



# Town of Sterling Planning Board

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TOWN OF STERLING  
TOWN CLERK

## STERLING PLANNING BOARD PUBLIC HEARING NOTICE ZONING AMENDMENTS

Per MGL, Ch. 40A, §5, the Sterling Planning Board will hold a public hearing on Wednesday, October 7, 2020, starting at 6:45 PM, to consider proposed amendments to the Protective Bylaws (Zoning Bylaws) and Zoning Map. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this hearing will be conducted via remote participation. To attend and participate in this public hearing via computer/tablet/smartphone, visit [www.zoom.com](http://www.zoom.com), click Join a Meeting, and enter Webinar ID: 219 650 1026, passcode 1ParkSt. To participate via telephone, dial 1-646-558-8656 and enter the following Meeting ID: 219 650 1026, Passcode: 814244. If you are unable to participate by those means, but would like to comment or have questions, or would like to request text of the proposed amendment, please email [dtatasciore@sterling-ma.gov](mailto:dtatasciore@sterling-ma.gov) or call 978-422-8111 x2332.

The subject matter of the proposed amendments are as follows:

1. Delete Article 4, Section 4.3 Rate of Development and amend the Table of Contents pertaining to said section by replacing "Rate of Development" with "Reserved" and renumber all subsequent pages thereafter.
2. Delete Article 4, Section 4.3A Subdivision Phasing and amend the Table of Contents pertaining to said section by deleting "Subdivision Phasing" and all its related subsections and to renumber all subsequent pages thereafter.
3. Amend Article 6, Section 6.4 Site Plan Review, as follows:
  - a. Section 6.4.1.1. by replacing "500 square feet" with "1,200 square feet";
  - b. Section 6.4.1.2. by correcting the typo to read "multi";
  - c. Section 6.4.2. by adding a new subsection to the Exemptions to include construction or enlargement of any non-residential building, structures or use not exceeding 1,200 sf or will not generating more than 5 parking spaces, as determined by the Building Commissioner.
  - d. Section 6.4.3.1. by making it applicable to Special Permits, by making changes to the application requirements and process, and by providing for action by the Planning Board after a public hearing including requiring notification for parties of interest via mail and to be published in a newspaper in each of two consecutive weeks;
  - e. Section 6.4.3.2. by deleting the subsection in its entirety;
  - f. Section 6.4.6. by deleting the Waiver of Technical Compliance section and amend the Table of Contents pertaining to said subsection by deleting said subsection and to renumber all subsequent pages thereafter.
4. Amend Article 2, Section 2.5.4 Free Standing Uninhabited Buildings by allowing all uninhabited buildings, located in the Town Center zoning district, to be setback a minimum of 5 feet from both the side and rear yard setbacks and that it shall be aligned within 5 feet of the inhabited structure for the front yard setback so long as it complies with said setback.
5. To amend the Table of Contents by deleting "Aquifer and Water Resource Protection Districts" and existing subsections 4.6.1-4.6.9 and replacing that with "Groundwater Protection Districts" and new

6. To amend Article 2, Section 2.1.1. Establishment, by deleting the words “Aquifer and Water Resource Protection District” and replacing it with “Groundwater Protection Districts.”
7. To amend Article 2, Section 2.2.1. General, by deleting the words “PB – A use authorized under special permit from the Planning Board as provided under Section 6.3”.
8. To amend the Zoning Map by rezoning the following 13 parcels, located southerly of Dana Hill Road & Legg Road, from Performance Zone 1 to Commercial zoning district relating to the following parcels:  
11 Dana Hill Rd (Parcel #144-1), 9 Dana Hill Rd (Parcel #159-1), 43 Redemption Rock Trail (Parcel #159-2), 41 Redemption Rock Trail (Parcel #159-3), 37 Redemption Rock Trail (Parcel #159-4), 35 Redemption Rock Trail (Parcel #159-5), Redemption Rock Trail (Parcels #159-6 & 7), 32 Redemption Rock Trail (Parcel #159-8), 44 Redemption Rock Trail (Parcel #159-9), 0 Redemption Rock Trail (Parcel #159-10), 4 Legg Rd (Parcel #159-11), 6 Legg Rd (Parcel #159-12)

The full text of the proposed zoning amendments are on file with the office of the Town Clerk and can be viewed at Town Hall during regular business hours. The full text and map are also available at the Town’s website at <https://www.sterling-ma.gov>.

