

Wareham Solar By-Law Study Committee
Minutes of the Workshop
Wednesday, January 19, 2022
Time: 4:00pm – 5:30pm
<https://us02web.zoom.us/j/86496957835>
Meeting ID: 864 9695 7835

1. CALL WORKSHOP TO ORDER

The Workshop was called to order by Chairperson McHale at 4:05 P.M.

This was not an official “meeting” under Open Meeting Law as there was a problem with the posting of the agenda. The Committee felt that given the time constraints to move forward with discussions but not to take any formal actions.

2. ROLL CALL

Members Present: Nancy McHale (Chairperson)
Carl Schulz (Clerk)
Jacqui Nichols
Linda Rinta
Christopher Conti
Denise Wolk
Ronald Besse

Members Absent:

Also present: Ken Buckland, Director of Planning
Elise Leduc-Fleming, Executive Director Wareham Land Trust
Tricia Wurts, Citizen
Denise Schulz, Member of Conservation Commission
Linda Scharf, Citizen
Annie Hayes, Citizen

3. ZOOM PROTOCOL

Chairperson McHale reviewed the operating protocols for our ZOOM meetings to ensure an orderly exchange:

- Please use the “RAISE HAND” tool to request to speak
- Please speak one-at-a-time

4. MINUTES TO APPROVE

No minutes were presented for approval

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Pending: Minutes of the January 5, 2022 meeting
Minutes of the January 12, 2022 meeting

5. GENERAL DISCUSSION

The Committee discussed several questions about how Zoning By-Laws interact.

The DRAFT Working version of Section 590 does not reference Article 12 of the Zoning By-law. How do the performance standards of that By-Law get referenced? The conclusion was to either incorporate them or reference them directly to ensure that there is no doubt.

NOTE: For information and clarification – following the Workshop Mr. Schulz confirmed that Article 12 as currently written will NOT apply to Section 590. This is because large-scale ground-mounted solar arrays are subject to Site Plan Review / Special Permit and Article 12 specifically exempts Special Permits.

The Committee discussed the definitions in Article 16, which we are modifying. It was clarified that Article 16 applies to ALL Zoning By-Laws and therefore do not need to be directly referenced.

6. REVIEW OF UPDATES TO THE GOOGLE DOCUMENT

Mr. Schulz and Ms. Wolk completed the walk through of the updates that were “accepted” into the DRAFT Google document.

It was noted that the language from the June 12th amendment (still pending AG review) still needs to be addressed.

It was noted that the language around cultural heritage sites still needs to be addressed.

Placeholders for dimensional standards (e.g. setbacks) and other design and performance criteria needs to be resolved.

It was noted that the language around making Fencing discretionary needs to be finalized.

It was noted that all items highlighted in **YELLOW** need to be addressed.

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It was noted that the language referencing the required inspections and the linkage to Article 15 and the Planning Board Rules and Regulations needs to be finalized.

It was noted that all the items that are resolved through the OUTLINE will need to be integrated into the FINAL DRAFT of Section 590 (aka the Google Document).

It was noted that updates to Article 3 (Use Table) and Article 16 (Definitions) must be finalized.

7. REVIEW OF UPDATES TO THE OUTLINE

Ms. Nichols provided input on the request that she review the mitigation valuation techniques presented by the Cape Cod Commission (Open Space Technical Bulletin).

- She ran a quick test on land with use code identifying it as developable or potentially developable (1300 and 1310). She did not include 61a, 61b, or 61c. The rough estimate was \$32,233 / acre.
- She noted that the Town has relatively few parcels over 2 acres that are developable or potentially developable.

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The Committee noted that the mitigation cost using this value would be significant. Using an example pending project that will need to mitigate about 30 acres ... this would require them to contribute \$960,000. A very significant sum. Additional work in understanding this calculation and how to apply it is needed.

The Committee felt that it would be helpful to find real world examples of where this has been applied. It was felt that this was a new approach and was deployed in support of their tool.

The Committee discussed mitigation approaches more broadly. It was asked if the goal of the mitigation approach was to be prohibitive and to dissuade development of all large-scale ground-mounted solar arrays.

The idea about requiring annual or bi-annual reviews of the projects to ensure that mitigations were working and appropriate. Deal with changing climate; make continual adjustments and improvements.

