

STERLING PLANNING BOARD MINUTES – August 9, 2017

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**Present:** John Santoro ~ Chairman  
Michael Pineo ~ Vice Chair & E.D.C. Member  
Russ Philpot ~ ANR Agent  
David Shapiro ~ Clerk

**Absent:** Betty Kazan ~ Administrative Assistant

Mr. Santoro called the meeting to order at 7:01 P.M. in Room 202 of the Butterick Building.

### ANR

David LeRoy, Hannigan Engineering, Inc. on behalf of Marion I. McDermott (owner), 18 Jewett Road, Sterling, MA 01564 and applicant Kris Kechler was on hand to discuss the ANR application of property located at 18 Jewett Road, Assessors Map 126, Lots 14, 27, 1 and a portion of 17.

Mr. Philpot moved that the Board endorse ANR Plan owned by Marion I. McDermott of 18 Jewett Road in Sterling, MA, plan prepared by Hannigan Engineering, Inc., 8 Monument Square, Leominster, MA 01453, Job #2640, Plan #C-12-3, dated August , 2017. Identifying Lot 1 with an existing house and Lot 2, finding that both lots being created from one large lot meet the three legal requirements; having a viable way, having a minimum required frontage, and having the vital access to the buildable portion of the lot. Check #3055 received in the amount of \$100; Form A completed, with one Mylar and five copies of the plan. There was no further discussion. Motion seconded by Mr. Pineo. The motion passed unanimously.

### Sterling Crossing, Leominster Road, Cutler Brothers discussion of extension of Site Plan ending 8/27/17

Mr. Philpot noted that the Site plan was originally approved in September, 2008 and has been given the following extensions:

August 2010 vote 2 year extension  
August 2013 vote 2 year extension  
August 2015 vote 2 year extension

The Board reviewed the approved 2008 Site Plan letter/Order of Conditions.

Anthony Cleaves of Whitman and Bingham Associates who is now being involved in the project explained that the Cutler Brothers had received a letter from the Planning Board asking them to come before the Board regarding the expiration of the period for “substantial use” (August 27, 2017) and to update the Board on the status of the project.

Mr. Cleaves presented the Board with the following letter dated August 9, 2017:

*‘On behalf of our client, Chacharone Properties, Whitman & Bingham Associates, LLC respectfully requests an extension of the period for “substantial use” for the Sterling Crossing Site Plan, Leominster Road, Sterling, MA.*

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We look forward to meeting with the Board to discuss this project in further detail. If you should have any questions or require any additional information regarding this or any other matter, please do not hesitate to contact me at this office.

Sincerely, Brian F. Milisci, P.E. '

Mr. Cleaves explained that in the spring of 2017 the Cutler Brothers were approached by a prospective buyer (Chacharone Properties) and Chacharone Properties is who Mr. Cleaves is working with now. He explained they were looking for an extension so that they could make any minor modifications to the approved plan for the new owner and bring the modification application before the Board for their approval. He stated he was hoping to get new plans before the Board by October.

Mr. Philpot stated the permit extension act ended in 2016 and that he is uncomfortable giving another two year extension. Mr. Philpot would like to see the other players here with paperwork. He wants to see good cause. If someone comes before the Board with a P & S, contract, G.C. and present building information. Now we are seeing something here that is meaningful and something the Board can hold onto. Nothing against Mr. Cleaves, but you are here representing someone and they are translating their thoughts through you. The Board would like to talk to the players.

Mr. Cleaves also mentioned that one of the things the Planning Board requested was a check for the Review Fee account which Chacharone Properties has mailed in. Mr. Santoro stated this check has not yet been received. Note: Payment had been received shortly after this meeting.

Mr. Philpot stated it shows good faith but not good cause.

Mr. Santoro questioned whether Chacharone Properties is the new owner. Mr. Cleaves indicated it was his understanding they are the new owners and have a Purchase & Sales Agreement.

Mr. Philpot moved that the Board grant an extension of the Sterling Crossing Site Plan to September 30, 2017 to give the applicant, property owners, Cutler Brothers, LLC, sufficient time to organize their new buyer so that the buyer can come before the Board with whatever pertinent parties, general contractor, etc. Mr. Philpot would like to see some tangible evidence that things are going to move forward here. Mr. Shapiro seconded the motion. The motion passed unanimously.

ANR Procedures & set date for Public Hearing

Board postpone further discussion until their next meeting.

Review Fees

Mr. Santoro mentioned that Ms. Kazan told him that MRPC has also provided a detailed survey of municipalities' fees which she will be getting for the Board at a future meeting. In the meantime, the Board agreed to postpone further discussion until their next meeting.

Discuss Fees and Performance Bonds

The Board agreed to postpone further discussion until their next meeting.

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Condition of General Bylaws

The Board agreed to put this topic as an agenda item for their next meeting.

Discussion regarding Primrose Lane

Mr. Ron Pichierri stated he was here to find a resolution to point this subdivision in the right direction and asked if the Board had any suggestions.

Mr. Santoro stated let me make this perfectly clear; we had a covenant, we had an engineer. The Planning Board had to pay legal fees to get the rescission done because the developer wasn't keeping up his agreement.

Mr. Santoro stated that moving forward to get on the agenda he wants something in writing beforehand so the Board can look at it, secondly no telephone calls will be made directly to the Town's engineer by applicants. Mr. Santoro stated he has given the Town's engineer instructions not to provide any information to any applicant unless that applicant plans on footing the bill themselves.

Mr. Pichierri stated he had not contacted the town's engineer. Mr. Santoro stated he has a recording from August 7, 2017 in which Mr. Pichierri contacted the Town's engineer and offered to play it if Mr. Pichierri wished.

Mr. Philpot stated that the subdivision has been rescinded and therefore in this Board's eyes there is no subdivision, it does not exist. He (Mr. Pichierri) knows the rules, he sat on this Board for many years. So the simple truth is a subdivision can be brought before this Board anytime by anyone and we will start the subdivision process. It is that simple.

Mr. Pichierri asked if the Board had any other suggested remedy. He stated there are a whole bunch of things that he has to have answers for.

Mr. Philpot stated he did not think it was a good idea for this Board to get into any specific details on a subdivision that doesn't exist. This would be unfair to this Board, to anyone who might have a vested interest because when the Board starts the process, we have to go through a hearing process. So, it would be a waste of this Board's time to engage in any discussion about any details on any subdivision. First it doesn't even exist and secondly it is not on the agenda and would violate the Open Meeting Law.

Mr. Shapiro reiterated that the Board is more than happy to entertain plans for a new subdivision at any time.

Mr. Philpot suggested that Mr. Pichierri seek counsel from a land use attorney and a professional engineer.

9:36 P.M. MOTION TO ADJOURN

Mr. Pineo moved that the Board adjourn. Mr. Shapiro seconded the motion. The motion passed unanimously.

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