

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

1. CALL MEETING TO ORDER

The meeting was called to order by Chairperson McHale at 3:01 P.M.

2. ROLL CALL

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

Members Absent: Ronald Besse
Christopher Conti

Also present: Ken Buckland, Director of Planning
Jim Munise, BOS (arrived around 3:43)

3. MINUTES TO APPROVE

MOTION: Motion made and seconded to defer review of the minutes until the next meeting.

Motion passed (5-0-0)

Pending: Minutes of the December 1, 2021 meeting
Minutes of the December 8, 2021 meeting and public comment session
Minutes of the December 15, 2021 meeting

4. NEXT MEETING SCHEDULE

The next meeting is scheduled for December 29, 2021 at 3PM in Room 27 of Town Hall.

5. CONTINUED WORK ON THE DRAFT BY-LAW

The Committee discussed the changes needed to the Site Plan Review by-law and how that needs to relate to / be informed by the work being done by the Planning Board. Mr. Schulz will liase with the Planning Board. It was thought that,

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

regardless of the Planning Board activity, the Solar By-Law committee should capture all thoughts on Site Plan Review so that they eventually make it into the final by-laws. The process for integration can be dealt with once we have finalized our recommendations.

The Committee discussed an outline document prepared by Mr. Buckland (distributed by email on 2021.12.20) .

Ms. Rinta had a question about who would calculate the mitigation value in item on Mitigation in the outline.

Mr. Buckland noted that this would usually be done by an expert hired by the proponent and would be peer-reviewed by the Town's Consulting Engineer. Mr. Buckland noted that the Town could also hire an expert if necessary. He noted that all fees are paid by the proponent.

The Committee discussed the issues around the charges for peer-reviews. The question of how the fees are set (eg by size of the project) was discussed. Mr. Buckland noted that the size and complexity of the project did affect the costs for peer reviews. He further noted that these costs have been the subject of numerous environmental lawsuits.

The Committee continued discussing how to establish mitigation values and noted that this was an area that still required further work. Different ideas were discussed to establish environmental impact mitigation costs:

- A cost per acre,
- Based on cost of the construction,
- Use an example from other solar by-laws.

A concern was raised that not properly setting up the method by which the mitigation costs are established could have the unintentional consequence of incentivizing large projects at the expense of smaller projects.

It was also noted that there are "political" costs associated with these projects that need to be considered. The mitigation costs need to be commensurate with the impact of solar development in "difficult" areas (eg ... proximity to residential developments, environmentally sensitive areas).

Ms. McHale raised the idea of requiring conserving other areas as an offset with a significant multiplier (4 to 1). Other towns have included language to accomplish

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

this. The Committee discussed the issue that a solar project has a finite life vs. putting an area permanently into conservation.

Ms. Nichols proposed using the outline document prepared by Mr. Buckland (distributed by email on 2021.12.20) as a framework for focusing the discussion at the meeting; as a means to move forward more efficiently.

The outline proposed an area of Town for focusing solar development. It was clarified that the area was the R60 and R130 zones North of Rt. 28.

#1: Tree Clearing

The Committee discussed the proposed limit of “new” tree clearing in an attempt to understand how the limit would be applied.

It was noted that the wording in this section of the outline may not be consistent with the earlier proposed change to limit projects to “previously disturbed areas”. It is not clear how to apply the concept of “previously disturbed” to farmland – should all farmland be considered “previously disturbed”?

The Committee discussed how to understand the concept of a “parcel” and how it applies to the continual process of changing lot lines.

NOTE: Mr. Buckland informed the Committee that the Attorney General requested more time to review the Solar Bylaw language approved at the Spring Town Meeting. The AG has requested additional information.

Ms. Rinta reminded us that we can still consider using an Overlay District to address some of the siting issues. She also recommended that we consider exempting small farms.

#2: Battery Storage Systems

The Committee discussed allow battery storage only as an accessory use to the PV collection system. The wording of the by-law should make it clear that this battery storage is ONLY for solar power generated as part of the approved project. Make sure that the limitation is clear to the public.

Stand Alone Battery storage is NOT addressed in this by-law and would require a completely separate by-law.

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

It should be clear that the dealing with the HAZARDS associated with the Battery Storage System must be addressed in the Operations and Maintenance plan. It was questioned if the by-law specifically needs to call out the requirement to train EMS and Fire in dealing with these hazards.

Mr. Buckland noted that the Fire Department has been trained on Battery Storage systems. Any training required would be included in the Operations and Maintenance Plan. It was further noted that the Fire Department (as well as other Town Depts) are requested to comment in writing on every plan.

#3: Fencing

The Committee continued discussing the requirement for fencing and the question as to whether this is a state requirement. Fencing would be required as a safety issue. Further the current Town By-law requires fencing.

The Committee discussed how to minimize the impact of the fencing requirement where it is not needed for public safety (eg in remote areas without public access and particularly along the river).

Fencing should be critter friendly.

NOTE: Mr. Munise joined the ZOOM call.

#4: Access Roads

It was suggested to remove the words “for the minimum” to make the statement easier to read.

It was suggested that the application include an analysis of “Sight Lines” to ensure that visibility of the array as well as the access road are limited / minimized.

#5: Noise

The wording in the outline seems pretty good. The question was raised about the impact of an approved noise level on some future project. Should that possibility be considered?

It was generally agreed that impact on a potential unknown future project could not be reasonably anticipated.

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

#6: Multi-Use / Dual Use

The Committee discussed how to understand the concept of a “second principal use” and how that would need to be applied.

Consideration of Tax implications is beyond the scope of the by-law.

The Committee discussed the requirement to plant with a pollinator species. There is a concern about being successful given that our soil is mostly sandy. It was suggested to add native plants and mixes; we want to avoid invasive species. The ground cover must stabilize the soil. The habitat must be required to be successfully established; The habitat must be maintained.

Add items 3 and 4 from number 7 below to this section to ensure clarity.

#7: Buffers and Screening

The wording around screening seems to be clear and comprehensive.

Regarding the use of herbicides and pesticides ... the wording should be focuses on “the project site” as opposed to “the property”.

Regarding the landscape plan ... the Committee felt that, in order for consistency and clarity, specific references to the other by-law sections should be specifically called out. It was noted that if we do not feel that the other by-laws are restrictive enough we can extend the requirement.

NOTE: Refer to Article 10 of the Zoning By-Law Page 76 – 80 for the current requirements. [Link to Town Website <https://www.wareham.ma.us/town-clerk/files/2019-fall-tm-zoning-laws>]

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

#8: SITING: Size, Separation, and Vegetative Buffer

Regarding item #1 PV arrays of less than 250KW DC nameplate capacity:

These projects are allowed As-A-Right and do not specifically need to be called out. However, including the details here is for consistency and could be used when explaining the final by-law.

Regarding item #2 PV arrays of greater than 250KW and less than or equal to 1 MW DC nameplate capacity:

It was suggested that we add the Conference Recreational (CR) district to the allowed districts.

The requirement for a minimum of 50 feet of vegetative buffer was discussed. Is it adequate? Some members of the committee were in favor to increasing the buffer to 100' or 150'. This section applies to smaller projects (usually less than 5 acres) – larger set backs have more impact on smaller projects. All agreed that visibility is key.

The goal / requirement should be to **quickly and completely screen** the project from public view. What is the time frame expectation? Balance fast growing with long-term.

Regarding item #3 PV arrays of greater than 1 MW nameplate capacity:

Committee members discussed this section.

A question was raised about setting a maximum size; should the minimum size be raised to 30 acres.

A question was raised about requiring the minimum set back of 200' between arrays? Is this a reasonable land use requirement? Do we want to allow projects to build right up to the boundary (no inter-residential district)? Consider that Blue Wave was (4) projects – if there was a requirement for set backs between each project – this project would not have been built.

A question was raised about adding a DESIGN REVIEW step before SITE PLAN REVIEW that allowed the Developer to work with the Planning Office to work through some of these issues. That would allow more flexibility in the

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

by-law and empower the Planning Office and the SPGA to make reasonable project specific adjustments.

We could add a “requirement” for a DESIGN REVIEW for projects greater than 30 acres. Standards / criteria for approval can be added.

#9: SPGA [Review Authority]

There was no discussion on the position that the Planning Board should be the SPGA for all Solar projects.

#10: Incentives

The Committee discussed what kinds of incentives are available and how to include those in a by-law.

ACTION: These changes will require corresponding updates to the USE TABLE.

6. COMMITTEE SCHEDULE

The Committee tried to establish the remaining actions and timeline in order to get the changes on the warrant in time for the Spring Town meeting. It was felt that the 2nd week in February for the final Town Warrant. The timing of the Public Hearings is somewhat unclear / flexible – theoretically right up to the date of the Town Meeting.

The Committee’s remit expires sometime in April – it can be extended by written request to the BOS.

The Planning Board is legally required to hold a Public Hearing. The BOS could hold a Public Hearing if they wanted.

No firm decisions on the schedule were made.

Before close the Committee discussed the issue of Earth Removal and its relationship to Solar Projects. Some members felt strongly that the Solar By-law must make some statement / requirement regarding Earth Removal (Sand and Gravel). This discussion expanded to discuss the whole permitting process and how the timing of permitting relates to Site Plan Review.

7. ADJOURNMENT

Wareham Solar By-Law Study Committee
MINUTES OF THE MEETING
Wednesday, December 22, 2021
This will be an Online Meeting only
<https://us02web.zoom.us/j/83671389329>

MOTION: Motion made and seconded to adjourn the meeting at 5:17.

Motion passed (3-0-0)

8. **NEXT MEETING**

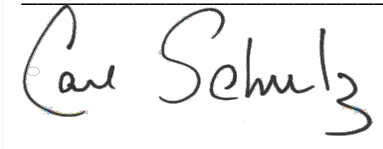
Wednesday, December 29, 2021

Place: **Room 27**
54 Marion Rd.
Wareham, Ma.

Date Signed

By Carl Schulz, Jan 24, 2022 at 09:40

Date signed:



Attest:

Clerk Wareham Solar Study Committee

Date Submitted

By Carl Schulz, Jan 24, 2022 at 09:40

Date copy sent to Town Clerk: