEEP** Town of Ware officials (Town Manager and Planning Board via the PCD Department) shall be notified by certified mail thirty (30) days prior to any change of ownership of the property, lease holder and/or plant operating company. Within thirty (30) days of such notice, or at a mutually-convenient time, the new party shall arrange to meet with the Planning Board to review the operating conditions of the Special Permit, or as soon as convenient to both parties
14. **KEEP** The Special Permit is not valid until 1.) recorded at the Hampshire District Registry of Deeds and 2.) a certified copy of the recording is provided to the PCD department. A complete copy of the final permit package, including a reduced size copy of the Site Plan, must be recorded with the permit
15. **KEEP** The Special Permit must be recorded at the Hampshire District Registry of Deeds within 30 days after the appeal period has ended, or 30 days after the decision on any appeal, or the permit shall become void
16. **KEEP WITH REVISIONS** All work must be completed within 1 year of the approval date by the Board or an extension request must be filed at least 30 days prior to the end of the 1 year period, with such extension approval not to be unreasonably withheld or delayed if the Applicant can demonstrate that such extension was required as a direct result of the timeline according to the Department of Energy Resources for the Solar Massachusetts Renewable Target (SMART) Program **REPLACE WITH: FROM DATE OF ALL APPROVALS WORK MUST COMMENCE WITHIN 2-YEARS.**

17. **KEEP** All applicable local, state, and federal permits and approvals must be in place prior to the start of construction and operations
18. **KEEP WITH REVISIONS** Applicant will comply with all laws, regulations and requirements of the Town of Ware, Commonwealth of Massachusetts, and the United States of America, the strictest of which shall prevail **ADD: COMPLY WITH ALL "LAWFUL" LAWS**

#### BONDS/SURETIES

19. **KEEP WITH REVISIONS** Construction and decommissioning bonds will be two separate bonds and amounts **CHANGE CONSTRUCTION TO PERFORMANCE**
20. **TO BE REMOVED** The construction bond was undetermined at this time.
21. **TO BE REMOVED** All surety bonds and other financial and legal documents will be immediately updated at the time of transfer to reflect the new ownership or operating interests
22. **TO BE REMOVED** Prior to commencing operation, a financial surety in the amount of one percent of the project construction costs (estimated to be between \$9,000,000-13,000,000) (as submitted on the building permit application) shall be provided as required in §4.8.3.H.5 of the Ware Zoning Bylaw
23. **TO BE REMOVED** Prior to the start of construction, a construction bond (amount undetermined at this time) shall be issued, with the property owner named as the beneficiary. The purpose of this bond is to ensure adequate financial resources to restore the project area to a stable condition should construction not be completed. Upon satisfactory completion of construction, the construction bond will be released. The decommissioning bond (amount undetermined at this time) must simultaneously replace it.
  - a. **KEEP** Satisfactory completion of construction shall be a project that has all major components in place, all site work completed and all construction permits (conservation, building, electrical, etc.) properly closed out or in compliance with all regulations and requirements
24. **UNDECIDED** The Planning Board acknowledges that the Ware Conservation Commission has requested a third party peer review. The Planning Board requests a copy of that review when it is available
25. **TO BE REMOVED** Ecos Energy, LLC must own the parcel before construction begins
26. **KEEP WITH REVISIONS** The Board understands that, per the applicant, National Grid will use "Hendrix Spacer Cables" for this project **REPHRASE: ADD "STRONGLY SUGGEST" OR "REQUESTS" HENDRIX SPACER CABLES.**
27. **UNDECIDED** No development or sale of any property on the plan will be sold prior to decommissioning of the project

#### SITE CONDITIONS

28. **KEEP** Top soil will not be left without sedimentation controls for a period of longer than thirty (30) days.
29. **TO BE REMOVED** Seeding will take place within 2 months of installation, or by a later date as approved by the Planning Board
30. **KEEP WITH REVISIONS** Hydro-seeding will include a tackifier in order to ensure that the seed media adheres to the soil particles; or, if hydro-seed is not used, straw bales (NOT hay), or other comparable, approved controls will be used and maintained as sedimentation controls **ADD "CONDITIONS PERMITTING" AFTER THE FIRST WORD**
31. **KEEP** No chemical herbicides or fungicides shall be used on site other than those approved by the Ware Conservation Commission; the Planning Board, via the Planning & Community Development Department staff, shall be copied on approved uses
32. **KEEP** The property owner shall be responsible for restoring the property to a stable condition should the solar lessee, construction entity, operator, or any other operator on the property, fail to complete the project
33. **KEEP** No continuously-on lights should be present. Motion detector lights at gate and equipment are permitted, provided they can be prevented from mis-cycling caused by wildlife
34. **KEEP WITH REVISIONS** All fencing, gates, etc. shall be a dark, earth tone color such as dark green, black, dark red, etc. **ADD 6-INCHES OFF GROUND-MINIMAL.**

35. **KEEP WITH REVISIONS** Glare impacting any abutters shall be mitigated by the applicant (or current operator) in cooperation with state and local officials **ADD TO THE EXTENT PRACTICABLE**
36. **TO BE REMOVED** All plantings are to be maintained for the life of the solar project
37. **UNDECIDED** Connection lines shall be installed underground via boring at southern part of property, away from abutters
38. **UNDECIDED** Any new poles to be installed will be at the discretion of National Grid
39. **KEEP WITH REVISIONS** There will be no soil removed **ADD "FROM SITE"**
40. **TO BE REMOVED** There will be no stumps removed
41. **UNDECIDED** The construction area lies adjacent to a water supply protection area and private wells. Therefore, all equipment refueling should occur as close to Monson Turnpike Road as possible. A spill kit including adsorbents must be present at the site at all times for all equipment
42. **UNDECIDED** No diesel fuel trailer to be used on site in order to avoid Spill Prevention, Control and Countermeasure (SPCC) Rule problems
43. **UNDECIDED** Operators must be trained to report and respond to fuel, lubricant, or other releases. A reportable spill is typically a release of 10 or more gallons of a material. Check the pertinent MassDEP reportable quantities list for applicable substances. When in doubt, contact the Ware Fire Department
44. **UNDECIDED** In no case shall the project operator allow the site to cause excessive runoff to create a dangerous condition along the roadway, outside of extraordinary storm conditions as evidenced by similar issues in the adjacent areas
45. **UNDECIDED** Applicant understands that the Ware Police Department will not police their unfenced project; that site security is solely in the applicant's care
46. **KEEP WITH REVISIONS** Other than the proposed area of construction, there will be no deforestation **ADD "OTHER THAN THROUGH AN APPROVED FORESTRY MANAGEMENT PLAN"**

#### HOURS OF OPERATION

47. **KEEP WITH REVISIONS** Hours of operation shall be 7:00 am to 7:00 pm Monday through Saturday, and 9:00 am to 5:00 pm on Sundays
48. **KEEP WITH REVISIONS** Hours of construction and maintenance operation shall be:

**Monday through Friday: 7:00 AM to 5:00 PM**

**Saturday 9:00 AM to 5:00 PM**

NO operations on Sunday; NO operation of machinery for warm up or maintenance outside of the above hours. NO construction operations to occur on New Year's Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day. Emergency repairs and maintenance, including snow plowing, may occur at any time.

**No. 47 & 48 ARE TO BE BLENDED INTO ONE CONDITION WITH THE WORD "MAINTENANCE OPERATION" TO BE REPLACED WITH "OPERATIONS" AND DELETE "NO OPERATIONS ON SUNDAY"**

R. DeCoursey stated the next court deadline is August 2, 2019. With the Board Members and Applicant's approval, an extension request can be submitted to the Judge to continue the public hearing until August 7, 2019. Both parties were in an agreement to ask for this extension.

J. Muche asked about changing hydraulic fluids onsite and what the procedures would be.

S. Broyer stated that once the equipment reaches a certain amount of fluid, then a SPCC needs to be prepared.

J. Muche expressed her concern about changing fluids onsite and near the wetlands.

S. Broyer stated there could possibly be a staging area for such maintenance and possibly have the area enclosed with berms to eliminate such spills.

Chairman stated that condition number 31 wasn't removed.

R. DeCoursey confirmed it will stay in the conditions.

S. Broyer stated there will be a fence line.

E. Murphy asked about the gap on the bottom of the fence.

S. Broyer stated that there will be no fence along the perimeter of the site and hopes to use sheep to maintain the grass height.

Chairman asked how does a 6x6 (fence) work.

S. Broyer stated it was more of a visual impact rather than a working one. The VT project sites has a 6x6 fence.

Chairman stated a 6-inch gap would be best for wildlife movement.

J. Muche expressed her concerns about turtles in the area, and that the 6-inch gap is necessary.

K. Brodeur wanted clarification on what type of seed mixture will be planted. She has concerns of seed mixes infiltrating her hayfields and contaminate her crop.

S. Broyer replied Fuscue and clover.

K. Cronin stated that the Fuscue is not environmental friendly.

The PCD Department will compile a seed mix suggestion appropriate for this project.

No further discussion.

**Motion:**

Motion by E. Murphy to continue the public hearing to August 7, 2019 at 7:15pm. Second by F. Urban. All in Favor. 4-0.

**Adjourn:**

Motion by E. Murphy to adjourn at 9:18 p.m., second F. Urban. Unanimous.




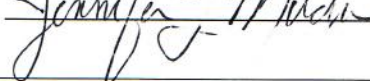

Next meeting is July 31, 2019 at 7:00 pm.

Minutes from July 17, 2019

Respectfully submitted by,

Nicole Croteau

Assistant to the Director

<b>Minutes Approved on:</b> 7/31/19	
Starodoj	
Kusnierz	
Urban	
Murphy	
Knight	
Muche	