

STERLING PLANNING BOARD MINUTES ~ April 24, 2019

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

### **Call to Order**

Mr. Philpot called the meeting to order at 7:00 P.M. in Room 205 of the Butterick Building.

### **Sterling Greenery, 44 Redemption Rock Trail request for a one year extension for Site Plan**

Mark Packard of Sterling Greenery was on hand to request a one year extension for his Site Plan. Mr. Philpot read a letter from Karen Packard dated March 31, 2019: 'We would like to request an extension for our site plan approval for Sterling Greenery. We have had trouble hiring an architect for the project as well as getting the quotes we need to proceed. Companies we have called are too busy and have not gotten back to us.'

Mr. Shapiro moved that the Board grant an extension of the Sterling Greenery Site plan to May 9, 2020. Mr. Miller seconded the motion. The motion passed with four in favor and one abstain (Mr. Philpot as he was not involved in the Site Plan approval).

### **Minutes – March 27, 2019 & April 10, 2019**

Mr. Santoro moved that the Board approve the minutes from March 27, 2019 as amended. Mr. Miller seconded the motion. The motion passed with four in favor and one abstain (Mr. Pineo was not in attendance at this meeting).

Mr. Pineo moved that the Board approve the minutes from April 10, 2019 as amended. Mr. Santoro seconded the motion. The motion passed unanimously.

### **Lieutenant Thomas Kokernak ~ Discuss proposed “Driveway Regulations”**

Mr. Philpot discussed this matter with Lieutenant Kokernak it did not appear that what they are looking to do would impact this Board in any way at this time. It does set the table if you will to finish off the final step in the ANR. Under the state law for ANRs one of the requirements is vital access and that vital access must exist. We have been using the 15% grade threshold as a rule. That 15% grade was established by the Sterling Fire Department years ago. We found it on the old curb cut permit. So what the Lieutenant is doing is updating that application. The final step which hopefully would make next year's Town Meeting, would be a very small adjustment to driveways or access under our zoning regulations because right now we are watching that 15% grade to make sure it exists (access to the buildable lot). Unfortunately, this is not enforceable because once we ANR a lot, you cannot rescind an ANR endorsement. It is possible that someone could move dirt around after receiving ANR and then have a 35% grade. Under the regulations of the Town there is nothing to enforce them to lower it down. The issue is it becomes unsafe due to a lack of access. If this is something the Planning Board puts forth at next year's Town Meeting, for a change in the zoning regulations to include wording "driveway access cannot exceed 15%" it would be nice to have the Fire Department's endorsement on it. Lt. Kokernak assured Mr. Philpot that they would.

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### Administrative Assistant's Report/Notices

#### Grand Opening 100 Leominster Road

Ms. Kazan mentioned that she had received an email today from Ross Perry stating that a representative from St. Vincent Medical Group dropped off a notice about their planned Grand Opening celebration on June 19<sup>th</sup>. Mr. Perry inquired are there any open items in the permits with Building Department or Planning Board that should be addressed.

Ms. Kazan mentioned that Chacharone Properties, 100 Leominster Road has a site plan deadline of June 30, 2019 and the Building Commissioner had issued a temporary occupancy permit valid thru August 28, 2019.

Mr. Philpot suggested that we send a letter to Chacharone Properties notifying them that they have an open Site Plan and once again project closeout not defined well. If they are getting ready to open, you have to think their project is completed.

Mr. Philpot stated that the Building Department is going to issue Certificates of Occupancy as they see fit and they are not going to concern themselves with site plans or any awkward situations created by a CO. Mr. Philpot stated a point of concern is general safety. If someone is injured, falls into a ditch because the site work is not completed, this does not come back on this Board because we are operating within our Rules & Regulations. Mr. Philpot believed that the issue of safety would fall upon the applicant and then the Building Department. He will leave this up to the legal minds to figure out. Therefore, with respect to safety it is not this Board's concern. It would be a reasonable inference on our part if they were opening up that building to full function; I would take that as the project is closed out.

Mr. Philpot referenced the Protective By-law section 6.4.10 'Within thirty (30) days after completion of the project an As-Built Plan will be submitted to the Planning Board both paper and digital form as specified by the Planning Board'. Mr. Philpot stated that from the day of issuance of that CO the clock is ticking and they have thirty days and if we do not receive the As-Built plans within that period then they will be in violation of the zoning regulations and start to incur fines.

Mr. Philpot offered to send a response to Ross Perry as follows; at this time there are no outstanding issues, however, there may be an issue relating to any Certificate of Occupancy – once the certificate is issued - and any issue the Planning Board might have would be with our Applicant and not directly with St. Vincent Medical Group.

Mr. Philpot suggested we send Mr. Perry a note of just a friendly reminder and he can pass this information on to the powers to be on that side of the fence. Mr. Philpot agreed to draft this memo.

### Warrants & Payroll

Board members review two payroll vouchers and signed a warrant for their annual stipends.

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### Chairman's Report/Notices/Discussions

#### Notices from various Towns

Mr. Philpot reminded the Board that as part of Mass General Law the Zoning Board and Planning Board sends copies of notices and decisions to abutting Towns and they do the same for us. Mr. Philpot read several notices from the various Towns.

On April 9, 2019, this Board received a letter from the Board of Selectmen regarding appointment of official Master Plan Committee. Mr. Philpot read the following letter: *'On April 4<sup>th</sup> the Master Plan group held an Open House at the Senior Center from 4:00 – 8:00 pm. At this event, Arden Sonnenberg, who is the acting Chair of the citizens group which is currently working on this project, provided a summary of the Master Plan process to date. It was well attended (130) people) and the residents are excited about moving forward. To that end, the Board of Selectmen respectfully requests that the Planning Board appoint the Official Master Plan Committee members as soon as possible. Arden has a list of volunteers who are willing to serve in that capacity. Please contact her at your earliest convenience. If you have any questions, please contact the Select Board. Sincerely, Kama Jayne for the Select Board'*

Mr. Philpot stated he had a 90 minutes telephone conversation with Ms. Sonnenberg and told her that right now this Board has a lot of things going on. Ms. Sonnenberg agreed. What we said was that it would be no sooner than tonight that we would have an answer. We are not going to have an answer tonight. Mr. Philpot reiterated to her that no one on this Board has ever said we were against a Master Plan. In fact it (master plan) is the responsibility of this Board, our job, so how could we be against doing our job. Mr. Philpot then stated again that the Board is all in agreement that we are not against the Master Plan. The issue has been how to go about it. It is no secret that the Board of Selectmen have stepped over the line many times. There are a couple of issues that need to be straightened out as far as Mr. Philpot is concerned. These will not be discussed tonight because it is not on our agenda. But we will have, I hope, an agenda item if we can find the time for our next meeting.

#### MRPC Project Intake Tool

Mr. Philpot mentioned that the MRPC will be holding MaPIT Workshops across the Commonwealth by Baystate Road and the UMSS Transportation Center.

#### Board representation at Annual Town Meeting

Mr. Philpot indicated that Mr. Pineo has agreed to represent the Planning Board at the Annual Town Meeting.

### Town Planner's Report/Discussions

Mr. Philpot read the following Town Planner Activity Update for April 24, 2019:

1. The Master Plan Open House that was held on Thursday, April 4 was a resounding success – approximately 130 residents attended and participation was engaging. Many thanks to all who attended and to those who volunteered.
2. The Master Plan survey closed on April 19 and the results will be disseminated by the consultant.

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Mr. Philpot confirmed that the survey has been sent out and people have been polled and the results are now being tabulated and disseminated. Having not seen the survey he inquired was it about the Master Plan? Ms. Tatasciore confirmed it was about the Master Plan and the links were given out at the Open House and also in press releases as well in order to get as much input as possible. It was just basically a general overview of overarching in terms of a lot of the opportunities that people thought were more worthwhile which were disseminated from other meetings which we were able to prioritize. Basically trying to get more consensus from the residents on those issues. Mr. Philpot stated so, the point of the survey was to get input from people on what they would like to see happen with a Master Plan in our Town is that the idea. Ms. Tatasciore stated just an overarching general type of survey at this point because it is so preliminary. This was the purpose of it being so broad and open ended. She suspected that further into the process, other surveys will be conducted that are more specific and more in depth.

Mr. Shapiro stated he believed this is why it is critical to continue this conversation with Ms. Sonnenberg at the May 8, 2019 meeting.

Mr. Philpot stated that he has never seen a copy of the survey and as far as he knows neither has any of the Planning Board Members.

Later in the conversation, Mr. Shapiro asked to table this conversation until the next Planning Board meeting.

Sterling ZBA Notices

Mr. Philpot acknowledged ZBA determination to grant Dana Bain, Trustee of 9 Malvern Hill Road Irrevocable Trust #1 a variance with conditions. A copy of this notice will be sent to all Planning Board Members.

Review, discuss and take positions on the Annual Town Meeting Articles

Mr. Philpot explained we received a request to hold a Public Hearing on a proposed amendment to change our Protective Bylaws. Under Mass General Laws, the Planning Board is required to hold a Public Hearing within sixty-five days of receiving that notice, which we have done. We then have twenty-one days to make a recommendation to the Board of Selectmen on these articles to recommend passage or not. We are allowed to amend it but in a very limited sense. We cannot expand the footprint or the four corners of the article but we can restrict it. No Town Meeting vote can be taken on the article unless or until this Board makes a written recommendation.

Article 36. Citizens Petition: Amend the Zoning Bylaws relative to Marijuana Establishments

After discussion, Mr. Shapiro moved that the Planning Board vote not to support passage of Article 36, Part A. Mr. Miller seconded the motion. The motion passed unanimously.

Mr. Shapiro moved that the Planning Board vote not to support passage of Article 36, Part B. Mr. Miller seconded the motion. The motion passed unanimously.

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Article 30. Re-zone land on Westerly Side of Route 12

After discussion, Mr. Shapiro moved that the Board vote in support of the passage of Article 30 with an amendment to the article that the land to be re-zoned is re-defined with a new line that will start at the back left corner of Lot 45 (Southwesterly) and proceed parallel with Princeton Road setback of approximately four-hundred (400) feet which will be specified by the Town Planner. Mr. Miller seconded the motion. The motion passed unanimously.

Article 29. Amendments to Protective Bylaw - Earth Removal

Mr. Philpot stated just to be clear that there is a proposed General Bylaw which will not be discussed because it is not within the Planning Board's authority.

Mr. Philpot explained that this Article is to amend the Protective (Zoning) Bylaw Table of Principal Uses replacing 'Earth Removal' with 'Quarrying or Mining' and so on.

Board Members felt that they have not had ample time to discuss this proposal but referred to the fact that the people involved in the proposed article are professionals.

Board Members had varied consensus; Mr. Philpot in support, Mr. Santoro is opposed, Mr. Pineo could go either way, Mr. Shapiro and Mr. Miller agreed to report at Town Meeting.

Mr. Philpot suggested that perhaps the Planning Board's vote should be we will report at Town Meeting. This would give Mr. Shapiro a chance to poll people at the Town Meeting and then he could provide an amendment at Town Meeting.

After discussion, Mr. Shapiro moved that the Planning Board report at Town Meeting (through Mr. Shapiro) on the matter of Article 29. Mr. Pineo seconded the motion. The motion passed unanimously.

Mike Rivers inquired is there anyone on the Planning Board that is definitely opposed at some point to taking over the Earth Removal Board? The general consensus was that the Planning Board is not against engaging in earth removal activities.

Progress Report on Planning Board Goals

Mr. Philpot stated just to be fair to all of us, he will keep the Board's goals on every one of our agendas as we want to keep the ball moving. Mr. Philpot clarified that just because you are the lead person doesn't mean you can't reach out for help. Let's all work on this together.

Discuss future agenda items

Mr. Philpot stated we have already discussed Master Plan Committee.
Re-organization of the Planning Board will be on the May 29th Agenda.

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9:12 P.M. MOTION TO ADJOURN

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

APPROVED BY:
