



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, September 15, 2022

Board of Selectmen's Meeting Room, Town Hall

Planning Board Members in Attendance:

Rick Starodoj, Chairman
Ed Murphy, Vice-Chairman (Remote)
Kenneth Crosby (Remote)
Elizabeth Hancock, Alternate

Staff Members in Attendance:

Rob Watchilla, PCD Dept. Director
Kristen Jacobsen, PCD Dept. Admin

Members of the Public in Attendance:

Michael Parker, Attorney for Forty Pine LLC
Jeremy Chapman, Melink Solar Development (Remote)

PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:01pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of Minutes

Motion made by E. Murphy to approve of the minutes from Thursday, September 1, 2022.
Seconded by K. Crosby. There was no additional discussion.

R. Starodoj	Aye
E. Murphy	Aye
K. Crosby	Aye

All in favor. Approved 3/0/0.

ANR-2022-06 (Pine Street, Continued from 8/18/2022)

K. Crosby inquired where the access to the property was. Attorney M. Parker stated it was from an easement off route 9.

R. Watchilla asked what the reason was for redrawing the lot lines. Attorney M. Parker responded saying Gillespie Manufacturing would like to purchase the building and in order to do so they need a right of way to the property.

K. Crosby inquired about the amount of frontage needed to allow access to the property. R. Starodoj responded stating there was an existing roadway. K. Crosby continued by saying that it does not meet the current rules and regulations.

R. Starodoj stated that it does meet the requirements.

K. Crosby asked if altering the lot lines for properties that do not meet current zoning regulations would create an issue for the property owner in the future.

R. Watchilla stated that new parcels created in that district would require 200' of frontage. He went on to explain that K. Crosby was inquiring how much frontage the property would have.

Attorney M. Parker stated that because the property existed prior to 2013 there was no frontage requirement

K. Crosby asked for clarification, saying he understood the grandfathering however, if the lot lines were to change would that cause the property to lose its grandfathering.

R. Starodoj stated Ware Freight Yards and the old foundry have about 34' of frontage. K. Crosby responded, stating that was not a legal roadway under today's standards. R. Starodoj added that it doesn't matter by today's standards since it has been existing. K. Crosby asked that if it is changed would it need to be brought up to today's code. R. Starodoj responded that it would be physically impossible to do so. K. Crosby said he understood that but wondered if it was a ZBA issue. R. Starodoj and R. Watchilla stated it was not a ZBA issue.

R. Starodoj questioned if there was any way to split the 34' so that Ware Freight and 40 Pine, LLC each had 17' and if that may make more sense that way, they both have frontage. Attorney M. Parker stated he didn't know how that would be possible and that he'd rather give 40 Pine, LLC all the end of Pine Street. He then stated that the parcel requires no frontage whatsoever because of its location.

K. Crosby asked for clarification on how it could require no frontage. R. Starodoj answered that it is in the zoning bylaws in the dimensional tables for a parcel in that district. R. Watchilla went on to explain that if that parcel existed before 2013. K. Crosby asked about access to the parcel. R. Watchilla responded saying they rely on right of ways.

K. Crosby asked if they pass this would it create problems for the owner and what the attorney's opinion was. Attorney M. Parker responded by saying they are not trying to create a right of way over a 37' strip. What they are applying for is to have the 40 Pine parcel reduced in size by the parcel (under the word Mill Pond) they are also adding to that parcel a strip of unusable land. K. Crosby asked if they were removing the lot line. Attorney M. Parker replied that they are slicing off the parcel to the east of the 40 Pine property. K. Crosby asked if the parcel is sliced off how would they get access to the property. Attorney M. Parker stated the piece being sliced off is being added to the Ware Freight Yard parcel.

K. Crosby asked if by changing lot lines it becomes a zoning problem in places that it does not meet current zoning. Attorney M. Parker responded by stating there is no other way to interpret the zoning bylaw other than what they are doing. He continued by stating that the bylaw states that for all lots in existence prior to May 13, 2013, no frontage is required and that the lot would not lose its protections.

R. Watchilla responded stating that they are a grandfathered parcel, and they are taking steps to be in compliance as best they can so in this situation this is the best way, they can do it. Even though it does not

fully comply with what zoning states now they are technically a grandfathered use. In this situation it is impossible for them to have the frontage requirement.

R. Starodoj added that they were not making the situation worse. R. Watchilla agreed and stated it was bettering the situation.

K. Crosby asked if this was a concern for the ZBA. R. Starodoj replied it has nothing to do with the ZBA. R. Watchilla stated the ZBA only gets involved if they are proposing building something but, since they are purely looking at moving lot lines it was a concern of the Planning Boards.

K. Crosby stated that since they are changing lines on grandfathered parcels how would that not fall under current regulations. R. Starodoj responded by say because it would be impossible to meet those regulations.

K. Crosby asked that if because the parcel wasn't going to meet requirements if it should be a ZBA issue. R. Watchilla replied stating it was not a ZBA issue because they were not trying to build anything.

Attorney M. Parker stated this is a regulatory issue. The regulations allow this property to exist without any frontage. They are not relying on a grandfather status, they are saying the property is being permitted to exist by virtue of its status prior to May 13, 2013. R. Watchilla asked if they were technically creating a new lot line. Attorney M. Parker responded that there would certainly be a new lot line, but the regulation would be meaningless if you could not add or subtract a lot line.

Motion made by E. Murphy to approve ANR-2022-06. No board members seconded the motion. Attorney M. Parker asked that the discussion be tabled until the next meeting.

Motion made by E. Murphy to continue the discussion about ANR-2022-06 to October 6, 2022. K. Crosby seconded the motion. There was no additional discussion.

R. Starodoj	Aye
E. Murphy	Aye
K. Crosby	Aye

All in favor. Approved 3/0/0.

ANR-2022-09 (Eddy Street)

R. Watchilla stated the existing lot line passes through the existing multifamily building on the parcel. They are redrawing the lines to conform to zoning standards. It is a preexisting nonconforming structure because of the age of the house itself, by moving the line it will become conforming and buildable lot. The lots will conform by frontage and by acreage.

K. Crosby asked if one of the buildings conforms to zoning. R. Watchilla answered that it does not conform to zoning because it is a preexisting nonconforming structure which has been in existence prior to 2012 as well as the garage.

K. Crosby inquired if changing the lot lines would create an issue. R. Watchilla responded that it will resolve an issue.

K. Crosby asked if there was any relief from setbacks for the other structure or was it prior to zoning. R. Starodoj stated everything depicted was there prior to zoning.

K. Crosby asked if moving the lot line would affect the grandfather clause on the property. R. Starodoj replied that could be figured out down the line.

R. Watchilla sited another ANR was passed in 2018 which had a similar issue. The home retained its grandfathered protections. If a lot is being made to conform to zoning standards more than it had previously, its generally accepted in the bylaw and the goal is to make a lot or building less nonconforming than it was previously.

K. Crosby added he believed that was stated in state laws as well.

Motion made by K. Crosby to approve **ANR-2022-09**. E. Murphy seconded the motion. There was no additional discussion.

R. Starodoj	Aye
E. Murphy	Aye
K. Crosby	Aye

All in favor. Approved 3/0/0.

PUBLIC HEARING

SP-2022-08 – Melink Solar Development

R. Starodoj read the legal notice.

J. Chapman stated they are looking for an extension for their Special Permit. The reason for the extension is that they are stuck in a transmission distribution study with National Grid. They are coming out of the study in the October/November timeframe and the study was completed and approved by New England ISO in June of 2022. National Grid is not sharing the results until the distribution study has been completed, after which they will give the results of both studies and give the solution to any upgrades and the cost break out to move forward with the project. There is a proposed tariff however, since this project has been in development they do not need to wait for 20-75 (the tariff). Due to these circumstances, they would like to extend their Special Permit for 12-months.

R. Starodoj appointed E. Hancock as Stand-by

R. Watchilla stated the applicant submitted site plans, however, they hadn't changed.

R. Starodoj inquired if there was any projection of when National Grid would have improvements completed. J. Chapman replied saying there was an agreement struck GPU, Attorney General, National Grid, and the solar industry for these projects that have been in study for some time. From a timing perspective they can't have a solution that will take longer than 5-years.

E. Hancock inquired about the tariffs J. Chapman mentioned. J. Chapman replied that the 20-75 tariff is a solution to the challenges many states and public utilities are having. It addresses the equity issue in upgrading the grid.

Motion made by E. Murphy to approve the extension of **SP-2022-08**. E. Hancock seconded the motion. There was no additional discussion.

R. Starodoj Aye
E. Murphy Aye
K. Crosby Aye
E. Hancock Aye

All in favor. Approved 4/0/0.

OLD BUSINESS

Review of Newly Proposed Subdivision Regulations Section 2.4.3 – 2.4.7

R. Watchilla read through the document and the following suggestions were made.

2.4.3

x) R. Starodoj suggested adding fiber optic to the list of utilities

y) R. Starodoj stated the borings should be made to a depth of 6’ or to the maximum depth of the utilities.

z) R. Starodoj mentioned he would prefer to minimize piping due to the difficulty of cleaning storm drains. He would prefer the use of swales or gulley’s.

R. Starodoj stated detentions ponds should be designed to be dry and without fencing. He added that once fencing is placed maintenance ceases.

R. Starodoj also suggested adding smart hydrants into the design specs one at the highest and one at the lowest points.

R. Watchilla and R. Starodoj spoke about limiting the amount of underground piping. R. Starodoj stated he had experienced many issues with it and in his experience, there is a better chance of storm water infiltrating into the ground from higher up. R. Watchilla added that he assumed they would need to adhere to the regulations set forth by the state in the storm water handbook. R. Starodoj stated to some extent leaching catch basins are encouraged. He stated that they work well for the first few years until maintenance ceases, and they become a solid plug. R. Watchilla said it may need to be looked at on a case-by-case basis. R. Starodoj agreed, stating that everything would need adjusting based on the use. Each leaching basin is an injection well and would individually require certain state permits and licenses.

R. Watchilla read through the section discussing detention ponds and storm drains. R. Starodoj stated he believed most had maintenance requirements. R. Watchilla asked if it was under the old sub-division laws or in the agreement of the Boards. R. Starodoj stated he believes it is in the subdivision covenants and approvals, but one would need to go through the files. R. Watchilla stated he did not recall seeing it in the original sub-division regulations from the 80’s

bb) R. Starodoj stated any vertical curved road should also have the effective percentage between the starting point of the curve to the ending point of the curve.

2.4.4

R. Starodoj stated this section should include the water system

2.4.5

E. Hancock requested the addition of the Historic Commission to the list of review boards.

2.4.7

R. Starodoj recommended changing the verbiage from ‘an extension at the request of the applicant’ to ‘an extension mutually agreed upon by the town and the applicant’. He continued stating, either entity could request the extension as long as they both agree. R. Watchilla edited the section to read ‘or such further time as may be agreed upon by the board and the applicant.

R. Watchilla reached the end of the section to be reviewed during this meeting and asked the board if they had any final questions or thoughts.

E. Hancock suggested adding the Historic Commission to the list of notices sent to the town departments in section 2.4.6.

E. Hancock inquired if the stone walls/scenic road bylaws could be included under section 2.4.3- gg. R. Watchilla recommended leaving it out of that section and that it would kick in when necessary. E. Hancock added that she wondered if it should be added since the section contained information regarding the removal of trees. R. Starodoj stated if the subdivision was on a scenic road, then the bylaw would kick in. R. Watchilla clarified that only stone walls or trees along the existing public way are included in the Scenic Road Bylaw.

New Business

R. Watchilla stated that the owners of Colebrook and Wildflower. The owner of Colebrook responded to K. Jacobsen, and they are interested in pursuing road acceptance. The subdivision had attempted to do so in 2017 and an analysis was performed, and they had not submitted a maintenance plan for the catch basins. R. Watchilla added they will not be able to do so for this Town Meeting.

TOWN PLANNER UPDATE

- The Planning & Community Development Department is currently looking for an Intern
 - The Intern would be responsible for assisting the Director with various Planning Initiatives including the Open Space and Recreation Plan.
 - Local Universities including UMass Amherst will be reached out to.
- The Façade Improvement Program Application window is still open
 - Applications are due to the Pioneer Valley Planning Commission by October 1.
 - They can be found on the Town of Ware Planning & Community Development webpage under “Planning & Community Development News”.
- The Planning Board and Selectboard will be holding a Joint meeting on Tuesday, September 20th.
 - During a normally scheduled Selectboard meeting, both Boards will decide

between two applications for the Vacant seat (which will expire in April 2023).

- o More details will be provided as the meeting agenda becomes available.

ADJOURN

Motion made by E. Murphy to adjourn the meeting at 8:24pm. Seconded by K. Crosby. No additional discussion.

R. Starodoj Aye
 E. Murphy Aye
 K. Crosby Aye

All in favor. Approved 3/0/0.

NEXT PLANNING BOARD MEETING DATE:

Thursday, October 6th, at 7:00pm.

Minutes from Thursday, September 15th, 2022.

Respectfully submitted by,

Kristen Jacobsen
 Administrative Assistant
 Planning & Community Development

Minutes Approved on:	<u>10/20/22</u>
Starodoj	<u>R. Starodoj</u>
Murphy	<u>E. Murphy</u>
Talbot	<u>K. Crosby & Talbot</u>
Crosby	<u>K. Crosby</u>
DiMarzio	<u>DiMarzio</u>