



TOWN OF WARE

Planning & Community Development

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Planning Board

Meeting Minutes from
Wednesday, November 15, 2017
Board of Selectmen's Conference Room

Planning Board members present:	Rick Starodoj (Chairman), Josh Kusnierz, Fred Urban, Edward Murphy (Alternate)
Planning Board members absent:	Chris DiMarzio, David Kopacz, Sr.
Staff present:	Rubén Flores-Marzán, Director of Planning & Community Development Judi Mosso, Assistant to the Director
Public:	(as taken from the sign in sheet and observation): Peter Engle (Bertin Eng.), Jeremy Chapman (Melink Solar Dev.) , Joel Harder , Fred T. Smith, Joseph S. Vecchione , Patricia Monette, Brandon MonetteMelina Bourdeau (Press: <i>Ware River News</i>)

Chairman R. Starodoj called the meeting to order at 7:01 p.m. Attendees said the Pledge of Allegiance. Some agenda items were taken out of order.

1. **SP-2017-06 – FT Smith Trucking & Excavating, Inc.** – Hearing was opened by the Chairman at 7:06 p.m.; Chairman read the legal ad into record. Special Permit is for extension of SP-2008-04 and to add a condition to allow crushing/screening during summer months. Alternate E. Murphy was appointed to hear this case.

APPLICANT:

- Stop date for crushing and screening is May 15 to September 15 so entire summer is off limits to him
- However neighbor with similar SP for earth removal does not have this condition [*N.B. J. Mosso confirmed that the 1995 SP Decision for Robinson only conditions operations for days of the week and time, not certain months*].
- Mr. Smith would like fairness for both parcels

- If he followed the conditions as written and requested permission from the PB to allow crushing and screening during the inactive months, wait for a public hearing, he would lose his clients by then
- He would address any complaints as they arose
- Confirmed that he has not worked this parcel of land yet but hopes to in 2018; he was advised to begin at southwest portion of parcel to be considerate of neighbors

PUBLIC COMMENT:

- Abutters John and Judith Trudeau of 130 Greenwich Road wrote a letter opposing the added condition to allow crushing/screening during summer months
- J. Harder commented that these kinds of materials are not available in Ware so you cannot buy locally

BOARD DISCUSSION:

- Discussed motion from October 2016 meeting stating that a public hearing would be required if Mr. Smith wanted to screen and crush during summer months
- Acknowledged that truck traffic is practically non-existent so Trudeau letter may be basing their opposition on a different earth removal operation
- Suggested that Mr. Smith meet other conditions in the original SP before beginning operations on this parcel
- Some members in favor of summer activity if a buffer of trees were planted; complaints could be addressed as they arose

Motion by F. Urban to renew Special Permit SP-2008-04. Seconded by E. Murphy.

Roll call vote:

Starodoj: Aye

Urban: Aye

Kusnierz: Aye

Murphy: Aye

MOTION PASSES

Motion by F. Urban to add condition to the extended SP Decision to allow crushing and screening during the summer months. Seconded by J. Kusnierz. Roll call vote:

Starodoj: Nay

Urban: Aye

Kusnierz: Aye

Murphy: Aye

MOTION FAILS

2. **SP-2017-04 and SPR-2017-02 - Melink Solar Development**, proposed ground-mounted solar facility at ***Upper Church Street***. P. Engle discussed the latest revisions: extensive screening is distributed between the fence line at the solar array and closer to the rail trail. Chairman requested that applicant contact National Grid to inquire about pole spacing and required number of poles. Board reviewed draft conditions and made minor modifications; construction bond was set at \$100,000; decommissioning bond was set at \$100,000.

Property abutter Pat Monette inquired about harmonics testing, berries on juniper trees, growth rate of trees, and location of road.

Motion by J. Kusnierz to grant the Special Permit for SP-2017-04 and approve the site plan for SPR-2017-02 to Melink Solar Development with the following conditions:

1. 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.
2. 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, the new party shall arrange to meet with the Planning Board to review the operating conditions of the Special Permit.
3. 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.
4. 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.
5. 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.
6. 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 Department of Energy Resources's timeline for the Solar Massachusetts Renewable Target (SMART) Program.

7. All applicable local, state, and federal permits and approvals must be in place prior to the start of construction and operations.
8. 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.
9. 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.
10. Prior to the start of construction, a construction bond in the amount of \$100,000.00 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 but the decommissioning bond in the amount of \$100,000 must simultaneously replace it. 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.
11. Hours of construction and maintenance operation shall be:
Monday through Friday: 7:00 AM to 5:00 PM
Saturday 8:00 AM to 1:00 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.
12. To the extent possible, the general contractor at the site shall attempt to coordinate the construction schedule to recognize that abutter Patricia Monette (197 Upper Church Street) works the night shift. All reasonable efforts should be made to conduct noisy construction activities (such as excavation and post installation) that are closest to the residence either when she is not typically sleeping or during her days off. The Planning Board recognizes that it may not be reasonably possible to always accommodate her schedule.

13. 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.
14. All fencing, gates, etc. shall be a dark, earth tone color such as dark green, black, dark red, etc.
15. All plantings are to be maintained for the life of the solar project.
16. An easement shall be established on the subject property, 25 feet in width, as measured northerly from the southern (N/F Monette) property line. The easement shall run the entire length, east to west, of the Harder/Monette property line. The easement is established to allow for the planting and maintenance of the required screening trees by the solar plant operator and landowner. This easement shall remain in force for any future lot that may be broken off the current primary lot, as long as any solar panels associated with this Decision are present. Upon removal of all panels and equipment, the easement shall cease to exist.
17. All previously excavated stumps, stump piles, and brush piles are to be removed from the property as a condition of this Special Permit.
18. The construction area lies adjacent to a water supply protection area, and private wells are located immediately adjacent to the site. Therefore, all equipment refueling should occur as close to Gilbertville Road as possible. A spill kit including adsorbents must be present at the site at all times for all equipment.
19. 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.

