

STERLING PLANNING BOARD MINUTES – February 28, 2018

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

Absent: Russ Philpot ~ ANR Agent

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

7:00 p.m. Public Hearing

Mr. Santoro called the Public Hearing to order and read the following;

'The Sterling Planning Board will hold a public hearing on Wednesday, February 28, 2018 at 7 pm in Room 202 of the Butterick Municipal Office Building, 1 Park Street, Sterling, MA for the purpose of amending the Town of Sterling Protective By-Laws relative to Marijuana Establishments.

Copies of the amendments may be viewed at the Town Clerk's Office during regular business hours.'

Mr. Santoro explained that legal notices appeared in the Telegram & Gazette on January 23 and January 30, 2018.

Mr. Pineo read into the record the following proposed article to be submitted for the Annual Town Meeting on May 7, 2018:

*'To see if the Town will vote to amend the Town's Protective Bylaws by adding a new Section 4.9B, **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section 4.9B, "Marijuana Establishments".:*

Section 4.9B Marijuana Establishments

Consistent with General Laws Chapter 94G, Section 3(a) (2), all types of non-medical "marijuana establishments" as defined in General Laws, Chapter 94G, Section 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Sterling.

Or take action relative thereto.'

Mr. Pineo explained that this article would ban marijuana recreation establishments.

Mr. Robert Protano asked if the Board was afraid the ban would not pass at Town Meeting and if it doesn't pass what are you going to do then? Mr. Pineo responded that another move was a foot for another article.

Mr. Protano stated if it does pass what will the Board do about the court system if the State decides not to reverse it. There is talk that the state may not allow it. All you need is somebody to take it to court and go to the Supreme Court and they may be able to get it reversed.

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Mr. Pineo inquired reversing what? Mr. Protano said reversing your article. Mr. Protano suggested zoning instead of banning it and the only reason he mentioned zoning is years ago when adult entertainment came before the Board it was zoned it. Wouldn't it be better if you zoned it and then restricted it to a certain area in Town?

Mr. Pineo stated that there is a move a foot if Judge Fox would like to speak to this. Judge Fox responded to Mr. Protano's concern that there is a distinction as he understand it, in the laws between so called adult entertainment venues and recreational marijuana establishments that the courts have ruled consistently that the Towns can't have a blanket prohibition of adult entertainments. It can zone it and limit it to certain zones but the marijuana law that had been enacted by the legislation in response to the referendum last November is different in that it allows, under certain circumstances, Towns to prohibit recreational establishments and it depends on what the vote was at the referendum. If the vote at the referendum was against citing these recreational establishments then it can be done through a Town Meeting vote. If the Town had voted in favor of the referendum then there would be another step and you might have to have a ballot vote. Judge Fox stated that the legislation following the referendum allows the Town to do this and it could be challenged. Any Bylaw could be challenged and may or may not be reversed but he felt it wasn't a reason not to take action.

Mr. Protano stated he was not implying to not take action but why not zone it. Mr. Pineo's response was because the majority of Townspeople voted against it and the Board is going according to their wishes and acted accordingly.

Mr. Shapiro stated that the Board is not zoning any area in Town for recreational establishments but banishing recreational establishments from coming into the Town of Sterling.

Maureen Cranson shared with the Board that she has attended four of these cannabis informational meetings. One thing that the Attorney General's office suggested is to have a zoning by-law in place as opposed to the prohibition and the AG's warned us of the litigation after that. They suggested taking one of the industrial buildings that are empty, put them in the industrial zone or entertainment zone and then regulate the signage, pick a tax and don't put anything in place unless you have a host agreement with them. Ms. Cranson mentioned this is why the BOS asked for the back-up zoning bylaw. Ms. Cranson stated they were in the process of working on this bylaw. Mr. Pineo mentioned that there needs to be a timeline for a public hearing. Mr. Santoro stated this proposed bylaw has to be reviewed by Town Counsel.

Roseanne Mapp asked if this effects medical marijuana. Mr. Pineo explained this does nothing at all to stop medical marijuana. Mr. Santoro stated it cannot be sold in town only be manufactured here. People would have to go to another establishment to purchase marijuana.

Mr. Pineo moved to accept for submission to the Board of Selectmen the proposed amendment for the Annual Town Meeting scheduled for May 7, 2018:

*'To see if the Town will vote to amend the Town's Protective Bylaws by adding a new Section 4.9B, **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section 4.9B, "Marijuana Establishments".:*

***Section 4.9B Marijuana Establishments***

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*Or take action relative thereto.’*

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

### **7:25 p.m. Public Hearing Closed**

Mr. Shapiro moved that the Board close the Public Hearing. Mr. Pineo seconded the motion. The motion passed unanimously.

### **Minutes**

Mr. Pineo moved that the Board approve the minutes for February 14, 2018 as amended. Mr. Shapiro seconded the motion. The motion passed with three in favor and one abstain (Mr. Miller was not in attendance at this meeting.)

### **Warrants**

Board members reviewed a payroll warrant. Members signed a warrants for Sande Realty to close out their review fee account and WB Mason for office supplies.

### **Chairman’s Report/Notices/Discussions**

#### **Draft Back-up Marijuana Bylaw**

Mr. Santoro acknowledged an email of a draft “back-up” marijuana bylaw prepared by Judge Fox. He asked Ms. Cranson if she knew if this has already been reviewed by Town Counsel. Ms. Cranson said she would check and get back to the Board.

### **Sterling Gymnastics**

Mr. Santoro acknowledged a letter from John Carbone of Sterling Gymnastics as follows: *‘Sterling Gymnastics has been going through the process of applying for permits to construct an addition to our existing building, approximately 1,680 sq. ft. or 20’ X 56’. To this end, we would like to apply for a waiver of Technical compliance, in accordance with Section 6.4.6 in the Town’s Protective Bylaws.*

*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. It will not require additional parking as the intended use is not to increase enrollment, but rather to eliminate congestion in the existing gym. Please advise how we should proceed.’*

Mr. Pineo stated that our Bylaws say construction under 2,000 sq. ft. does not require a site plan.

The Board asked Ms. Kazan to reach out to Scott Miller for his opinion on this matter.

### **D’Boss & Son Builders, Inc.**

Mr. Santoro acknowledged a letter received on February 26, 2018 from Albert Cormier, D’Boss & Son Builders, Inc. requesting the Planning Board endorse an article to accept Thomas Lane. A

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Plot Plan was submitted however, an As-Built Plan was not. Applicant will be notified as to the As-Built Plan requirement and will be scheduled for the next Board meeting.

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

#### **Sterling Greenery Site Plan**

Ms. Kazan informed the Board that an application was received and we will be scheduling them for our March 14, 2018 meeting.

#### **Rock Breakers**

Ms. Kazan stated we have not received the detailed memo explaining their proposed request. Information on the valve and a plan have been received.

#### **Thomas Lane**

As-Built Plans have been received and the request for road acceptance has been forwarded to the Board of Selectmen. We have them scheduled for the March 14, 2018 meeting.

### **Town Planner ~ position reports to, salary, and possible placeholder for Annual Town Meeting Warrant**

Mr. Pineo moved that the Board notify the Board of Selectmen to have the Town Planner placeholder on the Annual Town Meeting Warrant and inform them of the annual salary of \$73,469 and the position reports to the Planning Board. Mr. Shapiro seconded the motion. The motion passed unanimously.

Board members agreed to review the draft job description and come up with a 'new job' description for this position in time for their next meeting.

### **Discuss request for extension of ANR ~ Lots 1 through 4 North Cove Road**

Patrick McCarty and Brian Marchetti, McCarty Engineering, Inc., on behalf of Edward and Patricia Thomas, Andre and Maureen Brouillard, owners of Lots 1 through 4 on North Cove Road request a one-year extension to perform the paving improvements on North Cove Road. The Owner has yet to sell a lot; therefore, the funds are not available to pay for the improvements. He further mentioned that possible buyers were given incorrect information from the Building Department that these were non-buildable lots. Mr. McCarty stated this has finally been straightened out. Mr. Pineo stated that for the lots to be buildable per say, with the road and conditions, the road does have to exist.

Mr. Miller inquired as to what's going to happen again if they get a possible buyer. Mr. Miller suggested posting a bond to cover the road improvements which would at least cover the Town until the road is completed.

Mr. McCarty agreed to speak with the Bond Company about the possibility of his clients posting a bond for the amount to complete these improvements. The Board asked that he pursue this possibility with the Bond Company.

Mr. McCarty stated he did not want to give the Board false hope, it will not get paved until the sale of a lot.

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Mr. Pineo moved that the Board grant an extension to Edward & Patricia Thomas and Andre & Maureen Brouillard owners for Lots 1 through 4 North Cove Road to November 30, 2018. Mr. Miller seconded the motion. The motion passed unanimously.

Sterling Ice Cream Bar ~ response to As-Built and Review Fee refund

Mr. Santoro read the following letter received on February 20, 2018 from Mr. Konstadinos Katsiaunis:

"I am in recent receipt of your letter dated December 19, 2017. (This letter, although appearing to be a formal demand was not sent via certified mail, therefore I cannot verify the date it was actually received at the mailed address.)

In this letter you request an 'as Built' plan for my "project". I must assume the project to which you refer is the addition to the sterling Dairy Bar since you do not reference the project specifically. The addition to the Sterling Dairy Bar was completed in January 2012. It was signed off by the building department on January 15, 2012. It is my understanding that the general contractor, Mr. Russell Philpot filed all necessary documents to the Town of Sterling for this project to be accepted by the Town. The spread sheet document you enclosed would appear to support this. On January 25, 2012(ten days after completion of the project) the Planning Board received \$2,000 from me for review fees. Additionally, on May 8, 2012, five months after the completion of the project the Town's engineer, Haley & Ward charged \$1,204.42 against my Review Fee Account for a review.'

Mr. Santoro stated there was no As-Built plans submitted to this office. So, any cost incurred is on the applicant not this Board. The applicant is responsible for submitting these Plans. The only reason Sterling Ice Cream Bar received a letter was the Board believed this project had been completed but the final step (As-Built plans) had not been received. The letter was not a demand letter but a reason to wrap up and close out the project and then the Board would return any money remaining in their Review Fee Account.

Mr. Santoro agreed to reach out to Mr. Katsiaunis and explain the procedures and try to resolve and close out this project.

Subdivision Rules & Regulations

Ms. Kazan informed the Board that none of the Departments/Boards that she reached out to for input have responded.

Mr. Richard Maki suggested to the Board that they consider housing for 55 years old plus that are more senior friendly developments. Cluster Zoning is basically forbidden but isn't there some middle ground that we could establish in Town that would parallel other communities that already have this thing processed. It would mean a slightly denser population on a piece of land. There is no question that this is a group of people who are only going to be using Police and Fire services.

Mr. Pineo stated that right now we specifically have the neighborhood residential the only zoning that would allow the use of this size. Mr. Pineo suggest perhaps writing a zoning article for senior citizen zoning.

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Mr. Maki strongly encouraged the Board to look at this as the Board goes through this process.
Mr. Maki offered to volunteer if the Board needs help with this concept.

Planning Board Accomplishments/Goals/Issues

The Board agreed to put this topic as an agenda item for their next meeting.

Open and expiring Site Plans and Occupancy Permits

Ms. Kazan will continue to keep updating the Board on this subject.

Condition of General Bylaws

The Board agreed to put this topic as an agenda item for their next meeting.

9:05 P.M. MOTION TO ADJOURN

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

APPROVED BY:
