

**STERLING PLANNING BOARD
MEETING MINUTES**

June 26, 2013

Room 202 Butterick Building

Present: Ronald Pichierri – Chairman, ANR Agent
Michael Radzicki – Vice Chairman, MRPC Rep.
Kenneth Williams – Clerk
Charles Hajdu
John Santoro
Lucinda Oates – Administrative Assistant

Chairman Pichierri called the meeting to order at 7:00 PM.

ANR's.

There are no ANR's

MINUTES APPROVED

Motion: Mike Radzicki

Second: Charles Hajdu

Motion made to approve the Sterling Planning Board minutes of June 12, 2013 as corrected, there was no further discussion, five to zero in favor, motion carried.

DISCUSSIONS/REPORTS/FYI

Sterling Municipal Light Department will be conducting solar farm tours, holding speeches and providing learning opportunities on Thursday, June 27, 10:00 am – 12:00. No members were available to attend.

A memo from MRPC (Monachusett Regional Planning Commission), regarding the request for the Traffic Study on the corner of Boutelle and Muddy Pond Roads was approved. Correspondence (included with minutes) between the Sterling Select Board and MRPC concerning the traffic study and the upcoming Work Program from October 1, 2013 thru September 30, 2014 were reviewed. Specifically the traffic study would address such factors as:

- The potential impact of the Senior Center on traffic flow at the Boutelle-Muddy Pond intersection
- The potential impact of the Senior Center on the traffic network in the vicinity of the project
- Traffic flow at peak times during the school year, and potential impact from Senior Center
- Site distance
- Accident history
- Any other factors deemed relevant

228 Leominster Road

A letter addressed to Jeff Robinson, 8 North Row Road, Sterling, Ma, sent by Building Inspector, Mark Brodeur, and CCed to the Planning Board was read into record.

June 24, 2013

Dear Mr. Robinson,

As a formal response to your letter of June 13, 2013, I, acting as the Zoning Enforcement Officer for the Town of Sterling, present the following:

1. MA General Law, Chapter 40A, allows for non-conforming uses to continue on a property for which that use is not zoned to be allowed for a period of two years after the building that contained that use is removed or destroyed. Therefore, as you correctly point out, a restaurant would be allowed on the 228 Leominster Road property if new construction or, at a minimum, permitting process were to begin within 2 years of the demolition or abandonment of the food use.
2. I disagree that an entertainment license is even required for the property owner to have friends and acquaintances at his property for the purpose of a "Cruise Night" or any other party theme the owner may come up with. To the best of my knowledge, by direct questioning of the owner, he is not charging admission to this gathering but merely providing a place to gather. The Protective By-laws would prohibit conducting a business of this type but since no earning are involved or money changing hands I can't call this a business use. Therefore, your comments regarding "an establishment" are mute. Further, like you, he is allowed to have the pleasure of the use of his property and not be subject to harassment in doing so. Noise complaints should be brought to the attention of the Police Department if appropriate.
3. As to the sign currently located at 228 Leominster Road, I do not believe that re-facing the existing sign is allowed and I will request that the owner remove the new signage. However, the sign can remain in place at least as long as the re-use of the property, as discussed above, is in play.
4. As to your comment on storage of materials and supplies, the owner has a Building Permit, signed by me to cover the current construction on the property which involves the material you must see and the small back hoe type equipment. Therefore, your comment as to "why the owner is allowed to store...." Is also mute. He is not necessarily "allowed" to do anything and the sarcastic comments are truly not appreciated.
5. I have discussed the new storage shed with the owner and anticipate a permit application shortly.

Final

6. I have no knowledge of raffles and would not enforce a regulation if there is even such a thing in Sterling. It may come under the purview of the Town Clerk, but, I'm not sure.

Now comes the recent Petition for a Hearing with ZBA based on a decision of the Zoning Enforcement Officer. What Zoning decision are you appealing?

It is my strong opinion that no Zoning decision subject to appeal have been made. Therefore, there is no basis of appeal to ZBA. The license question belongs with the Board of Selectmen, the Building Permit questions have been answered, and the sign question has been addressed as are all the other issues in your letter of June 13, 2013. I will, therefore, be advising the ZBA that there is nothing here that warrants any further discussion without a viable issue at hand that is appealable.

While you should feel free as a citizen of this community to discuss your letter with ZBA I really don't see much that falls within their purview at this time and neither do I see a decision that could be rendered based on the facts at hand.

Respectfully,
Mark E. Brodeur

Medical Marijuana

An email was received from Police Chief Chamberland regarding medical marijuana facilities located in Woonsocket, Rhode Island. The article concerned the debate over privacy issues with marijuana growers and the grower's rights. Home invasion has been occurring with the theft of marijuana plants and money. The article stated that marijuana was no different than any other valuable merchandise that law-abiding individuals might stockpile in their homes, such as jewelry or art. Chief Chamberland wanted the Planning Board to be aware of other aspects of permitting medical marijuana facilities within the town.

House Bills

House Bill 2740 had been reviewed and discussed and was agreed upon that it was beyond the Planning Board's scope to comment in detail on the sum and substance on the proposed changes in zoning. An email will be sent to the Town Administrator concerning the board's decision on review of House Bill 2740 and House Bill 1859.

ZBA

Notice was given that an application has been filed with the Sterling Board of Appeals by Dennis Jenks for a modification of a Special Permit issued October 15, 1968. The property was granted a special permit in 1968 for the warehousing and distribution of farm supplies. Buildings are constructed for warehousing and cross docking of rail cars and loading tractor trailers from 1968 to 2011. Farm supply business deteriorated to the extent that farm supply operations terminated. Relief can be granted without materially altering special permit so the only change in the original permit is to allow general commodities as well as farm equipment and supplies in all other respects the operation of the facility would remain the same on

Sterling Planning Board Minutes, June 26, 2013

Final

property owned by Cornerview Properties, LLC. and situated on the Northerly side of Clinton Road and Pratts Junction Road known as number 150 Clinton Road in said Sterling shown in the Assessors Map Plan Book as Map/Lot #69/1 & 69/2 and being zoned Commercial. A vote was taken by the Board of Appeals to grant the variance with conditions.

A notice was read that an application has been filed with the Sterling Board of Appeals by James & Christine Innamorati to vary the terms of the Protective By-Law of the Town of Sterling with regards to property owned by them and situated on the Easterly side of Lakeshore Drive and being zoned Rural Residence and requests a variance that the existing garage proposed to be removed and replaced with a new detached garage. A vote was taken by the Board of Appeals to grant the variance with the following stipulation:

- That all Federal, State, and Local laws be upheld and all necessary permits be obtained.

Senior Center Building Committee

Judy Reynolds introduced herself as a new member of the Senior Center Building Committee and presented some new ideas for the site for the building. The Senior Center Committee is requesting input on the designated location of the center and a possible second site for review. The committee is very aware that this is a preliminary review, and was looking for ideas and suggestions from the Board. The new location is in the same area but at a different site, Lots 2, 1 & 4 on Griffin Road off of Muddy Pond Road. Located behind these lots is an existing ball field which the Town of Sterling already owns.

Comments made by the board were that the ball field was a good location for the placement of the Senior Center. The location was considered a better location for the following reasons:

- better line of sight
- less drifting of snow
- less wind
- a site that the Board could support
- good drainage
- septic system should be viable

It was suggested that a possible compromise between the school and the Senior Center could be worked out for land use.

With limited information the ball field was the preferred site for the Senior Center Building. One consideration that should be taken into account was the size of Griffin Road; it is a very narrow road, and there is a conservation restriction on Lots 2, 1 and 4. It was suggested that the Senior Committee research the parcel and check with DCR for any restrictions.

Continued Special Permit Shared Driveway Off Redstone Place Map 91, Parcel 30

Gary Griffin said that Jamie Rheault would not attend the meeting tonight and Griffin said that he was present to further the process of the Special Permit.

Final

An email received June 23, 2103, from Tom Kokernak, (Sterling Fire Department) was read into record.

Here is response to some of the questions regarding the most recent proposal that I have (I believe it is Rev. 3, 4/23/13)

It is my opinion that the best solution for this proposal would be to extend Redstone Place and have each driveway accessed directly from Redstone Place with a standard circular or "T" type cul-de-sac turn around built to a recognized specification for size, width etc. The proposed common driveway is more narrow, has less suitable access for fire apparatus and likely would not be maintained to the extent a public street would (especially in the winter), therefore I do not see it as a good alternative to extension of the existing street.

The question was asked of me as to what my opinion is of the shared driveway configuration, aside from the issue associated with Redstone Place. It has been difficult for me to give a quantitative answer to this question because there is no municipal or state enforceable regulation that I can cite in any argument as to my opinion one way or the other. With that said, with extensive research I yielded a document used by another jurisdiction that I feel provides good guidance as to what I could consider any particular proposal "good" or "bad". I attached it for reference. Using this as the basis for my opinion, I feel that the proposal is not adequate because it fails to meet points (c), (e), and (g) under the criteria listed for "shared driveways" in the attached reference. Understanding that I cannot statutorily enforce any order on the basis of this because the reference is outside of my jurisdiction, it is within the scope of common practice to consider alternative recognized standards in the absence of a local jurisdictional requirement, so I do not believe the opinion to be unreasonable.

I hope this helps to push this issue to conclusion.

*Regards,
Lt. Thomas Kokernak
Sterling Fire Department*

Taken from the attachment on Shared Driveway Standards referenced above:

- (c) a shared driveway shall be at least 16 feet wide and no longer than 150 feet
- (e) each lot abutting a shared driveway must provide four on-site parking spaces
- (g) a shared driveway may be used only where it intersects a street that has at least two points of access.

The source for the above information was not noted on the document.

A follow-up email letter sent June 12, 2013 from Thomas Kokernak was received June 26, 2013 and read into record.

I am writing as a follow up to the email I sent on 6/12/13 specific to my opinion on common driveway proposal on Redstone Place.

Sterling Planning Board Minutes, June 26, 2013

Final

It appears that the Planning Board will be using this opinion exclusively as the basis for its ruling on the above matter. With that said, I just wanted to reinforce the fact that the information I provided is not part of any particular code or standard that could be lawfully enforced by the department and that there may already be precedent set where the Board has already allowed common driveways that do not meet the criteria that was included in this email. I just want the board to be clear on this before making a final ruling on this matter.

That aside, the opinion of the Fire Department remains the same as was indicated in the email that was sent on 6/12/13.

Let me know if you have any questions, Tom.

Gary Griffin responded that the very first email response received May 8, 2013 from the Fire Department stated that his proposal of adding a smaller extension and common driveways does satisfy the requirements of the Fire Department.

Chairman Pichierri said that letters previously read from the three departments (fire, police, DPW) basically support an extension of the road built to town specifications.

Gary Griffin then addressed Chairman Pichierri's comment, stating that the DPW has no preference regarding improving Redstone Place or the construction of a common driveway. The only issue raised was the size of the turnaround, which would be the same for either a shared driveway or an extension to the road.

Michael Radzicki suggested that updated and clarified statements, in writing, be given to the Planning Board. The verbal commentary between the various boards and the Planning Board would be hearsay, so it is recommended to get correspondence in writing.

Motion: Ken Williams

Second: Charles Hajdu

Motion to continue the Public Hearing for the Special Permit for Shared Driveway until July 10, 2013 at 8:00 pm in the Butterick Building, five to zero in favor, motion carried.

Legal Council on Special Permit Shared Driveway Application

Gary Griffin then responded to the issues raised by the Planning Board for legal review. In the letter sent by the Planning Board, to the town Administrator asking for permission for legal counsel, Mr. Griffin then questioned his need to pay for the review on the following points.

- Define frontage
- Does Redstone Place exist as a town approved road?
- If Redstone Place is an approved town road, where does the road start and stop?
- Must a lot have frontage on a town approved road before issuance of a building permit?

Mr. Griffin said that he failed to see how any of these questions related to his Special Permit.

Final

Motion: Ken Williams

Second: Mike Radzicki

Motion made that the twelve hundred dollar quotation given by Mark Bobrowski's proposal, as outlined in the letter sent to Town Administrator, dated June 12, 2013, be the expense of the Planning Board. There was no further discussion; motion passed five to zero in favor.

Motion: Ken Williams

Second: Mike Radzicki

Motion made to grant Gary Griffin, dba Sholan Homes, INC., 33 Main Street, PO Box 1444, Sterling, MA an extension to his application for a Special Permit for Shared Driveway, located off Redstone Place, for the Planning Board action on the filing of the decision with the Town Clerk up to and including August 31, 2013. The vote was five to zero in favor of the extension of time for the decision on the application until August 31, 2013, motion carried.

Mike Radzicki suggested that the Patten's, 3 Hazlehurst Way, also provide documentation pertaining to their parcel located off of Redstone Hill, in the review done by Attorney Bobrowski.

CHAIRMAN'S REPORT

There is no chairman's report.

ADMINISTRATIVE ASSISTANT REPORT

The Administrative Assistant has nothing to report.

MAIL

Miscellaneous mail was reviewed.

NOTICES FROM OTHER TOWNS

Notices from other Towns were made available for review and were passed on to the Zoning Board of Appeals.

INVOICES

The board members signed annual membership dues for MRPC and payroll.

MOTION TO ADJOURN

Motion: Ken Williams

Second: Mike Radzicki

Motion made to close the meeting, there was no further discussion, five to zero in favor, meeting adjourned at 9:08 PM.

The next regularly scheduled Planning Board Meeting is July 10, 2013 at 7:00 PM.

APPROVED BY:
