

**STERLING PLANNING BOARD  
MEETING MINUTES**

**August 27, 2008**

**Present:** Robert Protano – Chairman  
Ronald Pichierri – ANR Agent  
Kenneth Williams – Clerk  
Charles Hajdu  
Michael Radzicki – Vice Chairman (Arrives at 7:19 PM)  
Melissa M. French – Administrative Assistant

Chairman Protano brings the Planning Board meeting to order at 7:02 PM.

Present for the Public Hearing and Site Plan Reviews are the applicants and/or their agents and Scott Miller, Haley & Ward, Inc.

**ANR(s)**

No ANR's

**MINUTES APPROVED**

**Pichierri makes a motion to approve the Sterling Planning Board Meeting Minutes of August 13, 2008, as corrected. Seconded by Williams, no further discussion, all in favor, approved by the Board.**

**MOUNTAIN VIEW ESTATES DEFINITIVE SUBDIVISION  
Public Hearing continued from July 30, 2008**

At 7:15 PM Chairman Protano resumes the Public Hearing for Mountain View Estates Definitive Subdivision Plan. Present for the Public Hearing are Scott Miller, Haley & Ward, Inc. and Patrick McCarty. McCarty arrived several minutes after the opening of the hearing.

Chairman Protano announces that, since the last Public Hearing session, the Board has received confirmation that Leominster has approved their portion of the subdivision.

Discussion centers on the task of street maintenance and plowing for the Sterling portion of the road. Chairman Protano asks if there is an actual contract from the Leominster DPW for the plowing of the street. The response is that there is a letter, only, stating that the Leominster DPW is willing to plow. Within Leominster's letter of approval a condition is made that a Homeowner's Association shall be formed for the two lots in Sterling. The Board questions Leominster's jurisdiction, or lack thereof, over making

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conditions which apply to the Town of Sterling. It is agreed that Leominster's condition of a Homeowner's Association acts as a "safety net" for Sterling.

The prior proposal, to Sterling, of a Homeowner's Association is discussed with Williams introducing the question of why one is needed. Williams points to Sterling's Subdivision Rules and Regulations, section 4580, 4581 and 4582 Maintenance and Cleanup, which states that the developer shall be responsible for the road until such time the town accepts it as a Public Way. After discussion among the Board members, Scott Miller and Patrick McCarty it is agreed that the Sterling Planning Board's condition is that the developer will follow the Rules and Regulations, governing responsibility of the road, as set forth by Sterling and will not require a Homeowner's Association. Under these Rules and Regulations the Board has the authority to set up an Escrow Account or a Performance Bond to assure compliance with the regulation. McCarty states that he has no problem agreeing to such a Bond. Miller recommends that the Condition of Approval states that prior to release of the Covenant on Lots 7 and 8 the Planning Board and the Developer shall agree on the value of the Performance Bond and the Maintenance Bond and that until a dollar amount is agreed upon there shall be no release of Covenant. McCarty agrees with this and respectfully asks the Board to consider Miller's recommendation.

Chairman Protano reads from a letter, in the Telegram & Gazette, which states that the Leominster Planning Board approved the Mountain View subdivision. In particular he reads the paragraphs that state "*The eight-lot subdivision includes six parcels in Leominster and two in Sterling. Members of the sportsmen's club had lobbied the board to ask that home buyers be notified in writing that their homes would be in the proximity of a club where gunfire can often be heard. Club officials have said they fear litigation brought by future owners could jeopardize the club's existence. But members of the Planning Board and the developer said Tuesday no such requirement could be imposed by the board. The developer could put such language in the deeds voluntarily, they said, but developers said the club is already protected by state law and has nothing to fear from prospective litigation*". Chairman Protano asks "how do we know this to be true and why can't we impose them". McCarty answers that Leominster contacted their town counsel and were advised that it would not be legal to include this requirement in their Order of Conditions. McCarty also stated that they (the developer) do not intend to include such language in the deeds. The Board agrees, four to one, that they would like to see a condition that buyers be notified of the close proximity of the gun club and will check with Sterling's legal counsel for an opinion of legality. Chairman Protano will contact legal counsel for advisement. No determination was made as to whether the Planning Board or the Developer will incur the expense for legal counsel.

Chairman Protano refers to Leominster's Order of Condition and states that it contains three waivers. The Board reviews these waivers and their impact, or lack thereof, in Sterling.

