

**WAREHAM PLANNING BOARD**  
**MINUTES OF THE MEETING**

**Multi-Service Center**  
**54 Marion Road, Wareham, MA 02571**  
**Monday, December 18, 2023**

WAREHAM TOWN CLERK  
2024 MAR 26 PM 12:44

The following record pertains to a meeting held by the Wareham Planning Board at 6:00PM local time. A video recording of this meeting is available for viewing. The record for the proceedings includes the videotape of the meeting, the resolutions passed, and any document presented during the course of the meeting.

**I. CALL TO ORDER**

Chair King opened the meeting and proceeded to call the roll.

PRESENT MEMBERS:      Michael King, Chair  
                                 Carl Schulz  
                                 Jane Gleason  
                                 Mike Baptiste  
                                 Sherry Quirk, Associate Member  
                                 Sam Corbitt

ALSO PRESENT:            Kenneth Buckland, Director of Planning and Community  
                                 Development

ABSENT:                    -

**II. PRELIMINARY BUSINESS**

**1. For Discussion and Vote – # 11-23 Wareham PV1, LLC. - 0 Route 25 – Decision**

The discussion from the Planning Board pertained to the decision to deny the construction of a large, ground-mounted photovoltaic solar energy generating facility at 0 Route 25.<sup>1</sup>

S. Quirk requested K. Buckland to summarize Town Counsel's input regarding the decision. K. Buckland highlighted that the Planning Board's decision criteria should center on the 75-foot buffer as a fundamental factor. This buffer was crucial in considering the project's impact on the neighborhood and overall development. Additionally, the project's value concerning environmental aspects and its scale relative to other town projects were identified as considerations. K. Buckland referred to a document exploring decommissioning and battery storage, comparing various solar projects across the town. He highlighted that these projects, despite being small, remained cost-effective.

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<sup>1</sup> #11-23, Project Folder; and #33-21 Project Folder.

S. Quirk raised inquiries about available records indicating the applicant's economic stance. K. Buckland referred to a submission by Long Road Engineering on November 6, 2023, detailing the project's long-term economic feasibility.<sup>2</sup> M. King noted the absence of specific dollar amounts in the document, indicating thresholds for positive, marginal, and negative economic viability at different megawatt levels. S. Quirk expressed reservations about considering this as conclusive evidence of economic feasibility.

There was discussion about potential significant costs in the interconnection process for newer projects compared to earlier ones. S. Quirk suggested that while earlier projects might have borne existing or anticipated costs, newer studies might impose higher interconnection costs with uncertain additional incentives.

J. Gleason highlighted inefficiencies in the project's layout and infrastructure due to its non-compact shape. C. Schulz agreed, noting conditions favoring the variance that the applicant did not pursue.<sup>3</sup>

C. Schulz clarified that financial considerations were not a factor in the Planning Board's decision, referenced as 593.16. S. Quirk summarized that upon refile, the elimination of batteries and understanding setbacks led the applicant to claim the project was no longer economically viable. Consequently, the Planning Board could not approve the desired project.<sup>4</sup>

The site, encompassing 22.4 acres, comprises half forested upland and half cleared land. K. Buckland outlined the Project Narrative, detailing the proposed large-scale ground-mounted solar energy facility within the R-130 Zoning District, allowable with Site Plan Approval as a Special Permit under Article 15 and Section 590 of the Wareham Zoning By-Laws.<sup>5</sup>

The decision encompassed various facets such as vegetation plans, lighting, inclusion in Mass Wildlife's Natural Heritage & Endangered Species Program, absence from mapping Areas of Critical Concern, PFAS concerns, noise, and stormwater management, particularly expounded upon by hydrogeologist Scott Horsley's testimony.

During deliberations, C. Schulz questioned the relevance of S. Horsley's testimony, citing its focus on battery pollutants. S. Quirk recalled S. Horsley emphasizing the need for further hydrogeological study regarding water flow directions and aquifer impacts, but the Board took no further action to address this. Discussion ensued, differentiating water flows toward and away from wetland protection zones, referencing EPA guidance for a 400-foot radius around wellhead protection zones. The Board then deliberated on resident concerns regarding potential adverse impacts on the aquifer.

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<sup>2</sup> #11-23, Applicant Letter to Wareham Planning Board. (2023, Nov 6).

<sup>3</sup> For more on interconnection, see: Eversource, Distribution Group Studies. (2023).; and Department of Public Utilities (n.d.). Provisional System Planning Program Guide. Mass.gov.; and NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 22-52. (2022, April 29).

<sup>4</sup> #11-23, Decision. (2023, Dec 21).

<sup>5</sup> Wareham, MA, Zoning By-Laws. Sec. 590, Solar Energy Generation Facilities.

M. King assessed that panels alone posed an insignificant risk to aquifer contamination. J. Gleason emphasized decommissioning and panel disposal. C. Schulz highlighted the revised plan's commitment to panel recycling, questioning the Board's purview beyond this phase. K. Buckland clarified that the section outlined factual water flows.

S. Quirk emphasized the Board's need to determine their requirements and narrow down the decision's scope. Further clarification was sought by J. Gleason, C. Schulz, and K. Buckland.

Under Article 15: "Site Plan Review," review criteria, multiple considerations were evaluated. Reference was made to the spring town meeting's April 2024 Bylaws for the Planning Board's assessment. The decision documented the history of the Article 15 By-law, referencing the April 2022 version.<sup>6</sup> The Planning Board concluded that the Project proposal failed to comply with Bylaw standards, leading to the denial of the proposed project. The summarized reasons are as follows:

*"Compliance under Article 15 Site Plan Review Bylaw*

- (a) Convenience and safety of vehicular and pedestrian movement within the Site and in relation to adjacent areas.*
- (b) Adequacy of facilities for handling and disposal of refuse and other production by-products.*
- (c) Protection of environmental features on the Site and in adjacent areas.*
- (d) Promotion of appropriate arrangement of structures within the Site and in relation to existing structures within the district and the neighborhood.*
- (e) Coordination with and improvement of systems of vehicular and pedestrian access, drainage, water supply, sewage disposal, lighting, landscaping, wetlands, water courses, buildings and other features that support the neighborhood."*<sup>7</sup>

The proposed project posed a potential significant impact on area water resources, particularly the Plymouth Carver Sole Source Aquifer, Wareham's drinking water source. The requirement for a 75-foot buffer was crucial, yet the applicant asserted the Project could not function within that constraint.<sup>8</sup>

Despite seeking relief, the Planning Board lacked the authority to grant such relief under State and local laws. Relief options existed through a Variance from the Zoning Board of Appeals under Article 14 of the Wareham Zoning Bylaws and M.G.L. c.40a Section.10, which the applicant had not pursued. As the project could not accommodate the 75-foot buffer, and relief was not sought through available processes, the Planning Board denied the proposed large-scale solar energy generating facility for non-conformity with applicable By-laws.<sup>9</sup>

J. Gleason commented that she felt the Planning Board did not discuss the potential for changed hydrology based on clear-cutting of the larger areas of the site, and if it would impact the site. K.

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<sup>6</sup> Wareham, MA, Zoning By-Laws. (2022, April 12).

<sup>7</sup> #11-23, Decision. (2023, Dec 21).

<sup>8</sup> See: #11-23, Applicant Letter to Planning Board, Re: 75 Setback. (2023, Oct 5).

<sup>9</sup> M.G.L. c. 40A, § 10, Variances.

Buckland noted that it was calculated in the stormwater report, but the Planning Board did not discuss that in detail.<sup>10</sup>

K. Buckland proceeded with the review of the draft decision document, specifically addressing compliance under Section 590 concerning Solar Energy Generation Facilities. As the project was not appropriately sited and the applicant stated non-compliance with zoning criteria, it raised concerns about endangering the public health, safety, and welfare of the Town.

Following this, Board members shared their perspectives on the draft decision and K. Buckland's comments. C. Schulz remarked that he did not perceive an impact on groundwater. M. King raised the question of whether it was appropriate for the Board to vote on this point within the decision.

S. Quirk emphasized that the responsibility lay with the applicant to address potential impacts upon their return, insisting that substantial mitigation measures should accompany any reappearance. While M. King and S. Corbitt acknowledged its relevance, they did not view it as the primary reason.

S. Quirk reaffirmed that the buffer was the primary concern, while S. Corbitt expressed his substantial worry regarding groundwater impacts. C. Schulz highlighted the need for consistency, noting that solar projects nationwide were not being denied based on groundwater pollution concerns. S. Quirk stressed the importance of avoiding strained findings, asserting that all conclusions within the decision were evidence-based and credible. M. Baptiste echoed the importance of safeguarding the aquifer.

S. Quirk clarified the Board's stance, indicating that should the applicant return, mitigation of risks would be a requisite.

The Planning Board then voted.

**MOTION** – Move to deny the solar project located at 0 Route 25, Case #11-23, based on the decision constructed and voted on by the Planning Board on December 18<sup>th</sup>, 2023.

MEMBER	MOTION	SECOND	VOTE
M. King (Chair)			AYE
J. Gleason			AYE
C. Schulz			AYE
S. Corbitt	X		AYE
S. Quirk			AYE/ABSTAINED
M. Baptiste		X	AYE

Seconded and passed without dissent. 5-0-1

S. Quirk participated in the vote, as previously allowed by the Planning Board and Town Counsel, with acknowledgement that her vote was not eligible for inclusion.

<sup>10</sup> See: #11-23, Stormwater Management Report. (2023, Oct 6).; and #11-23, Compiled Stormwater Management Report. (2023, July 26).

**III. AJOURNMENT**

**MOTION** – Move to adjourn.

MEMBER	MOTION	SECOND	VOTE
M. King (Chair)			AYE
J. Gleason			AYE
C. Schulz			AYE
S. Corbitt	X		AYE
S. Quirk			AYE
M. Baptiste		X	AYE

Seconded and passed without dissent. 6-0-0

The meeting was adjourned at approximately 7:14 PM local time.

*motion as done 3/25/24*

