

STERLING PLANNING BOARD MINUTES – August 10, 2016

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

Mr. Santoro called the meeting to order at 7:00 PM in Room 202 of the Butterick Building.

Minutes

Mr. Pineo moved that the Board approve the minutes for July 27, 2016 with corrections. Mr. Philpot seconded the motion. The motion passed with three in favor and one abstain (Mr. Hajdu was not present at this meeting).

Warrants & Payroll

Board members reviewed a voucher for payroll.

DPW Superintendent Memo recommending a Cape Cod or modified Cape Cod curb style for Subdivisions

The Board reviewed the following memo regarding Granite inlets in new Subdivisions, dated July 27, 2016 from DPW Superintendent Bill Tuttle:

“Mr. Tuttle referred back to a memo from 2009 where he had approached the Planning Board regarding granite transitions and inlet in new subdivisions. He wanted to open discussions with the idea we could revert back to a simpler, tried and true, catch basin to curb system. He was not met with very much enthusiasm and the Chairman at the time quickly dismissed his desire to simplify maintenance on these new roads.

A Cape Cod or modified (slightly taller) Cape Cod curb style had been installed on many subdivisions back thru the 1970’s. They are still there today. The maintenance, when required, is much easier as there are fewer parts to deal with. Many of these granite inlets sit on top of the back flange of the catch basin frame making repairs difficult as all pieces must be removed prior to repair (including portions of curb).

Also, the wear and tear on our equipment and plows is much less with the Cape Cod style as opposed with the granite as is outlined in the September 30, 2009 memo (see below).

I ask that the Planning Board consider rescinding the requirement of granite inlets from this point forward and also recommend that the contractors use some version of Cape Cod style curbing

Mr. Tuttle’s memo continued:

9/30/2009 ~ Bituminous Concrete Curbs and Granite Inlets

STERLING PLANNING BOARD MINUTES – August 10, 2016

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For discussion purposes I put a few things together regarding these two high maintenance areas with regards to new and proposed subdivisions in our town. It seems that some time ago, the catch basin to curb planning was scrapped and granite inlets were adopted as the preferred choice of the Town of Sterling. The main argument for this change, I believe, was to allow water into the drain system during times of heavy debris including leaves and snow. This may be partially true, but I believe in the long run the extra maintenance and the wear and tear on our town equipment involved with this inlet/catch basin combination will out-weigh any benefit. We had a very tried and proven system as is evident by many 25 and 30 year old roads in our town. My points for discussion are outlined below.

### Granite inlets

1. Granite inlets have caused heavy damage to our plow equipment. With the addition of the flat-faced granite inlet, it is evident that the angle of any curb, regardless of any transitions, will not meet the flat inlet.
2. Granite inlets allow more debris into the catch basin structure which therefore requires more frequent cleaning. A normal basin cleaning pass for the town is 3 years.
3. Granite inlets add more pieces to the structure and that combined with heavy frost and hits by plows allow for additional movement. Some of these inlets are made up of 3 pieces. They will be more costly to maintain in the future.

### Curbing

1. Since the granite inlets were adopted, the town has seen many different mix-matches to accomplish the goal of catch basin and curb whereas, prior to granite inlets, it was pretty straight forward.
2. Sterling needs consistency...one specification...Cape Cod is preferred.”

After further discussion, Mr. Philpot mentioned that the Board cannot modify any of the Subdivision Rules & Regulations without a legal hearing being posted. The Board however can establish a consensus.

Mr. Philpot moved that the Board establish a consensus as per MGL Chapter 41 to legally modify the Town of Sterling Subdivision Rules & Regulations. The consensus of the Board would be to make a modification in the direction recommended by the DPW Superintendent. Mr. Pineo seconded the motion. The motion passed unanimously.

The Board also agreed to notify the DPW Superintendent of their consensus.

Mr. Philpot clarified that the Board has not changed its Subdivision Rules & Regulations but has established a consensus so that later on the Board does not have to the discussion again unless the public hearing people would like to ask questions, in which case the Board would explain that they had established a consensus and refer to the July 27, 2016 memo from the DPW Superintendent.

## STERLING PLANNING BOARD MINUTES – August 10, 2016

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James B. Simpson requesting the Boards approval for the remaining Homestead Lane project to Cape Cod curb style.

Mr. Philpot stated that in the interest of full disclosure he does have a professional relationship with Mr. Simpson and recused himself from the meeting.

Mr. Simpson asked that the Board approve his request to allow a Cape Cod curb style for the remainder of his Homestead Lane project.

Mr. Pineo moved that the Board approve eliminating the granite catch basin requirements of the Subdivision Rules and Regulations for the Homestead Lane project. He further moved to approve Cape Cod catch basins along the roadways for the remainder of the Homestead Lane Project. Mr. Hajdu seconded the motion. The motion passed unanimously.

Mr. Hajdu confirmed that the Board has granted a waiver to waive any granite along the roadway for this specific project.

Mr. Simpson informed the Board that he will be wrapping this road up in the fall. He would be looking to getting this road accepted at the next annual Town Meeting.

Mr. Philpot returned to the meeting.

Administrative Assistant's Report/Notices **IT Committee**

Ms. Kazan mentioned to the Board that Bob Bloom of the newly formed IT Committee stopped by the office to get input on her experiences with IT and he also asked if she had any specific request. Ms. Kazan mentioned that it would be helpful if she had access to change items on the Planning Board's webpage on the Town's website.

The Board agreed with her request and asked Ms. Kazan to draft a memo to the IT Committee with a copy to the Board of Selectmen requesting that she have access to the Planning Board's webpage (only) on the Town's website.

As Built Final Plan determination for FISHCO, LLC, Patricia and David Fisher, 228 Leominster Road, Assessors Map 29, Parcel 2

The Board acknowledged the submission of As Built Plans from FISHCO, LLC. The Board agreed to request that Scott Miller of Haley & Ward conduct a walk-through of 228 Leominster Road to confirm that all the conditions have been met. The Board would like Mr. Miller's feedback prior to the next meeting scheduled for August 31, 2016.

The Board also asked Ms. Kazan to send a courtesy letter to the Fishers indicating that the Board has taken this under consideration. Further that the Board is waiting for their engineer who will be in conducting a walk-through to make sure everything in the order of conditions has been completed.

FISHCO, LLC, requesting refund of Review Fees 228 Leominster Road

The Board agreed to hold off issuing any review fees for FISHCO, LLC until such time as the As Built Plan is finalized and approved.

STERLING PLANNING BOARD MINUTES – August 10, 2016

Condition of General Bylaws/Protective Bylaws

Mr. Philpot explained to the Board that he was trying to do some research regarding The Regulations for the Designation of Scenic Roads and Alternations of Trees and Stone Walls Thereon. He explained he went on the Town website and entered “scenic” in the search box and the document appears. He noticed a couple of interesting aspects:

1. Section 6.1 (page 3) of The Regulations for the Designation of Scenic Roads and Alternations of Trees and Stone Walls Thereon, refers to this document as a By-Law. Why isn’t it included or even listed in the Board’s copy of the General and Protective By-Laws?
2. On the Town website, he went to General By-Laws, then Index and found it under “Planning Board” (letter P on the alpha-bar) and is shown as Chapter 402.
3. When you select Chapter 402 on the screen it does not bring you to this document. Rather it provides the following statement: “The current Planning Board regulations regarding scenic roads, trees and walls are available from the Town offices and on the Town website: www.sterling-ma.gov. He was on the Towns website and could not find this document.

Mr. Philpot explained that under Section 6.2 of The Regulations for the Designation of Scenic Roads and Alternations of Trees and Stone Walls Thereon for Stone Wall Removal it states “A public hearing and approval by the Planning Board are not required when in the opinion of the DPW superintendent the following action is warranted: The removal of no more than (18) eighteen feet of a stonewall for a driveway or six (6) feet for a walkway.” People are allowed by right to remove up to eighteen feet of stonewall.

Mr. Philpot also referred to Section 7.1 Design Standards. “Where stone walls exist, the maximum amount of stone wall to be removed is eighteen feet for a driveway and six feet for a walkway.

- A. Removed stone shall be used to repair other sections of the wall along the road.
- B. Stone wall sections to be removed for a driveway shall not exceed the driveway width by more than three feet on each side for a total not to exceed 18 feet and
- C. No wall shall be cut without construction of an appropriate terminus. Appropriate end points are required and consist of a stone wall with tapered ends turning back onto the lot along the drive, stone piers, granite post, or wooden post (with or without a gate).”

Mr. Philpot also referred to Section 7.2 “Approval by the Tree Warden and Planning Board is required for the removal of any and all trees.” Mr. Tuttle would also alert the Board if there were any trees to be removed in his opinion and if necessary hold a Tree removal hearing.

Mr. Philpot also referred to Section 8.2 Notice. “The Planning Board and Tree Warden shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area, with the first publication of the notice to be at least fourteen days prior to the hearing and the last seven days prior to the hearing. Copies of the notice shall be sent to the Selectmen, Conservation Commission, Historical Commission, Tree Warden, and DPW.

The Planning Board and Tree Warden may also require a sign to be posted on the property at least fourteen days prior to the public hearing. This sign shall not exceed three square feet in

STERLING PLANNING BOARD MINUTES – August 10, 2016

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size and be posted in the location clearly visible to the public with the date, time and location of the public hearing, and the notation “For further information, please call the Sterling Planning Board at (978) 422-3029”.

In the event that the Planning Board holds a joint hearing with the Tree Warden acting under Chapter 87, MGL, the notice shall be made jointly by the Planning Board and the Tree Warden.”

Mr. Pineo asked if there was any mention of a definition for Public Shade Trees. Mr. Philpot then referred to Section 8.8 C. “Determination of Applicability” “In historic ways or other ways where the right-of-way width is considered ‘variable’, the width of the right-of-way shall be determined by the DPW Superintendent, based on the statutory provisions of MGL Chapter 87 Section 1.

“Chapter 87, Section 1 – Public Shade Trees Defined. All trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of Section 7 shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that from length of time or otherwise, the boundaries of the highways cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.”

Mr. Philpot explained that basically what that means is trees can be taken down only if they are in the public way.

### **Entrance to Public Ways (Curb Cut) ~ 67 Swett Hill Road (Lot 3)**

Mr. Philpot moved that the Board approved the curb cut application submitted for 67 Swett Hill Road, Lot 3. Mr. Hajdu seconded the motion. The motion passed unanimously.

### **Swett Hill Road Residents**

Mr. William Meehan & Ms. Judith Doherty, residents of 63 Swett Hill Road were at the Planning Board meeting and asked to speak with the Board members. They explained that they are abutters to Mr. Parsons property and have had some concerns over damages caused by his trucks on their property.

Mr. Philpot explained that this Board could not help with their issue as it has no official capacity when it comes to private property. The Town only concerns itself with town owned property.

The Board suggested that they should contact a surveyor to confirm the property lines.

### **Discussion regarding Curb Cut (Entrances to Public Ways) permit**

Mr. Philpot felt it important that the Board decide how they want to handle curb cut process moving forward.

The Board agreed that the only time they should get involved would be for just the ones that deal with more than 18 feet of wall and/or removal of any trees in a public way.

## STERLING PLANNING BOARD MINUTES – August 10, 2016

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After a discussion the Board agreed to the following changes to the Entrance to Public Ways permit application:

1. Since the Board's approval is optional, move the Planning Board approval line right above the Board of Selectmen approval line and include the following insertion:

“Planning Board approval is not required unless in the opinion of the DPW Superintendent more than eighteen feet of stone wall is to be removed and/or public shade trees in a public way are to be removed. Please refer to General Bylaws Chapter 402.”

Mr. Philpot moved that the Board vote to send a memo requesting that the Board of Selectmen modify their Town of Sterling Permit For Entrance to Public Ways application form as discussed. Further he moved to include the recommended changes for the application form. Mr. Pineo seconded the motion. The motion passed with all in favor.

### **Scenic Roads**

Mr. Philpot recommended that the Board take a look at the Scenic Road Bylaw – there are a lot of lots in Town which have 18 feet or more of driveway. The Bylaw does not limit you to how many sections of 18 feet (in the case of a Horseshoe driveway). So, you could have 18 feet and then a wall and another 18 feet. Perhaps changing the wording would resolve this issue.

He further stated that changes have to go through Town Meetings and the Planning Board has to hold public hearings. He suggested that the Board hold one public hearing for an accumulation of items that they wish to bring to Town meeting.

The Board asked Ms. Kazan to start accumulating a list for Bylaw changes for a future public hearing.

### **Condition of General Bylaws**

Mr. Philpot stated that it appears that the Regulations for the Designation of Scenic Road and Alternations of Trees and Stone Walls Thereon which was adopted March 31, 2004 perhaps was never forwarded to the Town Clerk's office. Either the wording changes which refers to this being a Bylaw or the Board needs to follow up with a Bylaw change for the next Town Meeting.

In the meantime, the Board has asked Ms. Kazan to do further research to review other Planning Board adopted Regulations.

### **ANR Procedures**

The Board acknowledged feedback from Douglas Andrysick regarding the proposed ANR changes. The Board agreed as a courtesy, to have Mr. Philpot send a memo to Mr. Andrysick in response to his suggestions.

Mr. Philpot moved that the Board accept the forms and adopt the ANR Rules & Regulations with revisions. Mr. Hajdu seconded the motion. The motion passed unanimously.

## STERLING PLANNING BOARD MINUTES – August 10, 2016

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The Board also agreed to mail out the revised ANR Rules & Regulations to all engineering firms.

### **9:55 P.M. MOTION TO ADJOURN**

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

### **APPROVED BY:**

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