1. *The traveled way was waived from 34 feet to 26 feet.*

Chairman Protano asks the Board if they feel comfortable with Leominster's decision or if the members want to vote on these waivers themselves. Sterling's traveled way is typically 20 feet for a lane. The Board agrees that there is no objection to the 26 feet.

2. *The length of the cul-de-sac was waived from 500' to 975'.*

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The length of road in Sterling is under the length limit and no waiver is needed for Sterling.

3. *The typical roadway cross-section has been waived. A “low impact development” cross-section is being used as shown on sheet 11 of the Definitive Subdivision Plan.* The Board agrees that this applies to Sterling, as well, and such a waiver should be voted on, as previously requested by the applicant.

At this time the Board reviews the list of waivers previously requested by McCarty.

The request for a waiver for (Subdivision Rules and Regulations Section) *4251 Lanes or Dead End Streets* is determined by the Board not to be necessary for Sterling.

**Williams moves that the Board grant a waiver for the (Subdivision Rules and Regulations Section) *4514 Sidewalks – Construction – Sidewalks shall be Portland cement concrete, constructed to the...* The sidewalks will be Portland cement open cell paver placed over a compacted crushed stone base and must be ADA compliant. Pichierri seconds the motion, no further discussion, all in favor, approved by the Board.**

**Williams moves that the Board grant the waiver for *Road Cross Section* thereby allowing a “low impact development” cross section rather than the typical center crown cross section. Pichierri seconds it, no further discussion, all in favor, approved by the Board.**

Chairman Protano reads the Conditions of Approval from Leominster, inserted below.

**Conditions of Approval**

1. *Streetlights will be paced at 300’ intervals along the roadway.*
2. *Streetlights will be 14 foot pole lights that are offered by NGRID*
2. *A recorded Homeowners Association will be established for the 2 lots in Sterling that will include responsibility for road and drainage maintenance for these 2 lots.*
3. *Maintenance for rain gardens and swales on and in front of individual house lots will be noted as the home owner responsibility in the individual property deeds.*
4. *All eight homes will have sprinkler systems installed that meet the requirements of the Leominster Fire Department and this condition will be added as a footnote to the plan.*
5. *Any blasting operations will require monitoring by an independent seismologist.*
6. *Leominster Board of Health approval of all septic systems is required.*
7. *Leominster Board of Health to test well water and approve before occupancy permits*
8. *Any recommendations from the Leominster Department of Public Works will apply as conditions.*

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With regards to #1, there will be a streetlight at the center of the cul-de-sac as requested by the Sterling Municipal Light Department. McCarty's intent is that there will be three streetlights in Leominster and a fourth in Sterling.

With regards to #2, this does not affect Sterling.

With regard to (the second) #2, the issue of a Homeowner's Association has been previously settled.

With regard to #3, McCarty states that this same condition will apply in Sterling if the Sterling Board so desires.

With regard to #4, the sprinkler system specifications for the two homes in Sterling will be as per the Sterling Fire Department and are already noted on the plans.

With regard to #5, the Board agrees as this is standard procedure.

With regard to #6, Sterling Board of Health is in possession of the septic system plans for the two house lots in Sterling.

With regard to #7, Sterling's water is approved prior to issuance of a building permit and is not contained in the Order of Conditions.

With regard to #8, any recommendations from the *Sterling DPW* will apply as conditions.

Williams asks McCarty which plan is being submitted as the final plan. McCarty responds that he will be submitting a new plan on which the final amendments for street lights, roadway width and the road name will be made. Leominster's 911 coordinator had determined that the street name should be Steam Mill Road to which the Leominster Planning Board disagreed stating that the name should be that of a veteran. Fini Road was the name given in Leominster and subsequently accepted by the Sterling Board. The final plan will reflect this name change. Williams comments that dead end roads in Sterling are typically named Lanes vs. Roads. McCarty to check with Leominster to see if they will agree with Lane and then let Williams know.

Hajdu asks McCarty what kind of marker will be placed at the town line between Leominster and Sterling. It is agreed that a granite marker with the town names on either side will be in keeping with the esthetics of the neighborhood. Chairman Protano is concerned with signage at Hastings and Elm Streets and the likelihood that confusion could occur when looking for the two houses in Sterling. It is agreed that a sign on Hastings/Elm with indication of "Fini Road ahead" would be considered.

