

November 17, 2021

The meeting of the Sterling Board of Selectmen was called to order at 6:00 p.m.

Selectmen present-Lincoln Cooper, David Shippee, and Jack Joslyn.

Staff present-Mike Zizka, Joseph Boucher, and Joyce Gustavson.

Also present-Harry Heller, Andrew McCoy, David McKay, Scott Hesketh, Peter Rabbitt, Frank Bood, Melanie Duncan, Chris Caccia, Kevin LaRose, Barry Goldberg, Steve Williams, and Melissa Garrity.

Pledge of Allegiance: Everyone stood to recite the Pledge of Allegiance.

L. Cooper introduced Selectman David Shippee and Selectman Jack Joslyn who was elected to the Board in November and will observe the Special Excavation Application presented by American Industries, Inc. tonight.

Audience of Citizens: No comment.

Approval of Minutes: D. Shippee made a motion, seconded by J. Joslyn to approve the 11/10/2021 meeting minutes as presented. All voted in favor of the motion.

Correspondence: None.

Unfinished Business:

a. Commission Vacancies (Inland Wetland & Watercourses Commission, Planning & Zoning Commission, Water Pollution Control Authority, and Zoning Board of Appeals): D. Shippee made a motion, seconded by J. Joslyn to table this item to the next meeting as there are no candidates. All voted in favor of the motion.

b. Special Excavation Application by American Industries, Inc. for Property Located at 609 Sterling Road (Owner: Grace Harriot Roberts) Map 03830, Block 022, Lot 0102: L. Cooper introduced Attorney Mike Zizka of Halloran & Sage, LLP, legal counsel for the Town, Joseph Boucher of Towne Engineering, Inc., and Attorney Harry Heller of Heller, Heller, & McCoy. The following was submitted into record: Correspondence from Heller, Heller, & McCoy dated 11/17/2021, Sight Line Review dated 11/17/2021 and Proposed Signage Plan dated 11/10/2021 from Scott Hesketh of F.A. Hesketh & Associates, Inc., and correspondence outlining possible motions and conditions of approval, with a revised dated of 11/17/201 (copies on file).

Harry Heller of Heller, Heller, & McCoy stated that he is representing the applicant, American Industries, Inc., and the property owner, Grace Harriot Roberts for property located at 609 Sterling Road. H. Heller introduced Andrew McCoy, associate of Heller, Heller, & McCoy, David McKay, Design Engineer of Boundaries, LLC and Scott Hesketh, Manager of Transportation Engineering of F.A. Hesketh & Associates, Inc.

S. Hesketh addressed the concerns that the Board of Selectmen had at their last meeting stating that F.A. Hesketh & Associates, Inc. has undertaken a review of the proposed driveway location for a proposed gravel operation. A field investigation of Sterling Road in the vicinity of the proposed driveway location was conducted, as well as preliminary conversations with the State of Connecticut Department of Transportation (ConnDOT) personnel regarding the proposed driveway location and potential mitigation measures. Due to the curvature of the road, it is the opinion of F.A. Hesketh & Associates, Inc. that an eighty-five (85) percent speed of forty (40) miles per hour at the site entrance as represented by the Town's consulting engineer is an accurate representation of existing conditions. A discussion was held regarding the sight line and sight distance. Sterling Road (Route 14) is a state highway, and all proposed curb cuts are required to satisfy the requirements that the State Department of Transportation has deemed safe for vehicles entering a state highway. The Board of Selectmen expressed concerns about the ability of an approaching driver to see a truck that exited the driveway in a westbound direction and that has traveled around the bend. To reduce conflicts, the need is to slow down approaching traffic and/or increase the sight distance of exiting trucks.

One possible solution to reduce potential conflicts is to reduce the speed of approaching traffic on Route 14 by installing a vehicle detector on the site driveway that is connected via radio frequency to a flashing warning beacon and a sign located 500 +/- feet east of the driveway; the second solution

would be to increase the available intersection sight distance for trucks exiting the site driveway by installing a vehicle detector on Route 14 located east of the site driveway. Both potential solutions have been discussed with ConnDOT staff and it would be possible to implement the recommended measures. ConnDOT has advised F.A. Hesketh & Associates, Inc. to wait until after receiving local approval before making a formal application. Route 14 is a State Highway and the applicant will be required to obtain an Encroachment Permit form prior to receiving an encroachment permit. F.A. Hesketh & Associates, Inc. request that the Board of Selectmen grant an approval on the condition that the applicant satisfy ConnDOT prior to the issuance of an encroachment permit for construction of the driveway.

L. Cooper asked is the system reliable in all kinds of weather conditions and who maintains them.

S. Hesketh stated that ConnDOT uses traffic signals throughout the state and the maintenance falls to the applicant; however, the State may take ownership and maintenance.

D. Shippee asked how they are powered.

S. Hesketh stated they are solar powered with batteries. There is no conduit nor underground electrical construction.

M. Zizka asked S. Hesketh to state his credentials for the Board.

S. Hesketh stated that he has a Master's degree in Transportation Engineering from the University of Minnesota and has been working for F.A. Hesketh & Associates, Inc. since 1979 in Traffic Operation and the last fifteen (15) years as Manager of Transportation. He has done hundreds of transportation studies throughout Connecticut and has been an expert witness in Traffic Details.

