

SHERBORN PLANNING BOARD

RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE SCENIC ROAD ACT

(MGL CH. 40, SEC. 15C)

Adopted April 22, 1991

Revised April 14, 1994

1. STATUTORY PROVISIONS OF THE SCENIC ROAD ACT - M.G.L. CHAPTER 40, SECTION 15 C

"Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of any city or town, such city or town may designate any road in said city or town other than a numbered route or state highway, as a scenic road.

After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board, or if there is no planning board, the Selectmen of a town, or the city council of a city, after a public hearing duly advertised twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing; provided, however, that when a public hearing must be held under the provisions of this section and under section three of Chapter eighty-seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board, or if there is no planning board, the Selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the Tree Warden or his deputy as provided in said section three of Chapter eighty-seven.

Designation of a road as a scenic road shall not affect the eligibility of a city or town to receive construction or reconstruction aid for such road pursuant to the provisions of Chapter ninety."

2. PURPOSE

The Sherborn Planning Board has adopted these regulations with the following objectives:

- a. To maintain the natural beauty that currently exists along scenic roads in Sherborn.
- b. To maintain and enhance the rural character of the Town and encourage compatibility with existing roadside features.
- c. To implement more fully the provisions of the Scenic Road Act, with acknowledgement that the roads serve a transportation function for pedestrians, equestrians and non-motorized as well as motorized vehicles.

3. SHERBORN STREETS SUBJECT TO THE PROVISIONS OF THE SCENIC ROAD ACT

Designated as scenic roads at the Annual Town Meeting held on March 11, 1974:

Apple Street	Ash Lane	Brush Hill Road	Cross Street
Curve Street	Farm Road	Forest Street	Goulding Street East
Goulding Street West*	Green Lane	Greenwood Street	Hollis Street
Hunting Lane	Lake Street	Maple Street	Mill Street
Nason Hill Road	Perry Street	Pleasant Street	Prospect Street
Rockwood Street	Snow Street	South Street	Western Avenue
Whitney Street	Woodland Street		

*Designated at Town Meeting held on April 24, 2001.

4. PROCEDURE TO DESIGNATE ROADS AS A SCENIC ROAD

The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, or by petition of citizens of the Town (consistent with petition requirements to place an article on the warrant) may propose "scenic road" status for any road in Sherborn other than a numbered route or state highway as a scenic road. The Planning Board shall hold a Public Hearing on the petition, notifying the Selectmen, the Tree Warden, the Superintendent of Highways, the Conservation Commission, and the Historical Commission, and advertising twice in a newspaper of general circulation, the first advertisement at least fourteen days prior to the date of the public hearing.

The Planning Board shall make a recommendation to the Town Meeting on the merits of designation of the proposed road as a scenic road.

A majority vote of Town Meeting is required for designation. Such designation shall be effective as of the date of Town Meeting action. Any work on any portion of the right-of-way of a scenic road which was not physically commenced at the time the road was designated as a scenic road shall conform to these regulations.

5. DEFINITIONS

In the absence of contrary meaning established through legislation or judicial action pursuant to MGL Chapter 40, Sec. 15C, these terms contained in that statute shall be construed as follows:

"Road" shall mean a vehicular traveled way plus its necessary appurtenances within the right-of-way including bridge structures, drainage systems, retaining walls, traffic control devices, pedestrian facilities, and the air space above them, but not intersecting streets or driveways.

"Cutting or removal of trees" shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees, or thinning out of overcrowded trees as determined by the Tree Warden, but shall include such cutting or removal done in contemplation of, or following, repair, maintenance, reconstruction or paving work for a road.

"Repair, Maintenance, Reconstruction, or Paving-work" shall mean any such work done within the right-of-way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is also included to the extent such work takes place within the right-of-way. Except as

allowed in the preceding paragraph, roadside cutting for clearance for vehicles or for improvement of line-of-sight shall also be included within this definition.

"Trees" shall mean any trees (not bushes) having a trunk diameter of one and one half inches or larger at one foot above the ground. All trees within the right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations; if for whatever reason, it is uncertain whether the tree is within the right-of-way of the scenic road, it shall be taken to be within the coverage of these rules and regulations until the contrary is shown.

"Stone walls" shall not be construed to include assemblages of stone involving less than one cubic foot of wall material per linear foot nor totaling less than five feet in length. All stone walls within the entire right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations; if for whatever reason, it is uncertain whether the stone wall is within such right-of-way of the scenic road, it shall be taken to be within the coverage of these rules and regulations until the contrary is shown.

"Tearing down or destruction of stone walls" shall not be construed to include temporary removal and replacement within a reasonable period of time, not to exceed six months, at the same location with the same materials according to the original character.

6. CONSTRUCTION AND APPLICABILITY OF THE RULES AND REGULATIONS CONTAINED HEREIN

The Planning Board authority and jurisdiction shall be consistent with MGL Ch. 40, Sec. 15C. These rules and regulations shall be controlling and may be amended from time to time.

7. DESIGN STANDARDS FOR DRIVEWAYS

7.1 Curb Cuts

The driveway standards shall be consistent with the regulation for curb cuts contained in the Planning Board Subdivision Regulation Section 4.3.6.

7.2 Stone Wall Removal Limitations

Where stone walls exist, the maximum amount of stone wall to be removed shall be the width of the driveway or new road at the location of the stone wall plus three feet on each side.

- a. Unless otherwise waived, removed stone shall be used to repair other sections of the wall along the road.
- b. No wall shall be cut without construction of an appropriate terminus. Appropriate end points are shown in the Appendix, Figures 1 & 2, and consist of stone piers, granite posts, stone walls with tapered ends turning back onto the lot along the drive, or wooden posts with or without a gate.

7.3 Tree Removal Limitations

No tree with a trunk exceeding 8" in diameter four and one half feet above ground level shall be cut for a driveway or new road unless the curb cut cannot be safely located otherwise. Unless

otherwise waived, whenever trees are removed, trees in a species and location suitable to the Planning Board and the Tree Warden shall be planted.

8. PROCEDURES

8.1 Filing Instructions

Any person or organization seeking consent of the Planning Board under MGL Ch. 40, Sec. 15C (the Scenic Road Act) regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, in connection with the Repair, Maintenance, Reconstruction or Paving-work (as defined in Section 5) on Scenic Roads, shall submit a request to the Planning Board together with the following:

- a. A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls;
- b. A statement of the purpose(s) for the change;
- c. A list of owners of property located in whole or in part within 500 feet of the proposed action;
- d. Except in the case of town agencies, a filing fee of \$25.00 shall be paid; and
- e. Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing.

Notice of submittal shall be filed with the Town Clerk and a copy of the submittal transmitted to the Tree Warden after it is accepted and signed for by the Planning Board or its staff.

8.2 Tree Warden

Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL Ch. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden or the reverse, nor shall execution of these rules and regulations in any way lessen the Tree Warden's duties under MGL Ch. 87.

8.3 Notice

The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area, the last publication at least seven days prior to the public hearing.

This notice shall contain a statement as to the time, date, place, and purpose of the hearing with a description of the action proposed by the applicant. Copies of this notice shall be sent to the applicant, the Selectmen, the Tree Warden, the Superintendent of Highways, the Conservation Commission, the Historical Commission, and the owners of property located within 500 feet of the proposed action.

In the event that the Planning Board holds a joint hearing with the Tree Warden acting under MGL Ch. 87, the advertisement shall be made by the Tree Warden.

8.4 Timing

The Planning Board shall hold a Public Hearing as soon as practical but in no event later than forty five days from the date on which notice of submittal is received by the Town Clerk unless a longer time is agreed to by the applicant.

8.5 Decision

- a. The Planning Board shall make a decision as soon as practical but in no event later than 15 days from the hearing unless a longer time is agreed to by the applicant.
- b. In rendering its decision, the Planning Board shall consider the application based on compliance with the "Scenic Road Act" and the considerations listed in Section 9.
- c. The Planning Board may require sufficient bond to be posted to cover the costs of required work within the road right-of-way and to protect existing vegetation and stone walls. Such bonding shall be specified in the Board's decision.
- d. The decision of the Planning Board shall be filed within fifteen days of the close of the Public Hearing with the Town Clerk unless a longer time is agreed to by the applicant; copies of which shall be sent to the applicant, the Selectmen, the Tree Warden, the Superintendent of Highways, the Conservation Commission, the Historical Commission, and those persons who have requested a copy of the decision.
- e. The approval by the Planning Board under these regulations of a proposed action shall be valid for two years, after which it shall be void.

9. CONSIDERATIONS

In acting in regard to a Scenic Road request, the Planning Board shall consider the following:

- a. Scenic and aesthetic characteristics;
- b. Public safety;
- c. Accident history within 500 feet of tree(s) and stone walls at issue;
- d. Location and setback of telephone poles in relation to the pavement, trees and stone walls (in no case shall a tree be removed for safety purposes which is as far as or further from the center of the paved right-of-way than a utility pole within 500 feet thereof);
- e. Traffic volume, congestion and posted speed limit;
- f. Preservation of natural resources;
- g. Environmental and historical values;
- h. Recreational uses of road, taking into account the nature and extent;

- i. Relationship of the road design to the standards of the Planning Board's Subdivision Rules and Regulations but recognizing that a variance from standard should be allowed when a road has been designated scenic by the Townspeople;
- j. Compensatory actions proposed, such as replacement of trees or walls;
- k. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls;
- l. Evidence contributed by abutters, town agencies, and other interested parties; and
- m. Other sound planning principles.

10. ENFORCEMENT

10.1 Remedy for Failure to File

Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within the layout of the scenic road will require an immediate filing as detailed above and shall be subject to restoration of the features. Unless waived, this restoration shall consist of replacing the stone wall on a square-foot per square-foot basis as necessary and replacing the trees cut on a diameter-inch per diameter-inch basis at locations specified by the Planning Board and the Tree Warden. A diameter-inch per diameter-inch replacement means that the combined diameter of the replacement trees measured one foot above ground level for trees up to 8" in diameter and four and one half feet above ground level for trees in excess of 8" diameter must equal the total diameter of the original tree trunks.

10.2 Compliance

Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including, but not limited to the enforcement of the bonding and restoration as detailed above.

10.3 Authority

The Planning Board and the Tree Warden shall have the authority to enforce the provisions of these Regulations.