

STERLING PLANNING BOARD MINUTES – February 27, 2019

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

Mr. Santoro called the meeting to order at 7:00 P.M. in Room 202 of the Butterick Building. He announced that the meeting was being video recorded by the Sterling/ Lancaster Cable TV and audio recorded by the Planning Board.

Minutes

Mr. Shapiro moved that the Board approved the minutes of February 13, 2018 as amended. Mr. Miller seconded the motion. The motion passed with four in favor and one abstain (Mr. Pineo was not in attendance for this meeting).

Warrants & Payroll

Board Members reviewed a payroll warrant and a warrant for Haley & Ward (Stoneridge Dev., Sterling Solutions, and Sterling Ice Cream Bar).

Town Planner's Report/Discussions

Ms. Tatasciore announced she had recently attended a Master Plan Committee meeting and reminded the Board about the Open House on April 4, 2019 at the Senior Center.

Ms. Tatasciore stated she had given the Board a Zoning Bylaw Amendment for proposed changes for Technical Compliance and had not received comments on this so she does not know what the Board's intention is on this. In addition to this, you have been referred the two Zoning Bylaw changes, one being the Table of Use swap out the Earth Removal word with Quarrying or Mining. She reminded the Board that they have until April 20, 2019 to hold this Public Hearing and also Zoning Map Amendments which were sent to the Board today and this one you have until May 3, 2019 to hold a Public Hearing.

Mr. Santoro stated that the Zoning Map Amendments are not on the agenda so it cannot be discussed.

Mr. Philpot stated that he believes the statutory timeline is triggered when this Board receives a complete request because we are required under Mass General Law to hold a public hearing. We are also required to post for public review and inspection the proposed change or amendment. Since the Planning Board is not the sponsor of this change, it is not up to us as to what those precise words will be and unless and until we receive those precise words our clock doesn't start. It is that simple. Mr. Shapiro agreed that this Board has not received a complete document. Mr. Philpot responded what is going on here is simple, they see the Town Meeting coming up, they see the calendar getting short and they are rushing ahead and ask this Board to hold a public hearing and by the way, your clock starts ticking because we have asked you to hold a public hearing. Our response is simple, hold a public hearing to do what? To amend the Bylaw? How exactly? If we hold a public hearing, we have only given notice of a time and date. People will

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show up at the public hearing and ask what are the changes and our response will be we do not know, now it is illegal. So our clock of 65 days doesn't start until we get a complete document. The follow up point to this is once we hold a public hearing, we then have 21 days in which to submit a written recommendation and there is no vote that can be held, not at a Town Meeting until that 21 days have expired or the Board has submitted their recommendation. If anyone is unclear they can refer to MGL 48 section 5.

Mr. Santoro stated that on the Earth Removal Bylaw he is well aware of the timeline. The document submitted is incomplete. Town Counsel has not reviewed. The Board will not hold a public hearing on something that has not been approved. This was brought to Mr. Perry's attention and copied to everyone on the original email. At the last Planning Board meeting on February 13, 2019, Selectmen Kilcoyne stated that there had been no approval of the Earth Removal Bylaws. On February 19, 2019, Mr. Perry sent an email with the draft BOS minutes of February 6, 2019 with the wording of the BOS vote indicating these minutes were being approved at the BOS February 20, 2019 meeting.

Ms. Tatasciore stated this was something he would have to figure out with the Administration, she just wanted him to be aware of the statutory timeline. Mr. Santoro stated he has already handled it with the Town Administrator.

Mr. Philpot stated that what seems to be missing is that people who are submitting these requests do not understand their requirements and it seems not to prevent them from pushing us in scheduling a hearing. This Board cannot schedule a public hearing until we have a complete formalized request.

Ms. Tatasciore reminded the Chairman of a previous discussion she had with him and Mr. Pineo back in November that when she leaves, that she will not be discussed. She wants to make sure that that is continued to be upheld. She would like Mr. Santoro's assurance. Mr. Santoro stated that the meetings are being video recorded and if Ms. Tatasciore wants to watch them and that the Board will not talk about her if that is what she is worried about. Ms. Tatasciore indicated that she just wants to make sure that this is adhered to.

### **Discussion request from BOS to hold a public hearing for proposed changes to Protective Bylaw Principal of Table of Uses**

Mr. Santoro mentioned that this was discussed earlier in the meeting.

### **Continuance of 167 Clinton Road As-Built Plans, Sterling Ice Cream Bar and Haley & Ward feedback**

Mr. Santoro acknowledged a letter from Haley & Ward regarding their As-Built Plan submission.

Mr. Philpot recused himself from the discussion for reasons previously stated at prior meetings.

Mr. Santoro read the following email from Haley & Ward:

*Haley and Ward has completed a review of the as built site plan for the modification of the Sterling Ice Cream Bar to include a drive-up window and seating area. The plans were prepared*

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by Ronald Simpson and are dated December 31, 2018. The plan is transmitted with a cover letter by Joseph J. Curtin, PE dated January 30, 2019. We offer the following comments.

1. The as built plan accurately represents the on site conditions.
2. The transmittal letter outlines two deviations from the approved site plan
 - a. The addition of site lighting to include one additional wall mounted exterior fixture and two pole mounted site lights.
 - b. The elimination of guard rail between the head in parking spaces and the outdoor dining area in front of the restaurant. The guard rail is proposed to be replaced with precast blocks.
2. The proposed modifications are reasonable and can be accepted by your Board as minor modifications to the plan. The blocks should be of appropriate size and spacing to stop the passage of a vehicle.

Mr. Miller moved that the Board accept the modifications to the Site Plan and allow the site lighting modification and allow:

1. The addition of site lighting to include one additional wall mounted exterior fixture and two pole mounted site lights.
2. The elimination of guard rails between the head in parking spaces and the outdoor dining area in front of the restaurants. In lieu of the guardrails, precast concrete blocks will be installed this spring.

The Planning Board also voted to grant a of sixty-day (60) extension to April 27, 2019 for the completion of the installation of the precast concrete blocks. Mr. Pineo seconded the motion. The motion passed with four (4) in favor and one (1) abstain (Mr. Philpot).

Chairman's Report/Notices/Discussions

Technical Compliance Waiver Changes

Mr. Santoro mentioned that the Waiver of Technical Compliance changes submitted by the Town Planner will require a Public Hearing. Mr. Philpot mentioned this is not on the agenda and would like a copy sent to all member.

Driveway Regulations

The Board agreed to invite Lt. Kokernak in to one of their meetings to discuss the proposed driveway regulations.

Cream Crock

The Board briefly discussed the concerns of Lt. Kokernak. Mr. Santoro mentioned that Mr. Gibson (Cream Crock) had withdrawn his previous approved Site Plan without prejudice.

Lt. Kokernak had informed the Board of his concerns over the installation of a loading dock along with other issues. Ms. Patty Page of the Building Department stated that Sarah Culgin and Lt. Kokernak have a meeting on site with Mr. Gibson on March 6, 2019.

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Mr. Philpot suggested that the Board just stand down and see what happens. We have paid professional who know the rules and Bylaws. Board Members agreed.

### **Finalize 2018 Planning Board Annual Town Report**

Mr. Pineo moved to approve the 2018 Planning Board Annual Town Report. Mr. Miller seconded the motion. The motion passed unanimously.

### **Administrative Assistant's Report/Notices**

Ms. Kazan mentioned to the Board that the Sterling Chocksett Trust submitted a Site Plan for 44 Chocksett Road which will be on the next agenda.

### **Discuss Non-residential Tax Revenue**

Mr. Shapiro moved to table this discussion to the next meeting as he was not prepared to discuss right now. Mr. Pineo seconded the motion. The motion passed with four ayes and one nay (Mr. Philpot).

### **Continue discussion on comments made at BOS meeting and potential OML Violation**

Mr. Philpot mentioned that there is a time limit on the filing of an Open Meeting Law Violation. He explained that once the OML violation is filed the Attorney General's office reviews the complaint and determines whether it is a violation. There is not punishment or fines. This Board filing a complaint sends a message to the BOS that they crossed the line.

After some discussion the Board was ready to vote.

Mr. Philpot moved that the Planning Board move forward with an Open Meeting Law violation complaint. Mr. Pineo second the motion. The motion passed unanimously.

Mr. Philpot agreed to prepare the form and email all Board Member (individually) for their review and Mr. Santoro will sign on behalf of the Board.

### **Continue discussion with BOS regarding Inter-Board relationships**

Ms. Kazan informed the Board that the BOS could not attend tonight's meeting and they requested to be on the March 13, 2019 agenda. The Board agreed.

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

Mr. Philpot stated that the Board should come to their next meeting prepared to start pursuing some of their 2019 goals:

Some of the ideas that were discussed were:

- Update Subdivision Rules & Regulations
- Cooperative interactions with other Departments & Boards
- Dimensional requirements for non-residential lots
- Non-residential Tax Revenue (Mr. Philpot offered to do research on)

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

Ms. Kazan informed the Board that Sterling Gymnastics Site Plan is coming up on their expiration. Ms. Kazan has sent a letter to them to inform them of what their options are.

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Condition of General Bylaws

Mr. Philpot stated they have improved and complimented the Town Clerk.

Future Agenda Items

Mr. Philpot suggested perhaps we can formalize our goals and assign lead people. The other he wants to say tongue and cheek that we consider hiring a Police Chief and/or Building Inspector. Mr. Philpot will explain his thinking at the next meeting.

Rezoning Request

Mr. Santoro mentioned that he had received a request to hold a Public Hearing on Route 12 Southbound to rezone. This will be discussed at the next meeting on March 13, 2019.

Mr. Kilcoyne agreed that Town Counsel should be reviewing this and making their recommendations on any articles before holding a public hearing.

Master Plan Committee

Arden Sonnenberg requested that the Master Plan team speak with the Planning Board prior to their April Open House. She explained one of the discussions would be about what are the next steps and about becoming a formal committee under the prevue of the Planning Board so they would have something to tell the public, She mentioned if they could not get to some understanding on this, she would like to work with the Board on what they would be saying to the public in terms of moving forward. Mr. Santoro suggested Ms. Sonnenberg contact Ms. Kazan to get on the agenda.

Further discussion on Rezoning Request

Selectmen John Kilcoyne stated that he thought the Town Planner would be at the Planning Board meeting and wondered if she had another commitment. Mr. Santoro explained she was here earlier and went over a few things and she wasn't feeling well. There was some question about what the Bylaws states in regards to a public hearing. Mr. Kilcoyne agreed that Town Counsel should take a look at this and he would take the Board's comments back to his Board. Mr. Santoro also mentioned that we are still waiting on the Earth Removal Bylaw. Mr. Pineo mentioned that there again it is pertinent that we have the language from Town Counsel for the article before this Board can hold a public hearing. Mr. Kilcoyne agreed.

8:50 P.M. MOTION TO ADJOURN

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

APPROVED BY:
