

STERLING PLANNING BOARD MINUTES – February 8, 2017

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**Present:** John Santoro ~ Chairman  
Michael Pineo ~ Clerk & E. D. C. Member  
Russ Philpot ~ ANR Agent  
Betty Kazan ~ Administrative Assistant  
**Absent:** Charles Hajdu ~ Vice Chairman  
David Shapiro ~ Member

Mr. Santoro called the meeting to order at 7:05 PM in Room 202 of the Butterick Building.

### **Homestead Lane As Built/Accepted Road plan submission**

Jim Simpson dropped off As Built/Accepted Road plan for Homestead Lane. Mr. Simpson requested that this be on the next Planning Board's agenda to discuss having Homestead Lane (Sterling Heights Builders) be an accepted Road in time for the annual Town meeting. Mr. Simpson mentioned that the only things left to do were spring cleanup and planting of trees for this project.

Because Mr. Philpot recused himself, the Board agreed to discuss Mr. Simpson request at their meeting on February 22, 2017. In the meantime, the Board agreed to forward the Homestead Lane plans to Haley & Ward for their review.

### **Minutes**

The Board agreed to postpone approval of the minutes for January 25, 2017 until their next meeting scheduled for February 22, 2017, due to a lack of quorum.

### **Warrants & Payroll**

Board members reviewed a voucher for payroll.

The Board approved payment in the amount of \$1102.50 to KP Law. The pending balance for November (\$87.50) and an invoice for December (612.50) will be held until Mr. Philpot contacts KP Law for further clarification. The Board also approved a voucher for Petty Cash in the amount of \$41.29.

### **Chairman Report/Notices/Discussions**

#### **Mass Development**

Mr. Santoro acknowledged an email from Mika Brewer of Mass Development asking the Board if they could come in to discuss the Site Readiness Program and the results of a North Central Industrial land analysis that Mass Development commissioned this past year. The Board agreed to invite them to come in to their next meeting on February 22, 2017.

### **CPTC Spring Conference**

The 2017 CPTC Spring Conference will be held on Saturday, March 18, 2017 at Holy Cross College. Open registration should be available mid February.

### **Warrant submission ~ Annual & Special Town Meeting**

The Board asked Ms. Kazan to send an email to Anne Cervantes requesting two place holders on Bylaw changes for the annual town meeting warrant.

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### Proposed By Law changes from Building Commissioner

The Planning Board agreed to take no action on the proposed By Law change from the Building Commissioner making it a special permit instead of a variance.

Mr. Philpot mentioned that a special permit typically goes with the person and a variance goes with the property. The threshold for granting a variance is the existence of a hardship which is a much higher standard than a special permit. There's five or six criteria for a special permit; Impact on the neighborhood, aesthetics, financial impact to the Town, traffic flow, and general safety.

The Board agreed to have Mr. Philpot talk with Lunenburg regarding how they handle special permits. In the meantime, the Board agreed to take no action on this item and continue discussions at their next meeting on February 22, 2017.

### As Built Plan ~ Thomas Lane

The Board reviewed As Built/Acceptance Plans for Thomas Lane, owners D'Boss and Son Builders, Inc.

Ms. Kazan explained that the plans were dropped off on a day when the office was not open. She contacted Mr. Cormier and he stated that he wanted to get the Board's approval to have Thomas Lane as an accepted road in time for the upcoming annual Town meeting warrant. Mr. Santoro stated that there were some issues regarding the detention basin and the Board agreed to refer the Thomas Lane plans to Haley & Ward for their review.

The Board agreed to continue discussions at their next meeting of February 22, 2017.

### Primrose Lane & Jennifer Lane ~ request to privatize roads

Ron Pichierri submitted a letter to the Board seeking their guidance and input relative to the procedures to privatize proposed town roads, in particular Jennifer Lane and Primrose Lane.

Mr. Santoro read Mr. Pichierri's letter dated February 8, 2017, as follows:

I come before you tonight seeking your guidance and input relative to the procedure(s) to privatize proposed Town roads, in particular Jennifer Lane and Primrose Lane. Both roads abut large areas of limited development properties which cause members of the public to park on or about each of the mentioned roadways, at various times throughout the year. Privatizing these two roadways would allow posting of signs limiting such parking.

There appears to be no set procedure established by the Town of Sterling to privatize these roadways.

The Town of Sterling would receive several benefits if these two roads become privatized. I.e. No snow plowing, sanding or other maintenance would be required of the town's facilities, thus a financial savings. If privatized, I would provide the Town with right of way easements for DPW Water Department and SMLD Electric access and other if needed.

Further, real estate taxes would be paid on the 'roadway' property as they currently are paid, thus continued revenue.

Please advise as to the recommended procedure.

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Thank you, Ronald F. Pichierri

Mr. Santoro noted that this was the third time Mr. Pichierri was at a Planning Board meeting seeking information on procedures to privatize a road.

Mr. Santoro referred back to excerpts from the Planning Board minutes of March 28, 2012:

*‘Jennifer Lane – Pichierri states that he would like to privatize Jennifer Lane and would like to know the correct way to do so. Williams feels that the correct way to keep a road private is to not petition the town for acceptance as a town road. Williams researched Abbey Lane, a private road, to see how it was handled and notes that the developer of Abbey Lane went before the Board of Selectmen to change the name, but not to privatize the road. Pichierri has no intention of changing the name of Jennifer Lane. Williams suggests that if Pichierri wants to definitively know the correct way to keep Jennifer Lane a private way, he should seek legal counsel. Pichierri feels this is a good idea and states that he will contact legal counsel, at his expense. ‘*

Mr. Santoro referred back to excerpts from the Planning Board minutes of September 14, 2016:

### **‘Request from Ron Pichierri to privatize Jennifer Lane**

*Ron Pichierri was on hand to ask the Board for their assistance in determining a procedure on how to go about privatizing Jennifer Lane. One of the reasons for his request is that people seem to drift into this road. They have stolen his street sign and also park there. The residents would like to be able to put up no trespassing signs to deter this activity.*

*Mr. Santoro noted that at a Planning Board meeting held on March 28, 2012, Mr. Pichierri had approached the Board with the same request. The following minutes from that meeting are as follows:*

*“Pichierri states that he would to privatize Jennifer Land and would like to know the correct way to do so. Williams feels that the correct way to keep a road private is to not petition the town for acceptance as a town road. Williams researched Abbey Lane, a private road, to see how it was handled and notes that the developer of Abbey Lane went before the Board of Selectmen to change the name, but not to privatize the road. Pichierri has no intention of changing the name of Jennifer Lane. Williams suggests that if Pichierri wants to definitively know the correct way to keep Jennifer Lane a private way, he should seek legal counsel. Pichierri feels this is a good idea and states that he will contact legal counsel, at his expense.”*

*Mr. Pichierri confirmed that he was not interested in changing the name. Mr. Pichierri agreed to contact legal counsel for advice.’*

The board once again suggested that Mr. Pichierri seek legal counsel at his own expense.

Mr. Pineo stated that Jennifer Lane is not an accepted road therefore it is a private road.

Mr. Philpot commented it would be in bad form and risky for this Board to provide any sort of legal advice on potential actions of a property owner on what they wish to do or not wish to do with their property.

Mr. Philpot stated that this bridge has already been crossed on Jennifer Lane and it is the opinion of this Board as it was then and is now that the applicant would seek legal advice. Nothing else

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has changed since the March 28, 2012 meeting (Mr. Pichierri agreed). The only thing that has happened is Mr. Pichierri is asking the same of Primrose Lane (Mr. Pichierri agreed).

Mr. Philpot stated that he thought the definition is the ways are either public or private. It starts out as private property and the applicant comes to the Planning Board seeking approval of a definitive subdivision plan. Once it is approved, it is still private property until As Built plans and all the assets are inspected and approved. Once this is complete it goes to town meeting and the voters of the town vote to accept it as a public way. Up until this vote, it is private property and therefore a private way. Mr. Philpot stated there is no process to privatize a road. He further stated that if we are talking about a public way that someone wants to privatize that would engage the town meeting vote to sell property and convert public property to private property. There is a process for this but there is no process for privatizing private property.

Administrative Assistant's Report/Notices

Invoicing

The Board agreed if there were any questions from the applicants regarding engineering invoices they should be addressed in writing to the Planning Board.

Performance & Surety Bonds

Mr. Philpot suggested the Board consider revising its policy on Performance Bonds for Subdivisions and wasn't sure if it was a bylaw issue or subdivision Rules & Regulations – likely a Rule & Regulation under the Board's control. Mr. Philpot asked if the Board gives the applicant an approval for a definitive subdivision plan which is good for two years why wouldn't the applicant give the Board a bond for two years (not one year). It should be incumbent upon the applicant to maintain the Performance Bond or Surety Bond for the duration of the time the permit is open. If it is not, then this Board could notify all Town departments to place stop work orders and Cease and Desist on all activities until the Bond is renewed.

The Board agreed that the value of the bond should be the value that the Town would pay if it has to finish up on a subdivision.

The Board asked Ms. Kazan to research whether this would be a bylaw change or a subdivision Rules & Regulation change.

Fee Schedule

The Board briefly reviewed some preliminary information of fees and rates of surrounding Towns being gathered by Ms. Kazan. No action was taken.

Ricoh

Ms. Kazan mentioned that representatives from Ricoh came out to the office to review the files and are in the process of preparing a quote based on the information they gathered. Also, Ricoh submitted a quote for a large document printer/scanner with lease and purchase options.

Mr. Philpot mentioned that he knew of a couple of companies who offered similar services and would pursue getting information from them as well.

ANR Procedures & possible future public hearing

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The Board agreed to postpone discussions until Mr. Philpot has gotten answers to discrepancies in the revised ANR Procedures/documents updated by KP Law.

Condition of General Bylaws

The Board agreed to discuss at their next meeting scheduled for February 22, 2017.

E.D.C. Recommendations

The Board agreed to postpone having a discussion to formulate a response until their next meeting scheduled for February 22, 2017. In the meantime, the Board asked Ms. Kazan to send an email to Jim Pattachiola, Chairman of the E.D.C. thanking the Economic Development Committee for their recommendations. The Planning Board apologizes for the silence but it is not that the Board has forgotten but is formulating a response and will get back to you at our first convenience.

Discussion ~ Medical Marijuana Dispensaries

The Board agreed to continue discussions at their next meeting scheduled for February 22, 2017.

Discussion ~ Timing and conditions of releasing bonds for new roads

The Board agreed to continue discussions at their next meeting scheduled for February 22, 2017.

9:10 P.M. MOTION TO ADJOURN

Mr. Pineo moved that the Board adjourn and reconvene to the Board of Selectmen meeting room 205 to discuss the marijuana Bylaw. The Board will adjourn directly from this meeting. Mr. Philpot seconded the motion. The motion passed unanimously.

APPROVED BY:
