



Town of Chelmsford
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Onorina Z. Maloney, CMMC

CERTIFICATE OF VOTE

ARTICLE 30

May 3 adjourned session of April 30, Annual Spring Town Meeting

I, Onorina Z. Maloney, Town Clerk of Chelmsford, Massachusetts do hereby certify the following vote taken under Article 30 at the May 3 adjourned session of the April 30, 2012 Annual Spring Town Meeting held at the Chelmsford Senior Center 75 Groton Road, North Chelmsford. The meeting was called to order at 7:30 pm by Moderator Richard DeFreitas. There were 119 Town Meeting Representatives in attendance which satisfied the quorum of 82.

ARTICLE 30. Planning Board Chair, Colleen A. Stansfield, moves that the Town amend the Town Code by adopting a new chapter, Chapter 130 Scenic Roads as printed in Article 30 of the warrant for this Annual Town Meeting and published on pages 70 - 74 in the Finance Committee Report, Recommendations and Copy of the Warrant for the Spring Session of Annual Town Meeting dated Monday, April 30, 2012 that has been distributed to the Town Meeting Representatives. (Please see text below)

Finance Committee has no recommendation on Article 30
Board of Selectmen recommends Article 30
Planning Board recommends Article 30

The electronic voting devices recorded the following votes:

YES: 98

NO: 38

ABS: 0

Article 30 carries by majority vote

Onorina Z. Maloney.

Onorina Z. Maloney, Town Clerk

ARTICLE 30. To see if the Town will vote to amend the Code of the Town of Chelmsford by adopting a new chapter, Chapter 130 Scenic Roads, as follows:

Chapter 130: SCENIC ROAD BYLAW

130-1 Purpose

This Bylaw is adopted pursuant to the Town's Home Rule authority under Section 8 of Article 89 of the Amendments to the Massachusetts Constitution, and M.G.L. Chapter 40, Section 15C. The purpose of this Bylaw is to protect the scenic quality and character of certain public ways in the Town by regulating the cutting or removal of trees, the tearing down or destruction of stone walls and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls, within designated scenic roads, including any such activities which would not otherwise be subject to Planning Board consent under M.G.L. Chapter 40, Section 15C. This Bylaw is intended to ensure that;

- A. ways will be recommended for designation as a scenic road on stated criteria
- B. ways so designated will not be altered without following proper procedures and without adherence to proper considerations, and
- C. ways so designated will not be altered by the decision of any person, organization, or agency without the consent of the Planning Board.

130-2 Definitions

- A. "Road" shall mean a right-of-way or any way used and maintained as a public way.
- B. "Repair, Maintenance, Reconstruction, or Paving Work" shall mean any work within the right-of-way by any person or agency, public or private. and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.
- C. "Cutting or Removal of Trees" shall mean the removal of one or more trees, regardless of whether or not repair, maintenance, reconstruction or paving work is involved, having a diameter of six (6) inches or greater measured four (4) feet above ground level, and the trimming of any major branches or the cutting or roots within or along the boundary of a right of-way. It shall not, however, pertain to any plant appearing on the Massachusetts Prohibited Plant List as prepared and maintained by the Massachusetts Department of Agricultural Resources, dated January 1, 2006 or as subsequently revised
- D. "Scenic Road" shall mean any road so designated by the town under M.G.L. Chapter 40 Section 15C.
- E. "Tearing Down or Destruction of Stone Walls" shall mean the destruction of more than five (5) feet of stone wall, whether or not contiguous, within or along the boundary of a right-of-way regardless of whether or not repair, maintenance, reconstruction or paving work is involved

130-3 Criteria for Designation as a Scenic Road

The Planning Board, Conservation Commission, or Historical Commission shall, in determining

which roads or portions of roads should be recommended as scenic roads, consider the following criteria:

- a. Roads bordered by trees of exceptional quality;
- b. Roads bordered by stone walls;
- c. Roads bordered by any other natural or man-made features of aesthetic or historical value;
- d. Roads for which alteration is being planned or is likely to be planned in the future.

130-4 Designation as Scenic Road

A. Adoption of new scenic roads shall be in accordance with the M.G.L Chapter 40 section 15C

B. The Planning Board shall take the following steps within thirty (30) days after a road (s) has been designated a scenic road:

- (1). Notify all municipal departments that may take any action with respect to the road (s);
- (2). Notify the Mass. Department of Transportation;
- (3). Publish in a paper having circulation within the town notice that the road(s) have been so designated;

130-5 Scenic Road Permit

A. Filing: Any person, organization, state, or municipal agency seeking the written consent of the Planning Board regarding the cutting or removal of trees, the tearing down or destruction of stone walls and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls, or portions thereof, shall file a written request with the Planning Board together with the following:

- (1). Text of a legal notice identifying the location of the proposed action in terms enabling the readers to locate the area with reasonable accuracy and a description of the proposed changes to trees, stone walls, natural surroundings, man-made objects or features;
- (2). A statement of the purpose(s) for such changes;
- (3). A list of owners of properties, as certified by the board of assessors, located in whole or in part within three hundred (300) feet of the proposed action;
- (4). A fee, as established by the Planning Board, to cover the cost of advertising, notification, and administration;
- (5). Any further explanatory material useful to adequately inform the Planning Board.

B. Notice: The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in two consecutive weeks in a newspaper of general circulation in the area. The public hearing may coincide with the hearing(s) for proposed construction of homes or other buildings. Copies of the notice of public hearing shall also be sent to the Board of Selectmen, Conservation Commission, Historical Commission, Director of Public Works, Tree Warden, and owners of property as appearing on the most recent property listing of the board of assessors within three hundred (300) feet of the proposed action.

C. Time of Notice: Publication of the required notice shall be completed least seven (7) days prior to the date of the public hearing.

D. Time of Hearing: The Planning Board shall hold a public hearing within thirty (30) days of the receiving the hearing request.

E. Timing of Decision: The Planning Board shall make a decision on the request within twenty-one (21) days of the closing of the public hearing.

F. Public Shade Tree Law

Whenever possible, the notices and hearings required under this by-law shall be filed and held in conjunction with those of the tree warden acting under MGL Chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the tree warden, or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of said Chapter 87 (Public Shade Tree Law) have been complied with.

130-6 Considerations

The Planning Board's decision on any application for proposed action affecting scenic roads shall be based on consideration of the following:

- A. Preservation of natural resources;
- B. Environmental values;
- C. Scenic and aesthetic characteristics;
- D. Historical values;
- E. Public Safety;
- F. Compensatory actions proposed, such as replacement of trees or walls;
- G. Other sound planning considerations.

130-7 Actions Exempt from Hearing Requirements

A. Tree Removal: The Tree Warden may take immediate action without hearing to remove trees or branches of any size that in his opinion present a danger to the public. This would include trees or limbs which threaten public utilities such as power lines. Action taken under this section still requires compliance with section 130-5.

B. Stone Wall Removal: No hearing is required if in the opinion of the Director of Public Works or designee the removal of up to 15 feet of stone wall for a driveway, or up to 6 feet for a walkway, is warranted.

No hearing is required for temporary removal of a portion of stone wall not to exceed ten (10) feet in length, or drainage emergency repairs per the Director of Public Works determination, provided that the wall is restored to its original condition within 60 days of the removal.

130-8 General

The Planning Board may adopt more detailed regulations for carrying out the provisions hereunder.

130-9 Enforcement

The Building Inspector or designee shall be the enforcing authority. Without waiving any other enforcement authority, violations of the Scenic Road By-law may be subject to non-criminal disposition, in accordance with Article II, section 1-2 of the Town Code. In addition, the property owner or whoever is responsible for the violation shall be required within a reasonable amount of time but not less than sixty days to:

- 1) restore any altered stone walls to the condition they were in prior to the alterations; and
- 2) plant new trees of similar species to those which may have been cut or removed; or
- 3) implement other mitigating measures to the satisfaction of the Planning Board.

130-10 Approved Scenic Roads

The following list of roads have been designated as scenic roads pursuant to M.G.L. Chapter 40 Section 15C:

Byam Road from Robin Hill Road to Acton Road

Garrison Road from Littleton Road to Hunt Road

Crooked Spring Road from School Street to Meadowbrook Road

Worthen Street in its entirety

Crosby Lane in its entirety

High Street from Acton Road to Locust Road

Parker Road from Concord Road to Acton Road

Robin Hill Road in its entirety

Mill Road from Boston Road to the former Old Billerica Road * *entire length of Mill Road*

A map of the approved scenic Roads, dated November 29, 2011, is on file with the Planning Board.

SUBMITTED BY: **Planning Board**