

March 20, 2023

Call to Order: The monthly meeting of the Sterling Planning and Zoning Commission was called to order at 7:34 p.m. Roll was called: Frank Bood-present, Ross Farrugia-present, Victoria Robinson-Lewis-present, John Angelone-present. Alternate Jon Turban-present, Alternate Jason McLevy-present, and Alternate Kim Smith-Barnett-present. Absent- Dana Morrow.

Staff Present-Link Cooper, Erika Lorange

Also Present- Greg Glaude (Killingly Engineer Associates), David Held (Provost & Roveros, Inc), Fred Larate, Judith Larate

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

Audience Comments – No comment.

Approval of Minutes – V. Robinson-Lewis made a motion, seconded by R. Farrugia to approve the monthly meeting minutes of 11/28/2022 as written and presented. All voted in favor of the motion.

Correspondence – F. Bood announced James Rabbitt has resigned. The Town of Sterling Board of Selectmen had a meeting with Town Planner James Rabbitt requesting his resignation and hence resigned. L. Cooper elaborated it was a difficult situation, the P&Z Commission and the Town of Sterling staff agreed that it was very difficult to get information from Mr. Rabbitt, this being the reason for the request of resignation by the Board of Selectmen. For the time being, the town will be serviced by NECCOG billed hourly. They sent a representative Jim Larkin to the Board of Selectmen's meeting on Wednesday March 15, 2023, he made a presentation to the Board of Selectmen on the details of their services and fees. The Board of Selectmen voted it to be the best interim solution until another part-time Town Planner was hired. L. Cooper will be meeting with NECCOGS Director Wednesday 29th, 2023, to work out a contract with them for the interim period. L. Cooper went on and acknowledged there will be some growing pains but agreed it was a step forward and not backwards, stating that at any time this arrangement can be terminated if there are any issue. He pleaded to let us give this a try and see how it works out for the town. He ended his correspondence with those words.

Unfinished Business – None

New Business

- a. **David Held, P.E., L.S. Provost & Roveros, Inc. discuss buildable area requirements for potential subdivision on Porter Pond Rd** – In regard to, Lot 1, 26 acres on the current plot plan there is a blue L shaped area that is considered buildable square footage in the upper middle portion of the lot. There is another area highlighted in a blue circle as well in the lower right portion, which is also considered buildable square footage, it is the area where they want to build. There is also an orange rectangle shaded on the lot that meets all the septic, building, and wetlands requirements. There is an existing house on the lot. The question is in regard to subdivision requirements and planning requirements are not cohesive and have come to

the board to approve the blue square, but the home will be built in the blue circle buildable area since they cannot make it into a blue square buildable area. They can show that they meet all the requirements to build in the blue square, but their desire is not to build there they want to eventually build in the blue circle buildable area. D.Held stated presently he does not see a regulation that prohibits that but does not want to move forward to be told they should not have done that. F.Bood asked with a different shape than the circle could you meet the buildable sq footage requirement, D. Held stated they can meet that requirement just not with a square. F.Bood advised that they consult Town Engineer Matt Maynard and would like them to review the Town Clerks regulations to see if they are correct. F.Bood feels that there are regulations in place for them to build in the other area. The Board was in agreement that if there were no regulations in place that would accommodated them then the board would be willing to discuss changes in the regulations and make the appropriate changes. They ask F.Larate when did they planned to build, he said in a couple of years it is for their son when he ready.

- b. **Discussion and Possible Action PZ Application #2202-01 by Howard Haggett for Property Located on 0 Valley View Road-** Greg Glaude from Killingly Engineering spoke to the committee stating in regards to application #2202-01 that was approved by the board, but it was never sent to Town Engineering for review. They are asking for a 3rd extension so they can submit the mylars. The plans are in Matt Maynards hands there were changes that were suggested they need more time to make those adjustments and present new mylars. F. Bood stated he was not aware that it was the town planners' job to get them sent to the town engineer. He stated he consulted Mike Zizka Town of Sterling's legal counsel and read this following response *Here is what the relevant statute says: " Any plan for subdivision shall, upon approval, or when taken as approved by reason of the failure of the commission to act, be filed or recorded by the applicant in the office of the town clerk not later than ninety days after the expiration of the appeal period under section 8-8, or in the case of an appeal, not later than ninety days after the termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant but, if it is a plan for subdivision wholly or partially within a district, it shall be filed in the offices of both the district clerk and the town clerk, and any plan not so filed or recorded within the prescribed time shall become null and void, except that the commission may extend the time for such filing for two additional periods of ninety days and the plan shall remain valid until the expiration of such extended time."*

The underlined portion of the statute is ambiguous, and lawyers have differed on whether it allows a planning commission to extend the time for filing retroactively. My own view is that the extension can be retroactive but in the absence of any case law on the question, it is still risky for the applicant to rely on a retroactive extension. Joe Boucher takes the more conservative view, and I can't blame him for that; I usually go for the least risky approach myself, but in this case, the risk would be on the applicant rather than the Town or the Commission. Joe has also correctly calculated the time frame for proper filing without an extension.

Since the risk is on the applicant, I think one way for the Commission to approach it (assuming it would want to grant the extension – it doesn't have to do so) would be to advise the applicant that there is a substantial question under the statutes (Conn. Gen. Stat. Sec. 8-25(a)) whether an extension of time can be granted after the original period for filing the subdivision plans has

ended. Therefore, the Commission might grant the extension only with the caveat that the applicant understands and bears the entire risk that the validity of the subdivision might be questioned by others in the future.

The board advised Killingly Engineering to submit an additional written request for an additional 90 days that will bring the extension to 180 days bringing the new deadline to April 17th 2023. G.Glaude from Killingly Engineering stated they mailed the letter today addressing all the corrections they made to the mylars. F. Bood stated for clarification for subdivisions, that it is the staff's responsibility to submit the application to Town Engineering. He wanted to make sure that everyone was treated fairly. F. Bood made the motion to request the 90 day extension given the written request that was mailed March 19th, 2023. V. Robinson-Lewis 1st the motion, R. Farrugia 2nd the motion it was approved. L. Cooper requested that it be stated the Town is held harmless if there are any issues in the future. F. Bood stated he would attach the legal decision to the mylar.

Discussion of Potential Cannabis License in Industrial Park

F. Bood reference the Cannabis regulations document stating that we get our documents either from the State or a different town. F.Bood pointed out in the Cannabis Regulations Appendix D J. Rabbitt had modified it showing highlighted area in yellow below. F.Bood is proposing there be a Public Hearing so everyone can come before us to be educated about what changes are being proposed. At the Public Hearing these items would be on the agenda to discuss, to correct the wording since Town of Sterling does not have a special permit process, but also the terminology in section 101 c referring to the approval according to the Section XX there is no Section XX, along with review of grammatical errors. F. Bood contended that the errors were due to an administrative error. He also would like to remove self-serving terminology in the document the board works as a committee to make decisions. We do not need staff to make decisions for regulations. There is an issue at hand that there are 11 of 41 companies that licenses were put out who have already paid the \$3 million to the State, one of them wants to come to the Town of Sterling, the good news is they do not want to grow nor do retail they only want to do manufacturing of the cannabis. If the cannabis document is not corrected, then the Board of Selectmen would have to create an ordinance to create a special license. The special license process would not be exclusive to the cannabis industry they would have to decide and list specifically what requires a special license so that it does not become a process for approving a special license for anything that is not listed in the document. Frank Bood proposed the questions does anyone feel like the Town needs a special license process – only V.Robinson-Lewis stated that she did feel like the Town needs one. The decision has to be made quickly the license is only good for 90 days and it is going to be expiring soon and they will go to a different town. Frank Bood stated he is not invested in any way just trying to promote economic development for the Town.

Frank Bood posed the question if the Board feels like the Town Planner should be involved in all applications? The citizens are paying twice for the Town Planner and the fee to the Town. The Board stated they would need to do more research to decide yes or no. F. Bood suggested Item C on the agenda be carrying over to the next meeting under unfinished business. L. Cooper stated he will bring it to the Board of Selectmen's meeting in April then convey to F. Bood if it will be necessary to have of a Public Hearing which then will be put on the Planning and Zoning Committee Agenda for April. F.Bood made the motion to approve V. Robinson-Lewis 2nd the motion it passed.

APPENDIX D: Cannabis (Retail Sale, Production and Cultivation, Medical Marijuana Dispensary Facilities and Production facilities)

101 Applicability:

- a. Medical marijuana dispensary facilities and production facilities shall be governed by CGS Sec. 21a-408 et seq. as amended and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies as they may be amended and permitted only in the following zone, subject to special permit approval in accordance with Section 5.2 of these Regulations, site plan approval in accordance with Section 5.3 of these Regulations, and the requirements of this section.
- b. Cannabis retail and hybrid-retail facilities shall be governed by The Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”), the Connecticut (CT) Public Act 21-1 / Senate Bill 1201 as amended inclusive of the Regulations of Connecticut State Agencies as they may be amended and permitted only in the following zone, subject to special permit approval in accordance with these Regulations, site plan approval in accordance with Appendix C of these Regulations, and the requirements of this section.
- c. Adult-use cannabis cultivator and micro-cultivator facilities shall be governed by the RERACA, the CT Public Act 21-1/ Senate Bill 1201 as amended inclusive of the Regulations of Connecticut State Agencies as they may be amended and permitted only in the following zone, subject to special permit approval in accordance with these Regulations, site plan approval in accordance with Section XX of these Regulations, and the requirements of this section.

Audience Comments: None

Any Other Business To Come Before the Planning & Zoning Commission

A: Fee Schedules

The fee schedule would give the Town the power to enforce regulations and ordinances. For example, there are thirty-seven campers living on properties with cars in front of them and propane tanks, but state they are not living there. It has become too large of an issue for the Town to ignore. Campers are only allowed to stay in a camper property for 7 days. There are instances in the Town where people are living in campers as permanent residents. They have been sent letters to come to the Board of Selectman and explain if there are extenuating circumstances for their living situation. They understand sometimes it is the only option due to financial hardship. Frank Bood stated unequivocally the purpose of the fee schedule is not to punish members of the community but to encourage them to comply with the rules and if they do not it gives the Town the ability to enforce the regulations and take action. He acknowledges there are several different issues such as job loss, financial hardship, mental illness there are a myriad of reasons.

The questions are and this is only for discussion is anyone against or for a fee schedule. It would be a fine of \$500 daily not just in particular to the campers but any zoning issues. When that was stated, the information was received with some trepidation and exasperation about the high

dollar amount. F.Bood cited an another example of a resident in Sterling that buys cars and campers then destroys them on their property. They have been sent numerous letters that they have not responded to so much so that the health department has to go to the property to mitigate the rodent infestation issues. F.Bood stated that he suggests if there is a fee schedule that the board of selectmen would have the complete authority to reduce or revoke the fee since everyone lives the way they do for reason. If it is a valid reason, then it gives the BOS the ability for flexibility. This would be more for the blatant ignorance of the rules. Things are changing in the future, people are building nicer houses, new members of the community do not want to see these blight instances. The fee schedule is to address abuses in town. Dana Marrow asked the question would a lien be put upon the deed of the property and what position would the town be in. F. Bood stated that Town of Sterling would be in the second position.

a. Commission Workshop:

- 1) Roles of Commission Members
- 2) Responsibilities
- 3) Policies and Procedures

F.Bood made the 1st motion to remove this from item from the agenda V. Robinson-Lewis 2nd the motion all approved.

V. Robinson-Lewis made the motion to adjourn. R. Farrugia 2nd the motion. Meeting adjourned at 8:43 pm.