L. Cooper stated that in previous meetings any interested parties have been given the opportunity to comment on all aspects of this application. The only reason the proceedings tonight are kept open is to provide additional information about the safety issues concerning Route 14's entrance to the site. The applicant in this situation has the last word. That is the only thing that we are going to hear tonight; the applicant's testimony. There will not be any questions from the audience. The burden of this decision lies with the Board of Selectmen. The Board of Selectmen governs these issues and is under no obligation ever at a meeting like this to hear public comment. This is not a hearing, but a Selectmen's meeting.

L. Cooper made a motion, seconded by D. Shippee that the Board of Selectmen grant the following waivers for the Application of American Industries, Inc. for the Earth Excavation of a portion of the property owned by Grace Harriot Roberts located at 609 Sterling Road (Route 14) - Map 3830 Block 022 Lot 102 as shown on plans entitled "Site Plan – Proposed Gravel Excavation, Prepared For American Industries, Inc., 609 Sterling Road (CT Route #14) – Sterling, Connecticut, Sheets 1 to 17 of 17, Dated: January 2020; REV "A" 4-9-20; Revision "B" 4-24-2020; Revision "C" 8-28-2020; Revision "D" 7-29-2021" as Prepared By: Boundaries LLC in accordance with Appendix A of the Zoning Regulations, Town of Sterling, Connecticut revised effective December 3, 2018.

- 1) Section 112.2(f): The nature of the uses on adjacent and nearby properties within one thousand (1,000) feet at 100 or 200 scale mapping
- 2) Section 112.2(g): The surrounding general topography within one thousand (1,000) feet at 100 or 200 scale mapping.

The Selectmen find that the information is not needed to reach a decision on the application.

Two (2) voted in favor of the motion and one (1) abstention. Motion carries.

L. Cooper made a motion, seconded by D. Shippee to approve the Excavation Permit Application of American Industries for the Earth Excavation of a portion of the property owned by Grace Harriot Roberts located at 609 Sterling Road (Route 14) - Map 3830 Block 022 Lot 102 as shown on plans entitled "Site Plan – Proposed Gravel Excavation, Prepared For American Industries, Inc., 609 Sterling Road (CT Route #14) – Sterling, Connecticut, Sheets 1 to 17 of 17, Dated: January 2020; REV "A" 4-9-2020; Revision "B" 4-24-2020; Revision "C" 8-28-2020; Revision "D" 7-29-2021" as Prepared by: Boundaries, LLC in accordance with Appendix A of the Zoning Regulations Town of

Sterling, Connecticut revised effective December 3, 2018 subject to the following conditions of approval:

Conditions of Approval:

- a) That the six (6) monitoring wells shall be monitored every two (2) weeks for groundwater levels yearly from February 1st through April 15th, reported to the Town, and any grading conflicts corrected to provide a four (4) foot separation to the seasonal high water table.
- b) That a bond be posted and maintained in the amount of \$132,000 for Erosion and Sedimentation and site restoration until the Phase 1 work has been completed and approved by the Zoning Enforcement Officer or other Town Staff assigned to that task.
- c) That upon written request from the applicant, the Board of Selectmen may approve a bond reduction, provided that a bond in the amount of no less than \$94,000 be maintained for the life of the permit.
- d) That no excavation be conducted in Phase 2 until all of the necessary access and stormwater improvements included in Phase 1 have been installed and inspected and are approved by both the Design Engineer and the Town Staff.
- e) That the site be inspected by the Design Engineer monthly with any observations including deficiencies noted and reported in writing to the Selectmen within three (3) days along with additional inspections made and reported in writing to the Selectmen following any two (2) inch rainfall event or greater.
- f) That the Town Engineer inspect the site semi-annually and following large stormwater events at a minimum plus any necessary follow-ups due to deficiencies noted to secure their resolve and that quarterly inspections be conducted by the Town's Land Use Agent.
- g) That the Town's application review costs be paid in full by the applicant.
- h) That a \$5,000.00 deposit be made with the Town in cash for onsite supervision; such amount to be returned to the \$5,000.00 deposit level upon notice from the Town as \$2,500.00 of that amount becomes depleted. Any review fees by the Town's consulting Staff that have not been invoiced will be charged against this deposit.
- i) That the hours of operation be limited to Monday through Friday 7:30 a.m. to 5:00 p.m. and Saturday from 8:00 a.m. to 12:00 p.m. That no work shall be conducted on Sundays, State, or National Holidays.
- j) That the maximum number of truck loads of material removed from the site be eighty (80) loads per day.
- k) That if at any time the supervision fees become deficient or the bond amount lapse, the Board of Selectmen may declare the permit null and void after reasonable notice to the operator and a reasonable opportunity to respond.
- l) That no topsoil or arable subsoil be permitted to be exported from the site until the entire site is fully excavated, restored and stabilized.
- m) That no stumps or other land clearing debris be buried or permanently stockpiled onsite.
- n) That no blasting, crushing, washing, screening, or rock splitting (hammering) shall likewise be permitted under this permit.
- o) That no offsite materials be brought to the site except those necessary for the driveway construction and construction of the E&S measures proposed.
- p) That any changes to the Conditions of Approval or Approved plans be returned to the Board of Selectmen for approval or disapproval as a modification of any permit granted.
- q) That evidence of approval from the Connecticut Department of Energy and Environmental Protection and/or the Department of Transportation for use of the historic rail bed be provided to the First Selectman prior to commencement of any site improvements.
- r) That prior to the commencement of any site improvements or of any other activities authorized by this permit, the applicant provides written evidence to the Board of Selectmen that it has (1) formally proposed to the Connecticut Department of Transportation ("CT DOT"), in writing, the mitigation measures discussed in the letter dated November 17, 2021, from Scott F. Hesketh, P.E., of F.A. Hesketh & Associates, Inc. to Boundaries, LLC, Attn:

Mr. John U. Faulise, Jr. L.S.; (2) expressly request in writing that CT DOT respond to such proposals in writing; (3) received an encroachment permit from CT DOT after submitting such proposal and request; and (4) installed and maintains any such mitigation measures as may be approved or required by CT DOT.

- s) That evidence of compliance with DEEP Stormwater Permitting requirements in accordance with Appendix A Section 116.13.d of the Regulations be provided to the Board of Selectmen prior to the commencement of any site improvements or of any other activities authorized by this permit.
- t) That unexecuted copies of the required bond be provided for the review and approval of the Town Treasurer and the Town Attorney.
- u) That within ninety (90) days of approval, two (2) sets of signed and sealed final plans and one (1) set of mylars suitable for filing in the Land Records with the approved Conditions of Approval added to the plans shall be submitted for review to the First Selectman in accordance with Section 107 of the Regulations unless a ninety (90) day extension is requested and approved by the Board of Selectmen within the first ninety (90) day period.
- v) That final mylars be recorded in the Town Clerk's Office by the Applicant subject to the endorsement of the Town Engineer and First Selectman in accordance with the time requirements recited in Section 107 of Appendix A of the Regulations. The mylars will not be endorsed by the Selectman until all invoiced review fees have been paid, the required cash deposits have been made, and the executed bond has been provided to the satisfaction of the Town Treasurer and the Town Attorney.
- w) That if the Board of Selectmen should receive evidence that any conditions of this approval, or any of the criteria set forth in Appendix A, Section 103 of the Zoning Regulations, or of any CT DOT encroachment permit, have been or are being violated, the Board of Selectmen may, after reasonable notice to the landowner and a reasonable opportunity to be heard, require the landowner to institute adequate mitigation measures to prevent further violations or, if such violations cannot be or are not adequately remedied, to terminate the permit.
- x) That the permit shall be valid for a period of five (5) years commencing fifteen (15) days following publication of the notice of Approval. If the mylars have not been filed within the required time period, this Approval will become null and void.

Two (2) voted in favor of the motion and one (1) abstention. Motion carries.

c. Special Town Meeting for the Sale of 31 Hungry Hill Road: The Special Town Meeting is scheduled for Thursday, December 9, 2021 at 6:00 p.m. in Room #15 at the Sterling Municipal Building, 1183 Plainfield Pike, Oneco, CT.

New Business:

a. Approval of Bills: Bills were not available for tonight's meeting.

b. Schedule Special Town Meeting for Consent Order and Proposal from U.S. Geological Survey Proposal (USGS): D. Shippee made a motion, seconded by J. Joslyn to add to the 12/9/2021 Special Town Meeting, in Room #15 at 6:00 p.m. a second item to approve the consent order and proposal from U.S. Geological Survey Proposal (USGS) in the amount of \$20,350. All voted in favor of the motion.

c. Second Request by American Industries, Inc. for a Two (2) Week Extension to Complete the Road Resurfacing Project: L. Cooper reported that he received a letter from Cale Carnot, Assistant Vice President of American Industries, Inc. dated 11/12/2021 requesting an additional two (2) week extension of the contract in order to complete the work due to the weather forecast. The extension requested is for the handwork/detail to complete the road resurfacing project; driveway aprons. D. Shippee made a motion, seconded by J. Joslyn to grant an additional two (2) week extension to 12/12/2021 for American Industries, Inc. to complete the road paving project; driveway aprons on Jared Hall Hill Road, Margaret Henry Road, and Snake Meadow Hill Road. All voted in favor of the motion.

D. Shippee reported that the paving job done by American Industries, Inc. is unsatisfactory and not a professional job. A special meeting shall be scheduled to discuss the discrepancies.

Any Other Business to Come Before the Board of Selectmen: None.

Adjournment: J. Joslyn made a motion, seconded by D. Shippee to adjourn at 6:50 p.m. All voted in favor of the motion.

Attest: _____
Joyce A. Gustavson, Recording Secretary