

## STERLING PLANNING BOARD MINUTES ~ March 27, 2019

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

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.

### **Planning Board Reorganization**

Mr. Santoro explained that due to family obligations and work he would be stepping down from the Chairmanship effective immediately. Mr. Santoro emphasized he was not walking away from the Board and could possibly need a few months.

Mr. Santoro mentioned that he had spoken with the Vice Chair; Mr. Pineo is not running for re-election when his term is up this year.

Mr. Philpot asked if we are re-organizing the whole Board or just the Chairman. He explained that there is an election coming up and thought it best to wait until the new person is on Board and then re-organize the entire Board. It was agreed.

Mr. Santoro stated that it was his opinion that the best person to fill in was Mr. Philpot.

Mr. Santoro moved that the Board vote to appoint Mr. Philpot as Chairperson. Mr. Miller second the motion. Mr. Shapiro asked if Mr. Philpot becomes the Chairman who takes over the ANR Agent. Mr. Philpot stated that the re-organization would take place in a very short period of time, which would include the ANR Agent and that he would stay as the Agent until the Board is re-organized after the election. There was no further discussion. The motion passed unanimously.

### **Discussion with Master Plan Committee**

Arden Sonnenberg, Chair of the Master Plan Team stated that this presentation represents a formal request by the Sterling Master Plan Committee Team to the Sterling Planning Board to formalize a Master Plan Committee that will be responsible for updating/developing the Sterling Master Plan.

Ms. Sonnenberg then reviewed the “Sterling Master Plan: Planning Our Future Together” which included; background information of the Master Plan and Timeline of Activity, Requests and Recommendation for the MPC (Core Team) and Master Plan Charter.

Ms. Sonnenberg also recommended everyone look at the Consultants’ organizing for the Master Plan which talks in detail about what Master Planning is. This document is on the Master Plan’s website or people can contact Ms. Sonnenberg.

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Mr. Santoro inquired about Barrette Consulting Group, they are doing this on a Grant that the MPC has received, correct? Ms. Cranson indicated that this was a Community Compact Grant and the Town was given \$25,000 specifically for reviewing. Mr. Santoro asked how long before that money will be running out and how much will it cost the Town of Sterling? Ms. Sonnenberg indicated that it is not so much the money as it is the deliverables. She still owes deliverables of some things. The MPC will be collecting on the deliverables that she owes the MPC. She will also be helping with the April 4<sup>th</sup> Open House. There is a survey that she has got coming out as well and one or two other meetings left which will be about how do we move to the next step. Ms. Sonnenberg explained that this is all we have for deliverables on the contractual agreement.

Mr. Philpot expanded on the answer. As he recalled, the BOS entered into the Community Compact Agreement that entitled us to a non-competitive grant for technical support services. The BOS had a variety of services from which to choose. Financial best practices is one, handicap accessibility was another and so on. The BOS chose the Master Plan. Mr. Philpot's inquired about deliverables. There is \$25,000 for the Barrette Group. What is the deliverable product they will provide? Ms. Sonnenberg stated they have provided educational training, data collection, and survey information.

Ms. Cranson had a comment regarding Mr. Philpot stating that the BOS chose the Master Plan for the Community Compact Agreement. In essence, that was specifically for the Master Plan and one of the Planning Board Members was there to sign off on it.

Mr. Mike Rivers inquired as to who is appointing this Committee? Ms. Sonnenberg stated that they have tried to follow the Massachusetts Bylaw. Ms. Sonnenberg paraphrased the Law §81D that the Planning Board shall appoint (formalize) the Committee. Mr. Philpot stated to be fair and accurate it does not say the Planning Board shall appoint anybody, it says the Planning Board shall make a Master Plan and it is up to us to choose that vehicle by which the Master Plan shall be developed.

Mr. Philpot thanked Ms. Sonnenberg for her time and asked if there were any other questions.

At the end of Ms. Sonnenberg's presentation, she requested that the Planning Board vote to formalize a Master Plan Committee that will be responsible for updating/developing the Sterling Master Plan.