Chairman Protano asks each Board member if he has anything else to discuss and all answer that they do not.

**Radzicki moves that the Board approve the Mountain View Subdivision, seconded by Pichierri. Williams would like to see outstanding issues addressed and the final plan, as reviewed by Miller, submitted prior to approval. He states that there is no**

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**rush and that the final clock is not due to expire until September 15, 2008. Rather than approving the Definitive subject to conditions and amendments, Williams would rather wait. McCarty argues that waiting is not necessary and that he was under the impression that if Leominster approved, Sterling would follow suit. Williams moves to table the motion, Pichierri seconds it, no further discussion, four in favor, motion to table approved by the Board.**

**Williams moves that the Mountain View Estates Definitive Subdivision Public Hearing be continued to 8:00 PM on September 10, 2008, Pichierri seconds it, no further discussion, all in favor, approved by the Board.**

**STERLING CROSSING SITE PLAN REVIEW – 96–102 Leominster Road  
Continued from June 11, 2008**

Robert Cutler, Jr. is present tonight for the continued Site Plan Review of his proposed Sterling Crossing project.

Miller states he has no outstanding review items on this project.

Williams reads from Miller's letter dated May 27, 2008 Item #1 which has to do with the fire protection capacity of the water distribution system and notes that the three requirements listed are to be included with the building permit application.

Williams asks about the concern for access to the rear of the building in the event of a fire and Cutler responds that a second letter, from the Fire Department, reiterates that they have no concern, as stated in a letter previously received by the Board.

In reference to the waiver for paving over the septic system, Cutler states that he has the permit.

The Board is in receipt of a copy of the Curb Cut permit from Mass Highway, the Sewage Disposal Works Construction Permit and the Conservation Commission Order of Conditions.

**Pichierri moves that the Planning Board approve the Site Plan of Land, Leominster Road in Sterling Massachusetts, designed for Cutler Brothers, LLC, dated March 2008, being David E. Ross Plan #L-10437, revised as of 6-9-08. Radzicki seconds it, no further discussion, all in favor, approved by the Board.**

Williams states that the clock for Sterling Crossing will need to be extended to allow time for writing of the Order of Conditions.

**Chairman Protano moves that the Board extend the date for written approval of Sterling Crossing until September 9, 2008, Pichierri seconds it, no further discussion, all in favor, approved by the Board.**

(Note added after the meeting: The written approval with conditions was filed with the Building Inspector on 3 September 2008.)

**DELCON SITE PLAN REVIEW - 27 LEGATE HILL ROAD  
Continued from May 28, 2008**

Bill Hannigan, Hannigan Engineering, is present tonight on behalf of the applicant Mark Delvecchio, M. Delcon Realty Trust.

The Board reviews the letter from Hannigan Engineering, dated August 25, 2008 in which comments and their corresponding responses are written. The comments originated in a letter from Haley & Ward dated May 28, 2008 which was reviewed at the Planning Board meeting on May 28, 2008, as noted in the minutes of that meeting.

Miller has not yet provided an updated letter of review, but states that he has reviewed the revised plans and that some of his recommended changes, from his last letter of May 27, 2008, have been adopted; the onsite water main from Legate Hill Road to the proposed fire hydrant has been labeled to be at least 8-inch diameter and handicap access has been labeled.

Hannigan addresses the Board stating that Todd Lobo was not able to make tonight's meeting but has prepared the above mentioned letter. Hannigan explains that the letter touches on the comments from Miller in his letter of May 27, 2008 and comments from the Board at the May 28, 2008 meeting.

Chairman Protano reads the letter from Hannigan Engineering into the minutes. It is noted that where Lobo has indicated "Public Hearing" it should read "Public Meeting" or "Review". A Public Hearing is not required for a Site Plan Review. Italic print is wording taken directly from the Miller's comments;

*Comment #1, the fire protection capacity of the water distribution system should be evaluated prior to construction approval...including; a) Fire flow demand based upon proposed construction and NFPA standards...noting if the structure should include fire sprinklers and the applicable code, b) Fire flow capacity to the site through the connection to the distribution system at Legate Hill Road...based upon hydrant flow tests and c) Projected fire flow capacity within the proposed development.* Hannigan responds that evaluation of these components will be performed in accordance with NFPA, Town of Sterling regulations, the letter from Fire Chief David Hurlbut, dated May 27, 2008 and the Town of Sterling Water Department. The applicant asks that the preparation of this data and successful completion of the fire flow test be included as a Condition of Approval that would be performed and approved prior to construction. The Board agrees with this.

*Comment #2, the onsite water main from Legate Hill Road to the proposed fire hydrant should be at least 8-inch diameter to provide acceptable losses during fire flow conditions.* This change is reflected in the revised plans, on sheet 2.

*Comment #3, the proposed use of the structure should be stated with respect to; a) conformance with 4.6.4; (d) toxic or hazardous materials and; d) discharge of industrial waste or cooling water.* The planned use(s) of the proposed building are those which are

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allowed under the Town of Sterling Zoning Regulations. The applicant is aware that there are prohibited uses on the site and acknowledges that he will not lease to any tenant whose operation would include the need for performing any of the prohibited uses. The Order of Conditions will include a Condition that the Planning Board is made aware of new tenants and any changes of use, prior to occupancy. Pichierri suggests to Hannigan that whatever tenant information, including Mr. Delvecchio, the applicant, could be obtained prior to final approval would be considered in this Site Plan Review. Future proposed uses would have to be reviewed on a case by case basis.

Comment #4, *the proposed wastewater discharge appears to be less than 440 gallons per acre per day...* the response is that the wastewater discharge has an anticipated flow per acre of approximately 100 gallons.

Comment #5, *the applicant should confirm that the septic system leach system will provide at least six (6) feet of separation to annual high groundwater level.* The proposed subsurface sewage disposal system will be designed to conform to Title V, the Board of Health regulations and the Town of Sterling Zoning Ordinance.

Comment #6, *the access doors to the buildings should be shown and labeled to demonstrate pedestrian access and safety.* This has been added to the site plans and a revised building layout and elevation plan has been included in the revised plan set.

Comment #7, *the extent of the sidewalk along the parking lot should be clarified with the sidewalk and wheelchair ramp labeled.* This has been clarified and labeled on the revised plans.

Comment #8, *the catch basins proposed to have double grates should be labeled.* These catch basins have been labeled on the revised plans.

Comment #9, *an elevation of the proposed structure should be provided to allow your Board to evaluate the visual impact from the public way(s).* The last sheet in the revised plans shows this elevation, which the Board reviews.

The following comments are from the May 28, 2008 Planning Board Meeting:

Comment #10, *add a stop sign at the exit to the site.* A stop sign has been added to the revised plan.

Comment #11, *obtain traffic information from abutting projects to address the inadequacies of the Legate Hill/Pratts Junction intersection.* Lobo indicates, in his response, that the intersection is currently being analyzed through the MEPA process in conjunction with the design of the proposed Southgate Business Park Expansion and Crown Point projects located on Rte 12 in Leominster/Sterling and that the findings confirm that the intersection is not ideal. Recommendations are being made for improvements in this study and Lobo feels that the anticipated increase in traffic volume for Delcon is negligible compared to the projected volume increases for the above mentioned projects. The Board feels that these other projects have no certainty of coming to fruition and that their study and subsequent improvements should not be relied

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upon for this proposed project. After much discussion it is agreed that the use of signs directing truck traffic to an alternate route (it is recognized that this may cause other problems in other areas) and/or signs along Rte 12 warning traffic of "trucks turning" would be helpful. Hannigan is to look into the issues of the intersection and ideas for safety to determine what might be allowed along this State road.

The Site Plan Review for Delcon will resume on September 10, 2008 at 7:30 PM.

**Williams moves that the Board continue the Site Plan Review to September 10, 2008 at 7:30 Pm, seconded by Radzicki, no further discussion, all in favor, approved by the Board.**

**Williams moves that the Board grant the applicant's request for extension of the final clock for Delcon through the 19<sup>th</sup> of September, 2008. Seconded by Pichierri, no further discussion, all in favor, approved by the Board.**

### **DISCUSSIONS AND REPORTS:**

#### **BUILDING NEEDS AND UTILIZATION COMMITTEE**

Chairman Protano reads the memo from the Board of Selectmen, dated August 21, 2008, in which the BOS is requesting participation on a short term committee whose function will be to address the proposed revitalization of the Town Common. The Planning Board does not have a member able to commit to this position, at this time, but would like to be kept informed of meeting dates, agendas, etc. A Board member will attend when available.

(Note added after the meeting; a letter was sent to the Board of Selectmen stating the above.)

#### **SANDY RIDGE ROAD FOLLOW-UP**

A site walk was performed on Sandy Ridge Road, on August 3, 2008, for the purpose of examining the trees to ensure their survival. Hajdu has now produced a report of his and Williams' findings during this inspection. When compared to what Chairman Protano and Pichierri felt were issues, based upon their inspection, there is some discrepancy. It is decided that a second site visit, with Curt Plante, should be made. Pichierri and Radzicki agree to do a second inspection on Sunday, August 31, 2008 at 10:30 AM.

(Note added after the meeting; Curt Plante was called and agreed to meet with the above Board members on the date and time planned.)

#### **TREBOR LANE FOLLOW-UP**

The Board reviews the letter sent to Tim McGuire, after the Board meeting of August 13, 2008, regarding items to be completed at Trebor Lane. Williams reads the note from Bob Temple, DPW, in which Temple reports what he saw during an inspection, on August 25,

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2008, of the catch basins and traps on Trebor Lane. Chairman Protano is concerned that the letter sent, from the Planning Board, was sent prematurely and leaves room for McGuire to misinterpret what work is being requested of him. Chairman Protano asks that a second letter be sent to McGuire which is to indicate that he will complete his list of items confirmed to be pending, the additional items contained in our letter and to address the findings of Temple regarding the catch basins and traps. McGuire is also to report back to the Board of his progress and anticipated date of completion for everything.

Chairman Protano requests that all letters are to be reviewed by him prior to leaving the Planning Board office.

(Note added after the meeting; a letter was sent to Tim McGuire on August 28, 2008 via email.)

### **STERLING SOURCE WATER PROTECTION COMMITTEE**

A meeting was held on August 26, 2008 of the Sterling Source Water Protection Committee, which Williams attended and reviews with the Board. The concern is with the Zone II and the Worcester Road Wells. Williams explains that a private non-profit group called Mass Rural Water Association, which the DPW belongs to, wants to produce a document with recommendations that the DPW may choose to adopt and recommend possible properties that the DPW should target for potential acquisition to further protect the Wells. The next meeting is scheduled for November 18, 2008 which Williams will attend.

### **COMMONWEALTH OF MA – OFFICE OF ATTORNEY GENERAL**

The Board reviews the letter to the Town Clerk regarding the Sterling Annual Town Meeting of May 12, 2008, Articles 41, 43 and 44. Article 41 is the passing of a zoning change, from Rural Residence to Performance Zone I, for the Sullivan Property on Redemption Rock Trail that had gone before the Planning Board. A letter was sent to Atty. Leland informing him of the passing of the article.

### **WAUSHACUM VILLAGE HOMEOWNER'S ASSOCIATION**

The Board reviews a letter from the Charles Locke, President of the Waushacum Village Homeowner's Association, to the Planning Board in which he explains an error made in the subdividing and selling of a piece of land that was part on Chapter 61A. Locke apologizes for the error and his failure to give the town the first right of refusal on purchasing this piece of land.

### **ANNUAL BILL FROM ARCVIEW**

The Assessor's office has passed along an invoice to the Planning Board for one fourth payment of the maintenance fee for the program to run Query Manager. The Planning Board does not typically use the Query Manager and is questioning if they should be included, and billed, as a user. The Board decides that the bill should be paid this time

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and a decision for future use will be made at a later time. One fourth of the bill is \$162.68.

**MAIL:**

Several items of mail were reviewed by the Board. Of interest to the Board members is the upcoming annual meeting of the MA Federation of Planning & Appeals Board to be held in Worcester on October 24, 2008 and the Healthy Landscaping Workshop to be held on September 11, 2008 at the Doyle Center in Leominster, MA.

**BOARD OF APPEALS-**

The notice, dated 7-8-08, stating that the ZBA has granted a variance for Marcia Aubin to sell used autos from the Hi-Tec Auto on Chocksett Road was reviewed.

**NOTICES FROM OTHER TOWNS:**

Notices from other towns were reviewed.

**MOTION TO ADJOURN:**

**Williams makes a motion to adjourn the Planning Board Meeting at 11:22 PM. Seconded by Radzicki, no further discussion, all in favor, approved by the Board.**

**The next regularly scheduled meeting will be on Wednesday, September 10, 2008 at 7:00 PM.**

**APPROVED BY:**

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