

STERLING PLANNING BOARD MINUTES – March 28, 2018

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

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, March 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 March 7, and March 12, 2018.

Mr. Pineo read into the record the following proposed article submitted by the Board of Selectmen for the Annual Town Meeting on May 7, 2018:

'ARTICLE 30. Marijuana (Regulation)

To see if the Town will vote to amend the Town's Protective Bylaws, as follows, or take any other action relative thereto:

1. Amend section 2.3.1 Table of Principal Uses by adding Use C. 29
"Marijuana establishment —recreational" to be allowed by special permit (SP) in the Light Industrial (LI) district only.
2. Amend section 2.3 Use Regulations by adding section 2.3.6 as follows:
Marijuana Establishment — Recreational: Recreational marijuana establishments shall be located in stand-alone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for co-location with a licensed medical marijuana treatment center. A minimum separation of 500 feet, measured between lot lines, is required between recreational marijuana establishments and state-certified public or private schools. Subject to the provisions of G.L. c. 94G, s. 3(a) (4), recreational marijuana establishments shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way which, in the opinion of the Special Permit Granting Authority, may promote or encourage the use of marijuana or other drugs by minors. The Planning Board shall serve as the special permit granting authority for all applications under this section and shall insure compliance with section 6.3 and all other applicable sections of these bylaws and all applicable sections of Massachusetts General Laws. No permit for a recreational marijuana establishment shall be issued until the applicant has

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executed a Host Community Agreement with the Town pursuant to M.G.L. c. 94G, § 3(d).

3. Amend Article 5. Definitions by adding a new definition as follows:

Marijuana Establishment — Recreational a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, as defined in GL. c. 94G, §1.

4. Amend section 6.3.2 by adding after #6 the following: #7. Public Health and Safety”

Move no action if Article 29 (Marijuana Prohibition) passes.

Submitted by: Selectmen

Recommendation: The Board of Selectmen recommends

Recommendation: Finance Committee recommends approval

Recommendation: The Planning Board recommends’

Mr. Santoro then asked for input from the public.

Mr. Robert Protano, Redemption Rock Trail asked if this article would allow retail sales. Mr. Santoro stated it would allow retail sales if the Prohibition article did not pass. Mr. Santoro wants to be very clear that if the Prohibition article is passed then this article becomes null and void. This article allows for recreational sales only if the article for Prohibition does not pass.

Steven Warren, 4 Holden Road asked if the Board is recommending this article. Mr. Pineo stated that the Selectmen came up with this language. Selectwoman Maureen Cranson stated that the State had recommended that the BOS prepare a zoning bylaw just in case the prohibition article that the Planning Board has previously had a public hearing on a few weeks ago fails. If the prohibition article doesn’t pass then the Town would not have any protection. It will take a 2/3 vote to pass. If the prohibition articles doesn’t pass then it will be open season for recreational marijuana. This Article 30 will direct the recreational cultivation, sales, etc. down in the light industrial area. This would be in the Route 12 area around Chocksett Road, Pratts Junction Road. Ms. Cranson mentioned that some people see a financial benefit to having recreational marijuana establishments in town; a Host agreement along with a 3% tax on the sale of marijuana in town. Ms. Cranson mentioned that the Finance Committee was not on board with the prohibition article because they like the money end of it. It will be up to the voter at the Annual Town Meeting.

Mr. Pineo stated that we would be mindful that almost every present marijuana establishment is a non-profit and they will not be paying taxes. Ms. Cranson stated this was not the case for the recreational. Mr. James Perry, 8 Fitch Farm Road stated he felt that applies mainly to the medical marijuana.

Mr. Jeff Willman (non-resident) stated he was here with his business partner Jeff DeCiccio (non-resident) and they both work for Bigelow Nurseries, Inc. The Bigelow’s own a farm at 180 Princeton Road. The farm is primarily a tree (production) farm. Mr. Willman stated that he and Mr. DeCiccio are interested in getting involved as cultivators. They are considering leasing a small portion of the nursery property from the Bigelows, hoping to construct a 6,000 to 9,000 SF high tech extremely secure greenhouse. They are hoping to operate as a separate company as an

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indoor growing facility. The reason that they are pursuing the Sterling farm is that they have shown the property to security professionals and these professionals feel this is the best they have ever seen due to its remoteness. Mr. Willman expressed disheartened that farming districts continue to be prohibited. He suggested that the Board consider adding farming districts along with the light industrial. He encouraged anyone who is interested to come and take a look at their site.

Mr. Pineo explained that one of the issued for farming districts. Mr. Pineo referred to the Town's zoning map, everything in white is residential and farming. The majority of the Town of Sterling is zoned for farming. The other issue is you are under chapter lands and the property would have to come out because production is no longer considered in the soil which changes the use status from agricultural to commercial as zoning is written. So, you would have to go through some type of special permit process. The Farm Bureau is looking at some wording regarding this but it will probably take another year or two before completion. Mr. Pineo agreed that the State totally disregarded farms relative to marijuana.

Mr. DeCiccio stated the way it is set up right now it seems to be giving more advantage to big businesses as they are not dealing with an agricultural situation.

Ms. Cranson explained that either of these articles has to pass by a 2/3 vote and does not require it go to a ballot question. So, the Town Meeting will determine which articles goes.

Mr. Pineo stated that this article gives the Town a say if the Prohibition articles fails. Mr. Pineo also explained that the Moratorium is done on July 1, 2018. It is a one shot deal. This allows us to put some structure to it.

Mr. Steven Warren asked if they was there anything more that could be done for townspeople to be made aware of these types of hearings. Recommendations were made to view the meeting calendar on the Town's website.

### **7:45 p.m. Public Hearing Closed**

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

Mr. Pineo made a motion in support of the Article (30) on behalf of the Board. Mr. Miller seconded the motion. The motion passed unanimously.

The Board asked Ms. Kazan to send an email regarding the grammatical corrections for this article to the BOS, Town Administrator and Town Moderator.

### **Continuance of Site Plan Review ~ Sterling Greenery, 0 & 44 Redemption Rock Trail, Assessors Map 159 Lots 9/10, Owners Mark & Karen Packard**

Brian Marchetti, McCarty Engineering was on hand representing the applicants for the Sterling Greenery Site Plan Review. Mr. Marchetti explained that he was in a couple weeks ago and there was a discrepancy with the exclusion of one of the lots and a question regarding the address. Since then, the Assessor's office has acknowledged that their records now reflect 44 Redemption Rock Trail as the address for Assessor's Map 159, Parcel 9. Mr. Marchetti stated he

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has resubmitted the application to reflect these corrections. Mr. Marchetti further explained that in the zoning summary table, he exclude all the area for lot 10. So this effected the impervious coverage of the revised by taking out the square footage which put the maximum impervious coverage over 20% which would require a special permit from the Zoning Board. What he ended up doing was remove all the paving from this area (Lot 10) and are proposing crushed stone. By taking out the pavement we are down to a little over 15% impervious so we don't trip that threshold.

Mr. Santoro stated that it was his understanding that according to the deed, you cannot access over the part that is owned by the Commonwealth. Mr. Santoro stated according to the deed no excavation, mining, dredging, stockpiling or removal of loam, peat, gravel, soil, sand, rock or other mineral resource or natural deposit; except as provided in Article III(3)(c).

The Board asked that Mr. Marchetti obtain a letter from DCR clarify this Lot 10.

Mr. Pineo read an email from Scott Miller as follows:

'The applicant should clarify this as part of the review and approval process. The ownership reference for the parcel in the corner of Redemption Rock Trail and Legg Road changes from the existing conditions plan to the proposed plan. The proposed plan references the current ownership that matches the remaining site parcel. This land which will include parking for the project should be under the control of the applicant by land ownership or lease. The proposed plan parcel notation references the deed for a land swap between KK Realty Trust and the Commonwealth of Massachusetts DCR in 2015. See the attached deed and plan. This swap traded land left orphaned on either side of Legg Road when that frontage road was created. With the transfer this parcel, the Commonwealth retained a watershed preservation restriction on the parcel but that agreement does allow for use of the property as a nursery and does allow for parking on the site. See Article III paragraphs 2 and 4 of the attached document. Pending the applicant's confirmation of this condition, the notation of the existing plan should be revised to match the notation on the proposed plan. While the "Now or Formerly" reference is technically correct, it can and has led to the confusion.'

Mr. Marchetti agreed to contact DCR for something in writing confirming the condition. Mr. Miller stated that at the time this was recorded, the applicant must have had some declaration of what they could and could not do.

Mr. Marchetti requested a continuance until the next meeting. If he cannot get something in writing from DCR in time for the meeting then he will request another continuance until the next meeting.

Mr. Marchetti will notify Ms. Kazan when he receives the letter from DCR.

Minutes

Mr. Pineo moved that the Board approve the minutes for February 28, 2018 as amended. Mr. Miller seconded the motion. The motion passed unanimously.

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Mr. Pineo moved that the Board approve the minutes for March 14, 2018 as written. Mr. Miller seconded the motion. The motion passed unanimously.

### **Warrants**

Board members reviewed a payroll warrant. Members signed a warrant for KP Law (ANR question) and WB Mason (Office supplies).

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

#### **1 Heywood Road 61A Request**

Mr. Santoro acknowledged a letter written by the Town Administrator to Mr. & Mrs. Pillsbury regarding their request for release from Chapter 61A for property located at 1 Heywood Road. Mr. Perry writes that the Sterling Assessors office informed the BOS that the subject property has not been subject to taxation under Chapter 61A of the MA G.L. for more than one year prior to the date of their notice. Therefore, the provisions of G.L.c. 61A, Section 14 no longer applies and the Town no longer holds a right of first refusal.

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

#### **Primrose Lane Preliminary Subdivision Application**

Ms. Kazan informed the Board that Whitman & Bingham on behalf of Mr. Scott Charrette submitted a Preliminary Subdivision Application and plans for Primrose Lane. Ms. Kazan indicated that there were certain items that were missing; Agent for Applicant, a check for \$3,600.00 for a Review Fee Account and an outstanding balance owed of \$485.23 from the prior applicant (Mr. Ron Pichierri) who is also one of the current owners on the Application for Approval of a Preliminary Plan. The Board asked Ms. Kazan to notify Whitman & Bingham that until all outstanding items were submitted, the Board would not entertain scheduling this as an agenda item.

Also, Ms. Kazan informed the Board that Frank Preston of Whitman & Bingham dropped off a Preliminary Subdivision Application he mentioned that someone was living in the house at 1 Primrose Lane. Ms. Kazan reported this information to Ms. Culgin. Ms. Culgin sent an email to Ms. Kazan the following day indicating that she had visited the home with the property owner Mr. Scott Charrette and it was clear that no one was living in the home. Earlier that same day Ms. Kazan received a telephone call from Mr. Jamie Rheault of Whitman & Bingham. Mr. Rheault wanted to clarify the information regarding someone occupying the home at 1 Primrose Lane. Mr. Rheault stated that Mr. Preston had misspoke and there was no one living in the home. Ms. Kazan explained to Mr. Rheault that she had contacted Ms. Culgin to report what Mr. Preston had told her. Ms. Kazan then asked Mr. Rheault to contact Ms. Culgin and pass this information on to her. Mr. Rheault agreed. (Note: Ms. Culgin did not receive a call from Mr. Rheault.)

### **Town Planner**

The Board agreed to table the discussion of the Town Planner job description until their meeting of April 11, 2018.

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### **Article 29 Marijuana Prohibition**

The Board agreed to have Ms. Kazan to send an email to the Town Administrator indicating that the Board reviewed the recommended wording (from Town Counsel) on Article #29 and are in agreement with this wording.

### **N.E. Power Site Plan**

Ms. Kazan mentioned that the Site Plan for N.E. Power would be expiring in May. The Board agreed to have Ms. Kazan send a letter regarding the As-Built plan for the completed project.

### **Subdivision Rules & Regulations**

The Board agreed to put this topic on their next agenda. Ms. Kazan noted that she had received an email from David Favreau that the Board of Health reviewed and discussed the existing Subdivision Rules and Regulations and at this time, there are no recommendation on revisions to the existing regulations. Mr. Favreau stated in his email that the BOH is content with the current citations within these regulations.

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

The Board agreed to put this topic on their next agenda.

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

Ms. Kazan presented the Board with an update of the status of Site Plans.

### **Condition of General Bylaws**

The Board agreed to put this topic on their next agenda.

### **9:07 P.M. MOTION TO ADJOURN**

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

### **APPROVED BY:**

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