

## STERLING PLANNING BOARD MINUTES – April 11, 2018

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

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

### **Update on ERB/ZBA/Planning Working Group & Review Proposed Earth Removal Rules & Regulations**

Mr. Shapiro moved that the Board move this agenda item up for discussion now. Mr. Pineo seconded the motion. The motion passed unanimously.

Mr. Santoro commended the people involved in working diligently to get this Bylaw in order and then to have a member of the Board of Selectmen state he would like to re-write the Bylaw. Yet, no one has seen a copy of this.

Patrick Fox explained that this working group has met three times. Mr. Fox commended Joe Curtin for his work on this. Mr. Fox explained the overview is that if this were adopted and voted at a Town Meeting sometime in the future, there would be a new Earth Removal Bylaw, which would provide that earth removal operations involving Site Plan Review and Subdivision control would be under the jurisdiction of the Planning Board. Any other earth removal operations would be under the jurisdiction of the Zoning Board of Appeals and the current Earth Removal Board would go out of business. This very simply is what is involved.

Mr. Fox mentioned that if Mr. Lane comes up with another proposal he was not sure if the other two Board of Selectmen would agree on the responsibilities. Mr. Lane is proposing that BOS replace the ZBA in terms of making decisions relative to earth removal. Mr. Fox further stated that he did not think this would impact the Planning Board, as he remembered it, it would still provide the earth removal operations involving Site Plan Review and Subdivision Control be under the jurisdiction of the Planning Board. ANRs relative to earth removal will go to the ZBA.

Mr. Fox indicated that fees and regulations would have to be agreed upon between the Boards.

Mr. Fox explained that at the ZBA meeting last night they voted to approve the proposed plan that is before the Planning Board tonight. It was noted for the record if the townspeople want to vote for Mr. Lane's proposal (if it goes that far); the Zoning Board has no objection as it means less work for them.

Mr. Fox suggested that he would like to see the Planning Board approve this plan. Then he suggested that after the Town Meeting, have a representative from each of the Boards meet with the Board of Selectmen to discuss whether they want to go with the group's recommendation or wait for Mr. Lane's recommendations.

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Mr. Shapiro moved that the Planning Board vote in favor of this proposed Earth Removal Bylaw pending guidance from the Town Administrator and Town Counsel. Mr. Miller seconded the motion. The motion passed unanimously.

Mr. Fox stated he would check with Ross Perry regarding the pending lawsuit on earth removal.

### Minutes

Mr. Pineo moved that the Board approve the minutes for March 28, 2018 as amended. Mr. Miller seconded the motion. The motion passed with three in favor and one abstain (Mr. Shapiro was not in attendance at this meeting.)

### Sterling Gymnastics, 15 Industrial Drive ~ Request for Waiver of Technical Compliance in accordance with Section 6.4.6 of the Protective Bylaws.

Mr. John Carbone was on hand to explain to the Board that Sterling Gymnastics is requesting a Waiver of Technical Compliance. He further explained that they intend to construct an addition to the existing building, approximately 1,680 SF. The addition is a simple construction consisting of slab on grade, one story to the left side of the existing building, which is not paved. This will not require additional parking as the intended use is not to increase enrollment, but rather to eliminate congestion in the existing gym.

Mr. Pineo moved that the Board approve the request for a Waiver of Technical Compliance from Sterling Gymnastics located at 15 Industrial Drive, Assessors Map 51, Lot 10, Minor Site Plans dated March 21, 2018, prepared by Patrick J. Slattery Architect, 139 Leominster Road, Lunenburg, MA 01462 as follows;

**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.

The approval is contingent upon the following conditions:

**6.4.8 Lapse.** Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

**6.4.10 As-Built Plan.** Within thirty (30) days after completion of the project an As-Built Plan will be submitted to the Planning Board in both paper (5 copies) and digital (PDF) form as specified by the Planning Board."

Mr. Shapiro seconded the motion. The motion passed unanimously.

Administrative Fees for \$400 were received. The Board agreed to waive Review Fee requirements and this would not require an engineer's review.

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**Warrants**

Board members reviewed a payroll warrant and a voucher for the Telegram & Gazette (Legal Ad) and Martel Electronics (Audio Recorder).

**Chairman's Report/Notices/Discussions**

**DEP Letter RE Local Planning Board Responsibility RE Chapter 91 General License Certification**

Mr. Santoro acknowledged a letter from DEP regarding the MA Public Waterfront Act commonly referred to as Chapter 91.

**Administrative Assistant's Report/Notices**

**April 29, 2018 Planning Board Meeting**

Mr. Shapiro moved that the Board cancel the April 29, 2018 meeting. Mr. Pineo seconded the motion. The motion passed unanimously.

**FY18 Board Stipends**

All members agreed that they would take their FY18 stipend.

**New England Power**

Ms. Kazan informed the Board that New England Power would be submitting a letter for extension of their Site Plan. The Board asked that someone come in at the next meeting to explain their request.

**Primrose Lane – Preliminary Subdivision Submission**

Ms. Kazan informed the Board that Mr. Charette had dropped off (on April 10, 2018) the items, which were missing from the original Preliminary Site Plan application. (Review Fees, other outstanding balance and the notarized Agent for the Applicant.)

Ms. Kazan informed the Board that she had inquired with the Treasurer/Collector as to whether the 2018 taxes for Primrose Lane due are considered delinquent at this time. The following email was the Treasurer/Collector response:

‘At the point the first three quarters that were due 8/1/17, 11/1/17 and 2/1/18 are ‘Past Due’. Total amount on those three quarters as of today is \$1,718.04. As I told Mr. Charette, the next stage he needs to do something is just before I advertise in the local newspaper which will be late July, early August.’

The Board agreed to schedule the Primrose Lane Preliminary Subdivision Application for their next meeting at 8 p.m. on May 9, 2018.

**Continuance of Site Plan Review ~ Sterling Greenery, 0 & 44 Redemption Rock Trail, Assessors Map 159 Lots 9/10, Owners Mark & Karen Packard**

Brian Marchetti, McCarty Engineering was on hand representing the applicants for the Sterling Greenery Site Plan Review. Mr. Marchetti explained that he was in a couple weeks ago and there was a discrepancy with the exclusion of one of the lots and a question regarding the address. Since then, the Assessor's office has acknowledged that their records now reflect 44 Redemption Rock Trail as the address for Assessor's Map 159, Parcel 9. Mr. Marchetti stated he has resubmitted the application to reflect these corrections. Mr. Marchetti further explained that

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in the zoning summary table, he excluded all the area for lot 10. So this effected the impervious coverage of the revised by taking out the square footage which put the maximum impervious coverage over 20% which would require a special permit from the Zoning Board. What he ended up doing was removing all the paving from this area (Lot 10) and are proposing crushed stone. He further stated that by taking out the pavement, we are down to a little over 15% impervious so we do not trip that threshold.

Mr. Santoro stated that it was his understanding that according to the deed, you cannot access over the part that is owned by the Commonwealth. Mr. Santoro stated according to the deed no excavation, mining, dredging, stockpiling or removal of loam, peat, gravel, soil, sand, rock or other mineral resource or natural deposit; except as provided in Article III(3)(c).

The Board asked that Mr. Marchetti to obtain a letter from DCR clarifying Lot 10.

Mr. Pineo read an email from Scott Miller as follows:

‘The applicant should clarify this as part of the review and approval process. The ownership reference for the parcel in the corner of Redemption Rock Trail and Legg Road changes from the existing conditions plan to the proposed plan. The proposed plan references the current ownership that matches the remaining site parcel. This land which will include parking for the project should be under the control of the applicant by land ownership or lease. The proposed plan parcel notation references the deed for a land swap between KK Realty Trust and the Commonwealth of Massachusetts DCR in 2015. (A copy of deed and plan were provided). This swap traded land left orphaned on either side of Legg Road when that frontage road was created. With the transfer this parcel, the Commonwealth retained a watershed preservation restriction on the parcel but that agreement does allow for use of the property as a nursery and does allow for parking on the site. See Article III paragraphs 2 and 4 of the attached document. Pending the applicant’s confirmation of this condition, the notation of the existing plan should be revised to match the notation on the proposed plan. While the “Now or Formerly” reference is technically correct, it can and has led to the confusion.’

Mr. Marchetti agreed to contact DCR for something in writing confirming the condition. Mr. Miller stated that at the time this was recorded, the applicant must have had some declaration of what they could and could not do.

Mr. Marchetti requested a continuance until the next meeting. If he cannot get something in writing from DCR in time for the next meeting then he will request another continuance until the following meeting.

Mr. Marchetti will notify Ms. Kazan when he receives the letter from DCR.

### **OSC Public Meeting**

Marion Larson from the OSC mentioned to the Board that the Sterling Open Space Implementation Committee (OSIC) is currently updating Sterling’s 7-year Open Space and Recreation Plan (OSRP) and is seeking input not only from Sterling citizens but also from town boards, committees, and town employees at a Public Forum to be held on Saturday April 28, 2018 from 9-11 AM at the Sterling Senior Center located on Muddy Pond Road. Some boards

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and committees have been contacted by OSIC in the past year for information, but there are still information gaps that need to be filled in order to meet the state's OSRP requirements.

### **Town Planner**

The Board agreed to table the discussion of the Town Planner job description until after the Annual Town Meeting so they would have clarification on who is the report to authority.

### **Subdivision Rules & Regulations**

The Board agreed to put this topic on their next agenda.

### **Planning Board Accomplishments/Goals/Issues**

The Board agreed to put this topic on their next agenda.

### **Open and expiring Site Plans and Occupancy Permits**

The Board agreed to put this topic on their next agenda.

### **Condition of General Bylaws**

The Board agreed to put this topic on their next agenda.

### **9:47 P.M. MOTION TO ADJOURN**

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

### **APPROVED BY:**

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