

# STERLING PLANNING BOARD MINUTES – December 13, 2017

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

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JAN 11 2018  
TOWN OF STERLING

Mr. Santoro called the meeting to order at 7:01 P.M. in Room 202 of the Butterick Building.

## Chocksett Road, Rock Breakers (LKQ)

Mr. Campobasso and Jamie Rheault of Whitman & Bingham were on hand to discuss Rock Breakers' site plan. The Board reviewed a written protocol submitted by Mr. Campobasso outlining the procedures which are in place to limit the potential for any environmental impact in the highly unlikely event of a release of hazardous fluids from one of the trucks parked on the LKQ premises.

The Board asked Mr. Campobasso to alter the wording of item #4: "If the spill cannot be contained or meets/exceeds the reportable quantity threshold, *the Sterling Fire Department will be notified along with* a licensed hazardous material emergency response vendor." This request of the Board was made in recognition of the fact that the Sterling FD are the most likely first-responders in such an event and should be notified first in order to protect the Town.

The Board asked Mr. Campobasso to change "Diesel Spill Procedures" to "Hazardous Material Spill Procedures" to ensure all liquid spills would be included.

Mr. Philpot moved that the Board approve the protocol with corrections and the understanding that the applicant will submit a revised memo prior to the next Planning Board meeting scheduled for December 27, 2017. Mr. Pineo seconded the motion. The motion passed unanimously.

Mr. Campobasso agreed to make changes and resubmit an updated written protocol on hazardous spill procedures prior to the next Board meeting of December 27, 2017.

Mr. Campobasso also presented the Board with a check for \$567.72 which will keep the Review Fee account at \$2,000.

## Minutes

Mr. Pineo moved that the Board approve the minutes for November 29, 2017 as amended. Mr. Philpot seconded the motion. The motion passed with three in favor and one abstain (Mr. Miller was not officially sworn in as a member.).

## Sean Kilcoyne, 116 Pratts Junction Road request for an extension of Site Plan

Mr. Kilcoyne was on hand to request an extension for his Site Plan for 116 Pratts Junction Road.

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Mr. Philpot moved that the Board grant an extension to complete the work as described in the Site Plan to August 15, 2018 with the assurance that the first thing that will be done is the defender line. Finding that the utilities not yet installed and specifically the defender line does not pose any significant threat to the environment given the present conditions and adding to that the reality that the nature of their business is such that there would be little or no activity through the winter months so there wouldn't be necessarily a cause of the spill which is what the defender line is there to grab. And owing to the request is written finances and business being what they are, it would show good faith from this Board to the applicant as a business owner and taxpayer of this Town. Mr. Pineo seconded the motion. The motion passed unanimously.

Mr. Kilcoyne also submitted a check for \$2,000 for the Site Plan review fee account.

### **Mr. Philpot acknowledged the arrival of Selectmen John Kilcoyne**

#### **Warrants**

Board members reviewed a payroll warrant.

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

#### **Cannabis Cultivation**

Mr. McMahon stopped by this office about updates on the cannabis cultivation. He asked if he could speak with one of the members of the Board and perhaps meet with the Board to discuss this issue. The Board was not interested in pursuing this.

#### **35 & 37 Redemption Rock**

An email from Raymond Trabulsi was received tonight inquiring if a Planning Board member could contact this individual and discuss his questions. Mr. Philpot suggested the individual contact a professional Land Use attorney to answer his questions. Mr. Santoro agreed to contact this individual.

#### **Grant Opportunity - Historical Commission**

Cathy Harrigan of the Historical Commission submitted a letter to the Planning Board. Mr. Santoro read her letter as follows:

'Please let me know when a representative of the Sterling Historical Commission can meet with the Planning board. We are interested in finding ways to preserve historical landmarks, vistas, and buildings in Sterling, and hope to hear the planning board's opinions on this matter. We are also interested in attending a Community Compact meeting with the planning board when they have it on their agenda. Thank you, Cathy'

#### **DLTA**

John Kilcoyne stated they will be bringing Brad Harris MJTC who will have their monthly meetings in the communities. Mr. Kilcoyne stated that he believes MJTC will be having their February 14<sup>th</sup> meeting in the Sterling BOS meeting room. They will be giving updates on MJTC and MRPC during that meeting and also speak about grants and answer everyone's questions.

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CDBG Grant

Mr. Philpot stated that Community Compact Grant is a non-competitive grant. There are two other grant programs under it both of which are competitive and which have interesting potential. If we are interested in pursuing either one, the next question is what is the scoring system? Philpot went on to explain his research in to grant potential for the Town a few years back where he learned from MRPC the chances of winning any was slim to none. Each town in the State is given a score – low score means low needs while high score means high needs – more likely to get a grant, and Sterling has a very low score. So there is one thing. Then all this money comes through the federal government. They identify economic areas like the City of Boston, Springfield, Leominster, and Fitchburg and more. These cities are given grants right off the top before it gets to the state. Then the remaining cities and towns are put into two categories for the remainder of available money. Sterling is one of the lowest needs scores in the state and we are competing for about 30% of the monies after everyone takes their cut. Mr. Philpot questioned why we would we try to get this money when we have little or no chance of getting a grant. Before we spend any time we should understand the scoring system first.

Mr. Pineo stated that DLTA was the only money Sterling could get. Mr. Pineo stated that there are some new programs in the works. The only problem is the scoring system is a one to fifteen and Sterling is the only one below five.

Mr. Philpot stated that the Board needs to understand the terms and conditions relative to this Community Grant can be spent. The only terms and conditions we've been told about which apply to that \$25,000 grant is it can be used for technical support and not for employees. Philpot expressed his concern that there may be other limitations or rules. His limited research into the matter shows the grant was given under the Best Practices program. There is a website that has a list of best practices from which are chosen three by the Board of Selectmen and those three are the Community Compact. He went on to say the actual CC document reads in part "*now therefore the Town of Sterling promises to implement these best practices*". The three areas were; financial systems and controls, Economic Development and an ADA Compliance study. So, this defines the areas. It is something a little more specific than just technical support as we have been repeatedly informed by our Town Administrator. Mr. Philpot stated he was getting worn out having to learn through his own efforts when it is specifically Mr. Perry's job to inform the Board. Mr. Kilcoyne stated that there must be more details behind it and he would have Mr. Perry provide the Board with this information in the morning.

Mr. Philpot moved that the Planning Board respond to the Board of Selectmen and respectfully decline any responsibility or involvement with this \$25,000 Community Development Grant because for two weeks now we have awaited the terms and conditions under which this money can be spent and we have nothing yet. And yet from our understanding there are two other areas of best practice, so put it in another area of best practice. Mr. Philpot does not want to be responsible for wasting money. Mr. Shapiro seconded the motion.

During discussion of the Motion, Mr. Philpot modified the motion be to put on hold any involvement with the grant until the Board receives the specific terms, rules and regulations from Mr. Perry, which hopefully will be within the next two weeks. The motion passed unanimously.

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Mr. Kilcoyne agreed to pass the information on to Mr. Perry with hopes Mr. Perry would be able to provide this information within the next couple of weeks.

**Administrative Assistant’s Report**

**ANRs**

Ms. Kazan asked for clarification on the ANR procedures. Mr. Philpot thinks the first person to review the application should be the ANR Agent – in recognition of the lateness of the hour. MGL41 S81P:

*Section 81P. Any person wishing to cause to be recorded a plan of land situated in a city or town in which the subdivision control law is in effect, who believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board of such city or town in the manner prescribed in section eighty-one T, and, if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person authorized by it the words “approval under the subdivision control law not required” or words of similar import with appropriate name or names signed thereto, and such endorsement shall be conclusive on all persons. Such endorsement shall not be withheld unless such plan shows a subdivision. If the board shall determine that in its opinion the plan requires approval, it shall within twenty-one days of such submittal, give written notice of its determination to the clerk of the city or town and the person submitting the plan, and such person may submit his plan for approval as provided by law and the rules and regulations of the board, or he may appeal from the determination of the board in the manner provided in section eighty-one BB. If the board fails to act upon a plan submitted under this section or fails to notify the clerk of the city or town and the person submitting the plan of its action within twenty-one days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the city or town clerk shall issue a certificate to the same effect. The plan bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the planning board, or in case of the certificate, by the city or town clerk, to the person submitting such plan. The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, shall transmit a written statement to the register of deeds and the recorder of the land court, signed by a majority of the board, giving the name of the person so authorized.*

*The endorsement under this section may include a statement of the reason approval is not required.*

Mr. Philpot stated that this says to submit to the Planning Board. Not the Town Clerk or any other Department. The applicant should not be bringing the application to the Town Clerk until the Planning Board has reviewed the application. If the Planning Board office is closed, then the applicant can drop the application off at the Town Clerk’s office and request they forward it to the Planning Board office during regular Planning Board office hours.

Mr. Philpot will review the ANR application tomorrow to confirm the application is either complete or incomplete. Mr. Philpot will also contact the engineer with his comments.

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Ms. Kazan inquired if a meeting in which an ANR was on the agenda had to be cancelled due to inclement weather how should it be handled? We could request the applicant sign a letter for continuation.

In summary Ms. Kazan confirmed that once an ANR comes into the office, Mr. Philpot will review the application and once Mr. Philpot deems it complete, that date is the date of acceptance to the office.

**Meeting Cancellation Policy**

Ms. Kazan suggested that if the Town Hall is closed, then the Planning Board’s meeting is automatically cancelled. Ms. Kazan mentioned that the Town Clerk sent her an email stating that in the case of inclement weather if she is unable to get into the Town Hall then Ms. Kazan should be able to access the website and change the meeting notice to being cancelled. The Board did not agree that it was Ms. Kazan’s responsibility and that is was the Town Clerk’s responsibility.

Mr. Philpot suggested that Mr. Santoro draft a letter to the Board of Selectmen requesting that any closing of the Building (Town Hall) for whatever reason it may be, that the Town Clerk post somewhere appropriate at her discretion that the Planning Board meeting scheduled for that day is cancelled.

Ms. Kazan suggested that if Town Hall is closed for whatever reason and a Planning Board meeting is scheduled for that night, the meeting is automatically cancelled. This notice will be put on the Planning Board’s webpage. The Board agreed with this request.

**Annual Town Report of the Planning Board**

Ms. Kazan informed the Board that she is working on the Annual Town Report. The Board requested that she send out a copy of the draft so everyone could review it prior to the meeting on December 27, 2017.

**Chad Lane Subdivision**

Ms. Kazan mentioned that she had sent Chad Lane a letter on November 27, 2017 regarding the replenishing of their Review Fee account prior to the meeting of December 13, 2017. As of today, she has not received any money for this account.

The Board asked Ms. Kazan to initiate a follow up letter as follows: Please be advised if we do not receive the requested balance of \$1,826.54, before the next scheduled meeting on December 27, 2017, the Board will have an agenda item to reconsider the extension of your subdivision to December 28, 2018.

**Primrose Lane Monies Owed**

Mr. Philpot stated that the Treasurer/Collector needs to have official notification from the Planning Board that Mr. Pichierri has \$485.23 in arrears.

Per section 92-3 Denial, suspension or revocation of Licenses.

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Mr. Philpot suggested the following memo be sent to the Treasurer/Collector and signed by John Santoro. ‘Please be advised Mr. Ron Pichierri at 3 Primrose Way, Sterling, MA is delinquent in the amount of \$485.23 (See attached letter requesting funds.) We now ask that you exercise your authority under 92-2 of our General Bylaws and enter his name onto the list of delinquent taxpayers for denial of any fees, licenses, so forth and so on.

### **Town Planner**

Ms. Kazan received information on the Town Planner job description from Westminster. Mr. Philpot said if the Town moves forward and hires a Town Planner, then what is the reporting structure, what is the authority? Mr. Pineo mentioned the position was discussed at one of the EDC meetings and the statement that came from Mr. Perry, the Town Administrator was to oversee another person he would need to see more money. Mr. Philpot stated that is a whole other discussion for him and his authority.

Mr. Philpot asked if it makes sense to have a full time employee reporting to a part time Board. If not, then the Planner should not report to the PB. On the other hand, we are an elected board like the BOS who meet no more frequently than we do and yet they have a full time position reporting to them.

Mary Larson asked if others had talked to other Towns about a Town Planner. Board members confirmed they had in several towns.

Ms. Larson that the Sterling Land Trust was thinking to acquire a piece of property that already abuts a land locked piece of property owned by Sterling Land Trust. The questions arose as to would that be an issue for the Planning Board. We are not sure it is going to come to fruition.

Mr. Philpot inquired how buying a piece of land effects this Board. Ms. Larson’s response was she was not sure, she cannot remember why they had a concern about it. Mr. Philpot stated that this Board has nothing to say about people buying and selling property. The only time this Board gets involved is if they want to change the use or sub-divide it. Ms. Larson will go back and get further clarification.

### **Set date for Public Hearing ~ for the purpose of amending the Town of Sterling Protective By-Laws relative to marijuana Establishments**

Ms. Kazan recommended that the public hearing be scheduled for February 28, 2017. Ms. Kazan asked the Board if they would be agreeable if she ran this timeline by Town Counsel for their review. The Board agreed to have Ms. Kazan run this timeline by KP Law and have an updated timeline for next meeting.

### **Discuss Earth Removal By-laws and meeting with various Boards.**

After a lengthy discussion, Mr. Kilcoyne mentioned that he had heard that the ZBA was thinking of taking on the responsibilities of the Earth Removal Board. Planning Board members agreed that it was a general consensus that this would be a good thing for the ZBA to take on as the Planning Board does not have the clerical support and the Planning Board already has more than enough on its plate and could not see taking on any additional responsibilities.

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The Board asked Ms. Kazan to respond to the letter from the ZBA Chairman dated November 28, 2017 requesting a meeting to develop a community position over the roles and relationship of the Planning Board, Zoning Board and Earth Removal Board and include the Building Commissioner/Zoning Enforcement Officer and Town Administrator. The Planning Board would like to meet with all of the above at their meeting scheduled for Wednesday, December 27, 2017 at 7:30 p.m.

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

Mr. Philpot offered the following ideas on the Board's goals; Update and review the Subdivision Rules & Regulations, Open communications, Zoning Protective Bylaws, and Town Planner.

The Board agreed to postpone discussion until their next meeting.

### **FY19 Budget**

Ms. Kazan mentioned the Board needs to decide if they want to go up on their stipends to \$750 per member. Mr. Philpot mentioned the need for a letter of justification for the increase. We have to demonstrate to the taxpayers why we are worth the increase. That's why we need to establish goals and accomplishments. The Board agreed to finalize their FY19 budget at their next meeting on December 27, 2017.

Mr. Philpot would like to know when the \$100 stipends started.

The MRPC line item is the same as last year.

Mr. Santoro inquired as to how long Ms. Kazan has been here. Her response was 2-1/2 years. Mr. Philpot asked if the Board has the authority to give performance increases. No one seemed to know. Mr. Philpot suggested the Board hold off on the budget until we find the answer. The Board agreed to discuss at their next meeting.

Mr. Santoro agreed to research the Personnel Bylaws to see what are the procedures.

### **Open and expiring Site Plans and Occupancy Permits & 140 Pratts Junction Site Plan**

Mr. Philpot questioned the wording on 6.4.8 of the Protective Bylaws  
*6.4.8 Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.*

Mr. Philpot stated it says if you haven't done something substantial before that year has lapsed you are done. So, the question to ask is has something substantial been done over there? If the answer is yes, so it hasn't lapsed. That's a loophole in the Bylaws.

Mr. Philpot suggested that it has to be a firm request.

Mr. Santoro said he would give some thought to drafting letters.

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One letter would be for those who were given a Certificate of Occupancy and the other letter would be for the ones who have not been issued Certificates of Occupancy. Ms. Kazan will mail out the list to all Board Members.

**Subdivision Rules & Regulations**

The Board agreed to postpone discussion until their next meeting.

**Condition of General Bylaws**

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

**9:50 P.M. MOTION TO ADJOURN**

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

**APPROVED BY:**

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