



TOWN OF STERLING
ZONING BOARD OF APPEALS MINUTES
Butterick Municipal Building, Room 205 6:00 p.m.
April 11, 2023

MEETING:

Vice Chairman Joseph Curtin called the meeting of the ZBA to order at 6:00 pm. Present were members Everett Pierce, Diana Baldarelli, Joseph Curtin, Matthew CampoBasso and alternate member Gail Bergeron. Absent was member Patrick Fox

Agenda

- 6:00 pm – Special Permit (Continued)**- CD Corrinne Builders Inc. has applied for a Special Permit for the purposes of building a Multi-Family Development. (Article 4, Section 4.2 of the Sterling Protective Bylaws). The property is located at 100 Clinton Road, Sterling, MA, Parcel ID 70-2.1, and is located in the Neighborhood Residential and Rural Residential Zoning Districts.
- 6:15 pm – Special Permit Modification (Continued)** - Steven Flagg has applied for a Special Permit Modification for a permit granted in November 2022. Applicant wishes to modify the permit by eliminating condition #5 which restricts the storage of recreational or other vehicles on the site. The property is located at 141-149 Greenland Road, Sterling, MA, Parcel ID 117-2, and located in the Light Industrial zoning district.
- 6:20 pm – Special Permits (Continued)** – New England Fencing Inc. has applied for a Special Permit for the purposes of operating a contractor's yard and open air display area (Section 2.3.1, D(5) & C(20) of the Sterling Protective Bylaws). The property is located at 78 Worcester Road, Sterling, MA, Parcel ID 137-3, 4 & 5, and located in the Commercial zoning district and the Groundwater Protection District.
- 6:30 pm – Variance (Continued)** - Dana McKiel of Integrity Building and Design has petitioned the Zoning Board of Appeals on behalf of Jeffrey and Christine Ward seeking a Variance for relief from the side yard setback requirements (Section 2.5.1 of the Protective Bylaws) at a property located at 18 Stuart Road, Sterling MA, Parcel ID 65-4. The property is located in the Rural Residential and Farming zoning district.
- 6:45 pm – Special Permit (re-hearing)** - On February 23, 2023, the Planning Board voted to recommend the re-hearing of a previously unfavorably acted upon application for Katrina Jablonsky by the Zoning Board of Appeals on November 1, 2022. The application is for a Special Permit for a Commercial Kennel (see Section 2.3.1., C10 of the Sterling Protective Bylaws) to be exercised at 15 School Street, Sterling, MA, Parcel ID 105-21. (See MGL 40A Section 16). The property is located in the Town Center zoning district and the Groundwater Protection District.
- 7:00 pm** – Vote to recommend Joseph Testagrossa to the Select Board as an associate member.
- 7:05 pm – Minutes** - Review minutes from January 10, February 14, and March 14, 2023

100 Clinton
Road – Multi-
Family Dev. SP

At 6:00 pm Acting Chairman Curtin opened the hearing and read the public hearing notice into record. Mr. Carl Corrinne (applicant) and Mr. Brian Milisci of Haley Ward presented the application for a multi-family development located at 100 Clinton Road. The proposed development would include 19 duplex buildings with 38 two bedroom homes. The road way, a dead-end cul-de-sac, will be 24 feet wide and built to subdivision standards. All stormwater will be managed on site. There will be 4 shared septic systems with each unit having their own tank per regulations. A resident had questioned the open space that will be under the power lines. The Board consulted with Town Counsel and it was of their opinion that the land under the power lines can be used for open space, but the area that the utility poles occupy must be removed from the open space calculation.

Mr. Curtin read department head comments into record. Police, SMLD, Conservation and Board of Health had no additional comments. DPW will require that the water main loop and not dead-end. Ms. Bergeron wanted to clarify that the roadway would remain private and wondered if the development would be constructed in phases. The roadway will remain private and the applicant was unsure at this time about phasing. Ms. Bergeron also asked if there would be a Homeowner's Association fee and there will be.

Mr. Curtin then opened the hearing for public comments. There were a number of abutters in attendance. Concerns included: that the development would be unsightly; it would include low-income (it will not); perc test results; septic breakout; request for the project to be scaled down; screening.

At 7:07 pm Mr. Pierce made a motion to close the public hearing, Mr. CampoBasso seconded. All in favor, 5-0.

Mr. Curtin had more questions about the screening. Is there a way to shift the project west (towards the power lines). The applicant stated that he will have his engineer look

141-149
Greenland Rd –
SP Modification

into that possibility. Mr. Pierce stated the importance of including telecommunications upgrade capabilities when installing the underground services. Ms. Baldarelli stated that she would like to see the distances to the abutting properties. Mr. Millisci asked the audience for permission to go on their properties to get accurate measurements. No one in the audience responded to his request.

After some more discussion, Mr. Pierce made a motion to continue the hearing until May 9, 2023. Ms. Bergeron seconded. All in favor, 5-0.

Ms. Bergeron recused herself from this hearing as she is an abutter. The Board had quorum with 4 voting members.

Mr. Steven Flagg presented his case for a Special Permit Modification. One of the conditions of his existing Special Permit would not allow him to keep his inventory on site all year round. He wishes to remove that condition to allow year-round storage. Mr. Curtin read the condition into record: "Storage of recreational or other vehicles on the site from December 1 through March 31 of each calendar year is not permitted."

At 7:22 pm the hearing was opened to the public. One abutter raised a number of concerns such as the honesty of the applicant, that regulations should be followed and not just "rubber stamped."

The Board did take exception to the comment about rubber stamping. They follow the facts and the bylaws.

At 7:33 pm Mr. CampoBasso made a motion to close the public hearing, Mr. Pierce seconded. All in favor, 4-0-1 (with Ms. Bergeron recusing herself). After a brief discussion, Mr. CampoBasso made a motion to grant the applicant's request to eliminate condition 5 and allow the applicant to store his vehicles year round. Mr. Pierce seconded. All in favor, 4-0-1 (Ms. Bergeron recused).

78 Worcester
Rd – Special
Permit –

Attorney Brian Foley presented the application for New England Fence Company, the optionee for 78 Worcester Road. The applicant wishes to operate a contractor's yard and open air display of their fencing products. They also wish to operate retail sales from that location which is allowed by-right. Attorney Foley acknowledged that Site Plan Review will be required. He stated that there will be no alterations to the buildings and no alterations to increase the impervious area. It is expected that the most activity will be the first 30 minutes and last 30 minutes of the day while the workers load and unload – leaving the site with approximately 23 hours of passive use. Hours of operation were discussed. Applicant believes that they will be operating 7 am to 7 pm Monday thru Friday and 7 am to noon Saturdays with occasional emergencies in the evening if there is ever damage to a security fence that would need immediate repairs. They propose to add an ornamental fence along Route 12. There will be infrequent deliveries of products, approximately 1 to 2 per month and there is plenty of room onsite that they will not impact traffic on Route 12.

The hearing was opened to the public and a number of concerns were raised. There was a concern that the bylaws are too ambiguous; surrounding property devaluations and site changes made of recent. Attorney Foley made a point of order and reminded the abutters that there is another hurdle for the applicant and some of these concerns shall be addressed at Site Plan Review.

At 8:29 pm, Ms. Bergeron made a motion to close the public hearing. Ms. Baldarelli seconded. All in favor, 5-0. The Board discussed further. Mr. Curtin stated that the decision should include a buffer/screening per 3.2.6 of the Protective Bylaws. He also clarified that there will be no manufacturing on site. Ms. Bergeron asked about winter and the applicant stated that no installations take place when the ground is frozen, but the retail operation is open year round. Mr. Pierce asked about commercial plowing.

The applicant does not provide commercial snow removal services, but does have equipment to maintain their property.

Ms. Baldarelli made a motion to grant the Special Permit for New England Fencing for the purposes of operating a contractor's yard and an open air display of their products at 78 Worcester Road, parcels 137-3, 4 & 5. Applicant to comply with state and local regulations and obtain site plan approval. Applicant to provide a landscape buffer at the back of the property in accordance to article 3.2.6 of the Protective Bylaws. Mr. CampoBasso seconded. All in favor, 5-0.

At 8:58 pm a small recess was taken.

18 Stuart Rd –
Variance, side
yard setback

Mr. Dana McKiel of Integrity Building & Design presented a petition for a Variance on behalf of Jeffrey and Christine Ward of 18 Stuart Road. The proposal is for a 3 car garage which at its closest point is 18 feet 9 inches from the side yard (25 feet is required). Mr. McKiel stated that approximately the first 12 feet of the garage is in violation of the setback. Mr. Curtin asked what is stopping you from moving the project further back to be in compliance with the setbacks. Mr. McKiel stated that there is a large hill towards the back of the property that makes moving the project difficult. After some discussion, the Board felt that the applicant had not provided adequate information and the applicant requested a continuance until the May meeting to allow him more time to obtain all the necessary information.

Ms. Baldarelli made a motion to grant the continuance until May 9, 2023. Ms. Bergeron seconded. All in favor, 5-0.

15 School St –
re-hearing of SP

Attorney Jeremey Cohen of Boston Dog Lawyers presented the re-hearing of the application on behalf of Ms. Katrina and Ms. Mary Jablonsky of 15 School Street. There are currently 8 dogs and 6 people living at the location. They are not looking to add a structure or buildings to the property. Attorney Cohen reminded the Board that the Fair Housing laws apply to zoning as well for making a "reasonable accommodation." A clarification of the canines is that 5 are for service/emotional support and 3 are pets.

Mr. Curtin brought up that there has been a history of issues at that property from approximately 2007 to 2022. The applicants indicated that they were no longer residing at the property after 2013..

At 9:33 pm, the hearing was opened to the public. Ms. Kelly Jones, Animal Control Officer, addressed the Board. She was confused about the number of dogs since there are 2 prescriptions and 1 emotional support dog, why are there 5 "service dogs?" The applicant claims there is no business located at 15 School Street, yet the current address is listed on the BBB page. There was also a recent Facebook post indicated that they had puppies available for their breeding program. Additionally, there have been several recent complaints regarding the dogs, including an issue with a dog getting loose and attacking another dog. A member of ACAB who also sits on the Board of Directors for NEADS spoke against support of a kennel license for 15 School Street based on history and current events. One abutter spoke in favor of the proposal. A couple of other attendees expressed concern over approval of the kennel license.

At 9:53 pm, Mr. Pierce made a motion to close the public hearing. Mr. CampoBasso seconded. All in favor, 5-0.

After a brief discussion, the Board wanted to run some of their concerns by Town Counsel. Mr. Pierce made a motion to continue the hearing until May 9, 2023. Mr. CampoBasso seconded. All in favor, 5-0.

Associate
Member
Application

Mr. Joseph Testagrossa has applied to become an associate member of the Zoning Board of Appeals. The Board thanked him for his interest and Mr. Pierce made a motion to recommend that the Board of Selectmen appoint Mr. Testagrossa as an associate member of the ZBA. Ms. Bergeron seconded. All in favor, 5-0.

Minutes

Mr. Pierce made a motion to approve the minutes of January 10, 2023. Mr. CampoBasso seconded. All in favor, 4-0-1 (with Ms. Baldarelli recusing as she was not in attendance.).

Mr. Curtin made a motion to approve the minutes of February 14, 2023. Mr. Pierce seconded. All in favor, 5-0.

Mr. Curtin made a motion to approve the minutes of March 14, 2023. Mr. Pierce seconded. All in favor, 5-0.

Meeting was adjourned.

Minutes were approved at a meeting held on 5/9//2023, P. Page.