Carl Corrinne, Chair  
Sterling Planning Board  
Worcester Telegram & Gazette, September 23, 2020 & September 30, 2020

## Potential Protective/Zoning Bylaw & Map Amendments – PB Public Hearing

Note: Proposed new language is highlighted, stricken-out words are proposed deletions.

### 1. Proposed Amendment - Rate of Development

- A. To amend Article 4, Section 4.3 – Rate of Development by deleting the entire text and replace with “Reserved”. This section expired in 2013 and has not been removed from the bylaw.

#### **4.3 RATE OF DEVELOPMENT**

~~4.3.1 **Purpose.** The purpose of this section, “Rate of Development”, is to promote orderly growth in the town of Sterling, consistent with the rate of residential growth over the last seven (7) calendar years, to phase growth so that it will not unduly strain the community’s ability to provide basic public facilities and services, to provide the town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, as may be amended, and to preserve and enhance existing community character and the value of property.~~

~~4.3.2 **General.** Beginning on May 11, 1998, building permits for not more than thirty (30) dwelling units shall be issued in each of the fifteen full calendar years following said date, for the construction of new residential dwelling in the town of Sterling. This provision shall apply to any tract of land divided pursuant to any provision of G.L. c.41, ss.81K–81GG, the Subdivision Control Act subsequent to such date. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of such date. For the purposes of this section, an accessory apartment pursuant to Section 2.3.4 shall constitute a dwelling unit.~~

~~4.3.3 **Procedures.** Any building permits issued shall be issued in accordance with the following procedures:~~

- ~~1. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.~~
- ~~2. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.~~
- ~~3. At the end of the calendar year in which this by law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth of January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with subsection 4.3.3(1), above.~~

~~4.3.4 **Special Permit Exemption.** Upon a determination by the Planning Board under a special permit application that the building permits will be issued for dwelling units within a development that will provide special benefits to the community, said permits shall be exempt from this section in its entirety, and shall not count toward the thirty (30) permits to be issued annually. The Planning Board may grant a special permit under this section only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well conformance with Master Plan or Growth Management Plans, if any, prepared by the Planning Board pursuant to G.L. c.41, s81D. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more.~~

**4.3.5 Exemptions.** ~~The provisions of this section shall not apply to, nor limit in any way, the granting of building or occupancy permits required for the following purposes:~~

- ~~1- the construction, enlargement, restoration, or reconstruction of one single family or two family dwelling on a lot legally existing as of the date of passage of this by law.~~
- ~~2- The construction of a single family dwelling on land which, as of the date of passage of this by law, was part of a lot held in separate ownership and containing one single or two family dwelling; provided that only one such new dwelling may be constructed in any year, and provided that the original lot shall be divided so that the existing dwelling and each new dwelling shall be on separate lots that conform to all zoning requirements for the district in which they are located.~~

**4.3.6 Time and Limitation and Extension.** ~~This section shall expire on January 1, 2013; provided, however, that this section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to January 1, 2013.~~

**4.3.7.** ~~The Planning Board may adopt reasonable rules and regulations for the administration of this Section 4.3.~~

- B.** To amend the Table of Contents by deleting “Rate of Development” and all its related subsections and by inserting the following new text “Reserved” and to renumber all subsequent pages thereafter: **4.3 Reserved**

## **2. Proposed Amendment – Subdivision Phasing**

- A.** To amend Article 4, Section 4.3A – Subdivision Phasing by deleting the entire text.

### **4.3A SUBDIVISION PHASING**

**4.3A.1 Purpose.** ~~The purpose of this section, “Subdivision Phasing” is to assure that growth shall be phased so as not to unduly strain the town’s ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community’s desired rate of growth; and so that the town can study the impact of growth and plan accordingly.~~

**4.3A.2 Applicability.** ~~The issuance of building permits for any tract of land divided pursuant to any provisions of G.L. c.41,ss.81K-81GG, the Subdivision Control Act, into more than seven (7) lots after the effective date of this by law shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of May 11, 1998.~~

**4.3A.3 Phasing.** ~~Not more than seven (7) building permits shall be issued in any twelve month period for construction of residential dwelling on any tract of land divided into more than seven (7) lots pursuant to any provision of G.L. c.41,ss. 81K-81GG, the Subdivision Control Act.~~

**4.3A.4 Exceptions.** ~~Issuance of more than seven (7) building permits for the same tract of land in a twelve month period may be allowed in the following circumstances:~~

- ~~1. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than seven building permits in any 12-month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well conformance with Master Plan or Growth Management plans as may be adopted or amended, prepared by the Planning Board pursuant to G.L. c.41, s.81D. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more. Where such special permit is granted, any building permits issued for dwelling units within the division of land shall not count toward the 30 permits to be issued annually in Section 4.3.~~



- ~~2. Where the tract of land will be divided into more than seventy (70) lots, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.~~
- ~~4.3A.5 **Zoning Change Protection.** The protection against subsequent zoning change granted by G.L. c.40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to ten years.~~
- ~~4.3A.6 **Relation to Real Estate Assessment.** Any land owner denied a building permit because of these provisions may appeal to the Board of Appeals, in conformity with G.L. c.59, s.59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.~~
- ~~4.3A.7 The Planning Board may adopt reasonable rules and regulations for the administration of this Section 4.3A..~~

- B.** To amend the Table of Contents by deleting “Subdivision Phasing” and all its related subsections and to renumber all subsequent pages thereafter.

### **3. Proposed Amendment – Site Plan Review**

- A.** To amend Article 6, Section 6.4.1. Applicability by modifying the square footage trigger whereby projects under 1,200 SF do not require review or a waiver of technical compliance from the Planning Board and to correct a typographical error, as follows:

**6.4.1 Applicability.** The following types of activities and uses require site plan review by the Planning Board:

1. Construction, exterior alteration or exterior expansion of, or change of use within a municipal, institutional, commercial, industrial or multi-family structure involving more than 500 1,200 square feet;
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi multi-family structure or purpose;
3. Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two-family dwelling; clearing necessary for percolation and other site tests; work incidental to agricultural activity, work in conjunction with an approved subdivision plan, or work pursuant to an earth removal permit.

- B.** To amend Article 6, Section 6.4.2. Exemptions by adding a new subsection “2.”, as follows:

#### **6.4.2 Exemptions**

1. A building wholly or partially destroyed may be rebuilt without recourse to this section if rebuilt without change to the building footprint or the square footage of usable space.
2. The construction or enlargement of any non-residential building, structure or use in any district where such construction will not exceed a total gross floor area of 1,200 square feet or will not generate the need for more than 5 parking spaces, as determined by the Building Commissioner.

- C.** To amend Article 6, Section 6.4.3 Procedures by modifying the number of plan copies submitted, to consolidate two subsections, to require the publication and notification to abutters, and to renumber all subsequent subcategories, as follows:

### 6.4.3 Procedures.

1. Use, Structure, or Activity Available As of Right **or Special Permit**. An application for a building permit to perform work as set forth in Section 6.4.1 available as of right shall be accompanied by an approved Site Plan. Prior to the commencement of any activity set forth in Section 6.4.1 or available as of right, the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit ~~five (5)~~ **fifteen (15)** copies of the site plan **and an electronic copy of all application materials** to the Planning Board for review, **and for distribution** ~~within three (3) days thereafter shall also submit a copy of the site plan to the Board of Health, Superintendent of Public Works, Police Chief, Fire Chief, the Building Commissioner Inspector and the Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision.~~ **Approval for a site plan may be issued only after a public meeting held within sixty (60) days of the filing of an application with the Planning Board. It is the applicant's responsibility to obtain a certified list of names and addresses of all parties of interest, as defined in MGL Ch. 40A, Section 11, by the Assessing Office. The Planning Board shall notify all parties of interest by mail and notice of a public meeting shall be given by publication in a newspaper of general circulation in the town in each of two (2) consecutive weeks; the first publication to be not less than fourteen (14) days and the second publication not less than seven (7) days before the day of the meeting. Said notice and publication shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location, the date and place of the public meeting, the subject matter of the hearing, and the nature of the action requested. The decision of the Planning Board shall be upon a majority of those present and shall be in writing.**  
No building permit shall be issued by the Building **Commissioner** ~~Inspector~~ without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.
2. ~~Use or Structure Available by Special Permit or Variance.~~ An application for a special permit or a variance to perform work as set forth in Section 6.4.1 shall be accompanied by an approved Site Plan. Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the town Engineer, the Board of Health, Director of Public Works, Police Chief, Fire Chief, the Building Inspector and the Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No special permit or variance shall be issued by the Board of appeals without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board. Where the Planning Board approves a site plan "with conditions", and said site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

- D. To amend Article 6, Section 6.4.6 Waiver of Technical Compliance by deleting this section in its entirety and sequentially renumbering the sections thereafter.

~~**6.4.6 Waiver of Technical Compliance.** The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 6.4.4 or 6.4.5 where the project involves relatively simple development plans or constitutes a minor site plan. Applications for permits to build, alter or expand any non-residential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 6.4.4; provided, however, that the scale of the site plan may be 1"=80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.~~

- E. To amend the Table of Contents by deleting Section 6.4.6 "Waiver of Technical Compliance" and to renumber all subsequent section thereafter.

#### **4. Proposed Amendment – Free Standing Uninhabited Buildings**

To amend Article 2, Section 2.5.4. Free Standing Uninhabited Buildings (up to 500 sq ft), Open Decks (up to 300 sq ft), Pools by adding the following language:

"In the Town Center zoning district, all free standing uninhabited buildings, regardless of square footage, shall be set a minimum of 5 feet from the side yard and rear yard setbacks and shall be aligned within 5 feet of the front yard setback of the inhabited structure as long as it complies with said setback."

#### **5. Proposed Amendment – Aquifer and Water Resource Protection Districts**

- A. To amend the Table of Contents by deleting "Aquifer and Water Resource Protection Districts" and all its related subsections and by inserting the following new text and to renumber all subsequent pages thereafter:

##### **4.6 Groundwater Protection Districts**

- 4.6.1 Purpose**
- 4.6.2 Scope of Authority**
- 4.6.3 Definitions**
- 4.6.4 Establishment and Delineation of Groundwater Protection Districts**
- 4.6.5 District Boundary Disputes**
- 4.6.6 Uses Regulations**
- 4.6.7 Additional Requirements for Permitted Uses**
- 4.6.8 Pre-existing Uses and Structures**
- 4.6.9 Special Permit Procedures**
- 4.6.10 Enforcement and Violations**
- 4.6.11 Savings Clause**

- B. To amend Article 2, Section 2.1.1. Establishment, by deleting the words "Aquifer and Water Resource Protection District" and to replace with "Groundwater Protection Districts."

## 5 **Proposed Amendment – Use Regulations**

To amend Article 2, Section 2.2.1. General, by deleting the words “PB – A use authorized under special permit from the Planning Board as provided under Section 6.3”

## 6. **Proposed Amendment – Zoning Map**

Petition to amend the Town of Sterling Zoning Map by rezoning the following 13 parcels, currently zoned Performance Zone 1, to be included entirely within the Commercial (C) zoning district:

Parcel #	Address	Ownership	Area
144-1	11 Dana Hill Road	11 Dana Hill Road LLC	5.24 acres
159-1	9 Dana Hill Road	LPL/LLC	5.45 acres
159-2	43 Redemption Rock Trail	Town of Sterling – Cemetery	1.6 acres
159-3	41 Redemption Rock Trail	Fam Gennaro Realty LLC	1.0 acres
159-4	37 Redemption Rock Trail	Ruth Malinowski Revocable Trust	0.65 acres
159-5	35 Redemption Rock Trail	Karen Packard Trustee	1.1 acres
159-6	Redemption Rock Trail	DCR	0.42 acres
159-7	Redemption Rock Trail	DCR	1.4 acres
159-8	32 Redemption Rock Trail	KK Realty Trust (Karen Packard)	3.091 acres
159-9	44 Redemption Rock Trail	Karen Packard Trustee & KKI Realty	3.6 acres
159-10	0 Redemption Rock Trail	Karen Packard Trustee & KK Realty	0.44 acres
159-11	4 Legg Road	KK Realty Trust (Karen Packard)	2 acres
159-12	6 Legg Road	KK Realty Trust (Karen Packard)	2.58 acres
Total Parcels: 13			28.57 acres* exclusive of road centerline

Parcels included in this zoning map amendment are outlined in red.