Mr. Shapiro moved that the Board authorize the Citizen's Master Plan Team to formalize a Master Plan Committee to create a project Charter and report back to the Planning Board no later than the end September. Mr. Miller seconded the motion.

Mr. Philpot stated that he is not opposed to a Master Plan but there has been a lot thrown at the Board tonight and there is much to consider. If the Planning Board is going to oversee a Committee then we should make clear we know what that Committee is doing, the way in which it is going to be done, who their authorities are. We have some good information here and I think we should mull it over and maybe at our next meeting we will discuss it a little more and see what we can do then. Ms. Sonnenberg would like to have a date as to when the answer will be given.

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Mr. Philpot stated the earliest would be April 24, 2019 but he could not guarantee that date. However, as far as the Committee, the Board of Selectmen appoints you. Ms. Sonnenberg stated that they are not a formal Committee and have not been appointed by the BOS. The Citizens Team created their own election of Officers. Mr. Philpot stated it would be a very bad precedent for this Board to be seen as poaching someone else's Committee and just wanted to be clear on this that there weren't any strings attached.

Ms. Cranson stated that she had attended Planning Board meetings at which it was discussed that we had the Community Compact Grant, these Citizens came forward, and the money needed to be spent. The BOS understood that it was under the Planning Board's purview to develop a Master Plan.

Mr. Philpot remembered that the BOS had received that Grant and there was a date by which the monies had to be expended. Mr. Philpot also recalled asking about the rules and stipulations of expending this money but did not receive the information.

Mr. Shapiro withdrew the motion until the April 24, 2019 meeting.

Ms. Sonnenberg stated that the Charter will have the rules of engagement and how we will execute it and this is the best way for us to do business as a Town.

Ms. Lex Thomas town resident and editor of the Sterling Meetinghouse News. She heard from a number of sources that Mr. Philpot was going to be elected Chairman and she believes this is a violation of the OML. She believes that we have a group of people here working on the Town plan that are very competent and deserve the opportunity and not have time wasted. She would like to see things move forward and she does not see this happening here.

### **Continuance of Site Plan Review ~ 44 Chocksett Road, Sterling Chocksett Trust, Poulin Construction, Inc.**

Jamie Rheault of Whitman & Bingham Associates along with Lorraine Emerson from Altec, and Jon Poulin from Poulin Construction, Inc. were on hand to meet with the Board. Mr. Rheault indicated that they were here tonight to ask the Board's approval based upon the submittal and revised Site Plans.

Mr. Rheault explained that they have filed a request for determination with the Conservation Commission and will be meeting with Con Com in two weeks.

Mr. Shapiro moved that the Board approve the Site Plan for Sterling Chocksett Trust, 44 Chocksett Road with conditions. Site Plan dated February 12, 2019 with revisions through March 21, 2019, was prepared by Whitman & Bingham Associates.

The Site Plan is approved with the following conditions:

1. Per Article 4, Section 4.6.4, the following uses shall not be permitted on the premises:
  - a. No petroleum products will be stored on site except as provided by 4.6.4(b);

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- b. No use which involves the manufacture, generation, processing, packaging, repackaging, use, storage, treatment, disposal or transportation of toxic or hazardous materials or waste except as provided by 4.6.4(d);
  - c. No automotive service or repair shops.
2. Contingent upon receiving the requisite approval from the Conservation Commission.
3. Within thirty (30) days after completion of the project, being when paving and striping have been concluded, the applicant shall submit an As-Built Plan to the Planning Board in both paper and digital format.

Per Sterling Protective By-Law 6.4.8 Lapse - Site plan approval shall lapse after one year from the granting 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.

Mr. Miller seconded the motion. Mr. Philpot had one suggestion moving forward. Unfortunately 'project completion' has not been well-defined in our Bylaws as such, this Board over years has had a number of Site Plans that were not closed out. Mr. Philpot then clarified that once Haley & Ward have completed their final review and says everything looks good, the As-Built Plans will be submitted within thirty days from that point.

Mr. Philpot then read the following Certification Pursuant to GLC c39, Section 23D of Participation in a session of an adjudicatory hearing where the undersigned member missed a single hearing session:

*'I Russell Philpot, hereby do swear and certify under the pains and penalties of perjury as follows;*

- 1. I am a member of the Sterling Planning Board*
- 2. I missed a hearing session on the matter of Site Plan for 44 Chocksett Road, Sterling Chocksett Trust, Poulin Construction, Inc.*
- 3. On March 13, 2019 I examined all the evidence and testimony received at the hearing session that I missed which included a review of official transcript of the missed hearing session, Plans, and Haley & Ward Letter."*

The motion passed with all in favor.

### **Minutes**

Mr. Shapiro moved that the Board approved the minutes of March 13, 2019. Mr. Miller seconded the motion. The motion passed with three in favor and one abstain (Mr. Philpot was not in attendance at this meeting.)

### **Warrants & Payroll**

Board Members reviewed a payroll warrant.

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### Town Planner's Report/Discussions

Ms. Tatasciore reminded that the upcoming Master Plan Open House is scheduled for April 4, 2019 at the Senior Center with drop in hours of 4-8 p.m.

Ms. Tatasciore informed the Board that MRPC has officially granted the Town of Sterling a DLTA award for the Housing Production Plan update.

Mr. Philpot inquired as to what the next step would be for the Housing Production Plan update. Ms. Tatasciore indicated MRPC will contact the town for the scope of services, which will then be approved by the State. Then a Housing Committee will be appointed of which she believes Mr. Shapiro will be the liaison for the Planning Board. Then the preparation of the Plan for consideration. Mr. Philpot asked who appoints this Committee. Ms. Tatasciore believed it to be the Board of Selectmen.

Mr. Philpot asked if there was any way possible to receive Ms. Tatasciore's report to the Board by the Friday or Monday prior to the meeting in order to have time for review. Mr. Shapiro disagreed and stated he felt we should afford the Town Planner as much time as needed. Ms. Tatasciore stated she would do the best of her ability to have the report ready on Mondays but understand that things are very dynamics, literally to the very last second. She also mentioned that Board Members can contact phone or email her should they have any questions at any time.

Mr. Philpot stated this goes exactly to his point. How can the Board reach out to you if we have no idea what you are working on? Ms. Tatasciore stated she is open to communication at any time and the Board can contact her for an update.

Paul Cathcart of Sandy Ridge Road stated that what he is seeing here is a lot adversarial exchange which he feels is quite frankly very counterproductive to this Town. Mr. Cathcart stated the right approach would be to say we have an issue and would like get it earlier and what is the earliest you can come up with it and she should be able to come up with a reasonable time and stick to that date. Rather than bantering back and forth. There needs to be some sort of collaboration. Mr. Philpot stated this was exactly the point. Mr. Cathcart felt this was not the way it came across. From his observation he saw this very adversarial and it doesn't need to be. At the end of the day we are all on the same team. We all give up a lot of our time and there is a lot of knowledgeable people in this room. Let's work together as a team.

Mr. Shapiro stated it would be amicable if the Town Planner could submit her report by the close of business on Monday. Ms. Tatasciore agreed but mentioned that things are very dynamic and if things change, it is outside of her control. Mr. Shapiro stated that was perfectly fine. Mr. Cathcart stated that this is the exception rather than the norm.

### Discussion with BOS regarding Inter-Board relationships

Mr. Philpot stated he read an email from Ms. Cranson and it was his interpretation that the BOS would not be able to attend this meeting. Ms. Cranson stated that this would not be possible for the April 10<sup>th</sup> meeting as well. Mr. Philpot stated that everyone's agendas leading up to the Town Meeting, are filling up and we probably won't be able to get to this agenda item until a future meeting.

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### Discussion regarding Inter-Departmental relationships and cooperation

Mr. Philpot stated he had requested this agenda item. The Board has set as one of its goals to review and update the Rules & Regulations of our Subdivisions. We all agree that the past history of this Board is that it did not work well with other Boards and Departments. As we moved forward with the Subdivision Rules & Regulations we should reach out to other Departments/Board that we would be brushing up against with a phone call or face-to-face meeting. If we could assign a Planning Board member to reach out via a phone call to give a heads up and inform them we are going to be updating our Rules & Regulation and to let us know if you would like a copy to review. This is an opportunity to build bridges again and cooperate with other Boards, Departments, etc. Mr. Philpot stated so far he could see the DPW, Conservation Commission, Police and Fire.

Mr. Santoro stated he thought this was a good idea. Moving forward we should all try to get along with other Departments/Boards.

### Chairman's Report/Notices/Discussions Marijuana Odor Complaint

Mr. Philpot received the following email today:

*'Dear Sterling Gym customers,  
A very unpleasant odor has been making its way onto Sterling Gym property in recent weeks, as many of you have noticed and brought to our attention.  
Sterling Gym has reached out for assistance in identifying the source of the odor, and it has been discovered that the odor is emanating from a cannabis growing facility located on Chocksett Road. We have been informed that the odor is not harmful to our health, however, we strongly believe that our community is no place for this to be happening.  
Sterling Gym has already filed a complaint with the local Board of Health, however, we need your help to resolve this issue quickly.  
We are a family-friendly facility, and have worked very hard to keep our property safe for children. This issue is currently beyond our control due to wind, geography and zoning laws. Please help us in letting the local health department know that this issue is unacceptable, and something must be done to stop it immediately.  
Please contact the Sterling Board of Health:  
Kathie Nickerson  
978-422-8111 ext. 2305  
<https://www.sterling-ma.gov/board-of-health>  
Sincerely,  
Sterling Gym'*

Mr. Santoro indicated that he has received phone calls of concern over the smell in the area. Ms. Cranson provided comments for general information for everyone stating The Board of Health was on site as soon as they received the complaint. Ms. Cranson has personally spoken to the Carbone's, the owners of Sterling Gym, She stated that the growing facility has indicated to her that if there is an odor, they will look to mitigate it ASAP.

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### Notices from Other Towns

Mr. Philpot stated that the Board has received the following notifications; Boylston Earth Removal Board Public hearing, March 26; Special Permit Sign Application, and Lancaster Notice of Decision Denial at 290 Neck Road, and Leominster Planning Board hearing on Subdivisions.

### Administrative Assistant's Report/Notices

#### Legal Ads – Public Hearings April 10<sup>th</sup>

Ms. Kazan informed the Board that she had submitted several legal ads for the April 10<sup>th</sup> Public Hearing. On the re-zoning of a portion of Route 12, there were 46 Abutters who were notified via certified mail.

### Lt Kokernak

Ms. Kazan mentioned that Lt. Kokernak will be coming in for the April 24<sup>th</sup> meeting to discuss the proposed driveway regulations.

### As-Built Sterling Gymnastics ~ Industrial Drive

Mr. Philpot read the following letter from Scott Miller dated March 26, 2019:

*'Dear Board members:*

*Haley & Ward has completed a review of the As Built Plan of the project to an addition at Sterling Gymnastics, 15 Industrial Drive included a site visit on today's date. The plans were completed by Patrick J. Slattery, Architect and are dated March 5, 2019.*

*The plans accurately represent the completed facilities.*

*Yours very truly,*

*Scott A. Miller, P.E.*

*President'*

Mr. Miller moved that the Board accept the As-Built Plans prepared for John & Nancy Carbone, Sterling Gymnastics, 15 Industrial Drive. Plans prepared by Patrick J. Slattery Architect dated September 13, 1999 with revisions through March 5, 2019. Mr. Santoro seconded the motion. The motion passed with three in favor and one abstain (Mr. Philpot).

### Vote to hold Public Hearings

1. Rezoning land on Westerly side of Route 12
2. Changes to Protective Bylaw – Quarrying or Mining & Earth Removal
3. Amend the Zoning Bylaws relative to Marijuana Establishments

Mr. Santoro acknowledged Attorney Carolyn Murray from KP Law and stated that the Board appreciated her being here. He mentioned that the Board had not been notified that she would be in attendance and asked who requested her attendance. Ms. Murray stated that she had been asked by the Board of Selectmen to attend tonight's meeting as there were some questions about the zoning amendments and the public hearing process.

Ms. Cranson wanted to clarify that at the last meeting she came to there was some discussion and it seemed like people were confused as to what the right way/wrong way, so instead of saying can we hear from Town Counsel, we can now hear from Town Counsel. Mr. Santoro indicated

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he was the one who had the questioned whether we needed a public hearing on the Citizen's petition. He referred to a Citizen's petition from last year which had to do with talking to developers and changing Bylaws of which he did not recall having a Public Hearing on.

Mr. Miller stated he had questions why on the re-zoning there were two more lots on Worcester Road continuing closer to the center of Town. Ms. Tatasciore indicated that these were the lots that were chosen by the Economic Development Committee it was the feeling that the parcels fronted onto Princeton Road and literally the back yard was on Worcester Road so they decided to hold off on this. If they wanted to expand there is always that possibility.

Mr. Philpot asked who the proponent is. Ms. Tatasciore indicated it was the Board of Selectmen who are the petitioners.

Ms. Tatasciore stated the purpose is trying to revitalize the downtown area, tax revenue, and opportunity for a beautiful, hard on times vacant building.

Mr. Philpot stated that the net result of this zoning change is if you drive south, the right side of the road is going to be Town Center and the left side of the road will be Commercial. Mr. Philpot inquired if it (TC) is less restrictive, why wouldn't you just do both sides?

Seems to be some confusion about getting out the notices for legal advertising. Ms. Murray stated she believed Ms. Kazan explained that the original legal ad for proposed amendments to the Protective Bylaws, Quarrying or Mining a., b., c., had a March 27 & April 3 date for publication which she sent off to the newspaper over the weekend. On Monday, Ms. Tatasciore came into the office indicating that there were emails going around about a change in the dates to run this ad. She indicated that the Town Moderator did not agree with the dates that Town Counsel had stated and thus she notified the Telegram & Gazette to run these ads on March 26<sup>th</sup> and April 2<sup>nd</sup>.

Ms. Murray asked to clarify this. There was an email that was precipitated by the Town Moderator that he typically makes a statement at Town Meeting prior to any Zoning amendments that procedurally he thinks everything has been complied with. The original dates for the first legal ad to it the papers was supposed to be today. The Town Moderator was concerned if that was a sufficient number of days. She explained that the first legal ad has to appear in the paper fourteen days prior to the date of the Public Hearing. For example, you would not count April 10<sup>th</sup> (date of Public Hearing) in the calculation. What you instead is take April 10<sup>th</sup> and count backwards. If we do that, then today, March 27<sup>th</sup> was the fourteenth day.

Ms. Murray clarified that the Planning Board does not have to vote to hold a Public Hearing, Mr. Philpot thanks Ms. Murray for this clarification.

### **Planning Board Goals ~ assign lead person**

- Non Residential Tax Revenue ~ Mr. Shapiro will take the lead on this. He will check in with the Town Planner for some assistance.
- Subdivision Rules & Regulations ~ Mr. Miller & Mr. Santoro will work together.



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Mr. Philpot suggested that maybe a first step could be to identify a few sections to start with and come back to the April 24<sup>th</sup> meeting with assigning everyone a section.

- Define the impact of Zone II Aquafer Protection on Commercial and Light Industrial Zoning Districts

### **Request for Public Comment to Agenda**

Ms. Lex Thomas requested that the Board consider having a public comment agenda item.

### **Discuss Future Agenda Items**

Mr. Philpot stated that the next meeting is going to be tied up with Public Hearings.

### **8:50 P.M. MOTION TO ADJOURN**

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

### **APPROVED BY:**

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