The goal of saving forests and directing solar into developed areas was discussed. Mitigation should disincentive the cutting of trees while incenting siting in developed areas. Mitigation valuation could be “tiered” or tied to the site (heavily forested areas would require a higher mitigation value than abandoned pit mines).

It was questioned in the Town could grant tax incentives. Ms. Nichols noted that tax incentives are policy issues. TIFFs are calculated manually every year. The question of who gets the incentive (the land owner or the solar operator) would need to be figured out. Mr. Buckland noted that as these projects do not create jobs so TIFFs may not apply.

Ms. Nichols noted feedback from the developer of the Canopy project indicated that the time for return-on-investment on the project was significantly longer than a ground-mounted projects.

Ms. Rinta noted that the feedback from small farmers in town is that the 10 acre cap included in the June 12th by-law amendment is disincentivize small farms. In fact it is incenting house lots. It was questioned if a larger cap might help the smaller farms.

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The Committee discussed that idea that we had previously discussed of using dimensional criteria like setbacks and buffers, prohibit large-scale projects in residential neighborhood, using the existing overlay districts etc. to focus siting in areas we want as opposed to using size minimums and caps. The Committee is still not sure how to use these different “levers” to describe the siting criteria.

It was suggested that a review of the land types called out in the Cape Cod Commission document.

The Committee discussed the unanswered question of where do we want to site large-scale ground-mounted solar arrays. We have not finalized / reached agreement on this item. The Town only has 15 or so gravel pits, there are very few parcels large enough in the industrial commercial zone. Until we answer this underlying fundamental question we will not be able to reach consensus on a way forward.

It was noted that a significant open area needing Committee agreement revolves around tree cutting. This is the first item on the outline ... if we close on this issue then it will be easier to move forward.

It was noted that unless permission to grant a waiver is included in a by-law relating to a Special Permit the Planning Board cannot grant a waiver. This would require a variance which must go through the Zoning Board of Appeals.

Ms. Wolk offered to facilitate a working session (a “post-it” exercise) to help bring closure on this question. Each member was requested to send their input (write down where you want it; how much tree cutting is acceptable) to Denise and she will summarize for review.

It was noted that we still have the option to request that the select Board grant us more time (that is we would not have an Article for the 2022 Spring Town meeting). It was suggested that it was better to take more time than to submit a “bad” or incomplete by-law. All members did not agree with that position.

Chairperson McHale asked Mr. Buckland about where best to put mitigation funds – would the Conservation Commission Fund be appropriate. Mr. Buckland recommend to set up a special fund rather than comingling the funds.

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8. PUBLIC COMMENT

Ms. Annie Hayes provided comments:

- Question about what happens if in the future the drainage system (storm water management) doesn't work as designed.
- How do we deal with future unknown events?
- Are contingencies included / dealt with.
- How do we address the manufacture and construction of the panels.
- The question of unintended consequences of development on the Zimmer Farm, specifically, the cutting of swamp maples.

Ms. Tricia Wurts provided comments:

- Regarding mitigation the Committee has been focused on land destruction.
- She is concerned that mitigation must include a consideration about how these changes impact the citizens of the Town.
- Other towns are beginning to address mitigation for abutters.
- When listing where we want solar remember to list why,
- Recognize that Wareham is a Target, we really need to limit how much solar is acceptable.

Ms. Leduc-Fleming provided comments:

- Mitigation can / should be structured to site projects in "not-forests".
- Regarding tiering mitigation, based on her experience in Bourne, the Terms in use should be clearly defined:
 - Previously developed (her example revolved around the question of whether a lawn is previously developed),
 - Previously disturbed.
- Consider having different kinds of mitigation; recognize that all applicants may not be able to provide a substantial cash payment.

9. ADJOURNMENT

MOTION: Motion made and seconded to adjourn the meeting at 5:38.

Motion passed (7-0-0)

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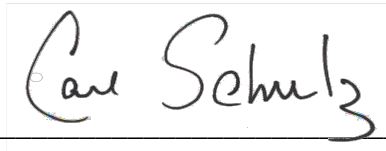
10. NEXT MEETING

Date: Wednesday, January 26, 2022
Time: 4:00 PM
Place: **ZOOM**

Date Signed

By Carl Schulz, Feb 16, 2022 at 12:54

Date signed: _____



Attest: _____

Clerk Wareham Solar Study Committee

Date Submitted

By Carl Schulz, Feb 16, 2022 at 12:54

Date copy sent to Town Clerk: _____