Seconded by E. Murphy. Roll call vote:

Starodoj: Aye

Urban: Aye

Kusnierz: Aye

Murphy: Aye

MOTION PASSES

3. **SP-2017-05 and SPR-2017-03 - Melink Solar Development**, proposed ground-mounted solar facility at ***Gilbertville Road***, no further changes were made to the plans. Bore testing is scheduled for next week. West Brookfield ZBA approved Melink's permit yesterday with no extraordinary conditions. Board reviewed draft conditions and

made minor modifications; construction bond was set at \$150,000; decommissioning bond was set at \$100,000.

Property abutter J. Vecchione inquired about retaining wall, wells, blasting. Board members assured him that there is a great level of professionalism of the various organizations involved (engineers, planning board, DOT) that allows for a certain degree of trust that is assumed during these hearings and proceedings. The Board does not approve every minutia and some end points, within reason, may change.

Motion by F. Urban to grant the Special Permit for SP-2017-05 and approve the site plan for SPR-2017-03 to Melink Solar Development with the following conditions:

1. 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.
2. The Town of Ware officials (Town Manager and Planning Board via the PD 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, the new party shall arrange to meet with the Planning Board to review the operating conditions of the permit.
3. 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.
4. 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 Site Plan must be recorded with the permit.
5. 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.
6. 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 Department of Energy Resources's timeline for the Solar Massachusetts Renewable Target (SMART) Program.

7. All applicable local, state and federal permits and approvals must be in place prior to the start of construction and operations.
8. Applicant will comply with all laws, regulations, and requirements of the Town of Ware, the Commonwealth of Massachusetts and the United States of America, the strictest of which shall prevail.
9. Applicant is advised to be aware of the requirements of the Earth Removal section of the Town Zoning Bylaws as related to construction activities.
10. If blasting is necessary, pre-blasting surveys and post-blasting surveys along with any other required documentation of abutting properties' wells and structures, shall be performed at the expense of the permittee.
11. 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.
12. Prior to the start of construction, a construction bond in the amount of \$150,000, 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 but the decommissioning bond in the amount of \$100,000 must simultaneously replace it. 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.
13. Hours of construction and maintenance operation shall be:
Monday through Friday: 7:00 AM to 5:00 PM
Saturday: 8:00 AM to 1:00 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 maintenance, including snow plowing, may occur at any time.
14. If blasting is to occur, all pertinent regulations, including but not limited to, 527 CMR 1.00 and MassDOT Policy Directive P-01-01 (dated 12/29/90), shall be followed, or any superseding documents thereof.
15. 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.

16. All fencing, gates, etc. shall be a dark, earth tone color such as dark green, black, dark red, etc.
17. All plantings are to be maintained for the life of the solar project.
18. Plantings along the property lines of 30-0-49 (N/F Anair) and 30-0-47 (N/F Vecchione) are to be deed-restricted to be maintained in place, in good condition, unless removal is jointly agreed to by the adjoining property owners of the affected property line segment.
19. The area west of the infiltration basins and the level spreader shall be maintained in a neat, clean, and mowed condition to provide for easy and ready slope. The project operator shall ensure that drainage swales along the public roadway are clean and clear at all times to allow for proper storm water conveyance to the catch basins and to prevent icing and other hazardous conditions.
20. 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.
21. All previously excavated stumps, stump piles, and brush piles are to be removed from the property as a condition of this Special Permit.
22. Recognizing that the construction area lies adjacent to a water supply protection area, and that private wells are located immediately adjacent to the site, all equipment refueling should occur as close to Gilbertville Road as possible. A spill kit, including adsorbents, must be present at the site at all times and all equipment.
23. Operators be trained to report and respond to fuel, lubricant, or other releases. Check the pertinent MassDEP reportable quantities list for applicable substances. (A reportable spill is typically a release of 10 or more gallons of a material.)

Seconded by E. Murphy. Roll call vote:

Starodoj: Aye

Urban: Aye

Kusnierz: Aye

Murphy: Aye

MOTION PASSES

Applicant stated that they have several solar arrays in Southbridge, four in North Brookfield, four in Warren, Spencer and Oxford, with a minimum of 1MW.

4. **Administrative**

- a. Approve minutes from November 1, 2017 – **Motion** by J. Kusnierz to accept the November 1 minutes as presented. Seconded by F. Urban. So voted 4/0/0.
- b. Review notices from abutting towns – one notice reviewed.

5. **Discussion & Updates**

- a. Site Plan Review application for All Parts Racing (APR) – J. Mosso reported that Jack Cascio has stopped by to seek guidance on the SPR application. He said the plans are with the consultant for revisions.

6. **Other** – The Board decided to hold the December 6 meeting and cancel the December 20 meeting.

7. **Adjourn** – **Motion** by J. Kusnierz to adjourn at 8:32 pm. Seconded by F. Urban.

Documents reviewed:

- SP-2017-06 F. T. Smith application and related materials
- Trudeau (abutter) letter re SP-2017-06
- SP-2017-04 and SPR-2017-02, Melink Solar Development (Upper Church St) and draft conditions
- SP-2017-05 and SPR-2017-03, Melink Solar Development (Gilbertville Rd) and draft conditions
- November 1, 2017 minutes

Documents received:

- none

Minutes Approved on: _____	
Starodoj	_____
DiMarzio	_____
Urban	_____
Kusnierz	_____
Kopacz	_____

*Respectfully submitted by
Judith P. B. Mosso, MPA
Assistant to the Director*