

Draft 9-18-2014
PLANNING BOARD
REGULATIONS FOR THE
LOCAL ADMINISTRATION OF
THE SCENIC ROADS ACT

SECTION 1. ADMINISTRATION

1.1 Purpose

The purpose of these rules and regulations is to protect the scenic quality and character of Town roads designated as Scenic Roads pursuant to the Scenic Road Act, M.G.L. c. 40, s. 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, paving, or other alteration of roads that have been designated as a scenic road by the town. The Town has adopted these regulations with the following objectives:

- a) To maintain the natural beauty and scenic qualities along scenic roads in the Town of Boxford.
- b) To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.
- c) To implement more fully the provisions of the Scenic Road Act, M.G.L. c.40, s. 15C.

1.2 Roads Subject to the Provisions of the Scenic Road Act

All roads in Boxford except numbered routes (e.g., Route 97 and Route 133) are designated as “Scenic Roads” (MGL c. 40 s. 15C).

SECTION 2. DEFINITIONS

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Ch. 40, Sec. 15C, these terms contained in that statute and herein shall be construed as follows:

"Cutting or removal of trees" shall mean the destruction of one or more trees having a trunk diameter of four (4) inches or more measured one (1) foot from the ground, trimming of major branches or trimming of roots sufficient in the Tree Warden's opinion to cause eventual destruction of a tree. Not included in this definition is the routine or emergency maintenance which removes only permanently diseased or damaged limbs, trunks, or roots, and dead whole trees.

“Repair, maintenance, reconstruction, or paving work” shall mean any 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 included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line-of-sight shall also be included in this definition. Construction or alteration of water, sewer, electric, telephone, cable TV or other utilities within the right-of-way is also included.

"Road" shall mean the entire right of way of a vehicular traveled way plus its necessary appurtenances including bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. The right of way includes the area on and within the boundaries of the public way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the public right of way until shown otherwise.

"Tearing down or destruction of stone walls" shall mean the temporary or permanent destruction of more than ten (10) linear feet of stone wall involving more than one (1) cubic foot of wall material per linear foot. Temporary removal of stone walls, to be followed by replacement of the disturbed portion of the wall within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under section 3.6.

SECTION 3. PROCEDURES FOR ALTERING A SCENIC ROAD

3.1 Filing

Any person or organization seeking the consent of the Planning Board under M.G.L. Ch. 40, Sec. 15C (The Scenic Roads Act) regarding road repair, maintenance, construction, reconstruction, paving or other alteration that will involve the cutting or removal of trees or the tearing down of stone walls, or portions thereof on a scenic road, shall file a request with 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 (six copies). At a minimum, such plan shall be to scale (preferred scale is 1" = 40') and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall.
- b) A statement of the purpose(s) for the changes.
- c) Photographs of the existing site showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant.
- d) Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board.

- e) Except in the case of Town agencies, a deposit sufficient for the cost of advertising and notification; and
- f) A certified list of abutting property owners within one hundred (100) feet of the affected property.

3.2 Notice

Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The applicant shall accept in advance a direct billing from the newspaper for advertising costs. The Board shall also send copies of the notice to the Board of Selectmen, Tree Warden, Superintendent of Public Works, and if applicable to the Historic District Commission. The applicant shall obtain a copy of the notice from the Planning Board and provide a copy of the notice to owners of property located in whole or in part within one hundred (100) feet of the proposed action as identified in a certified list of abutters obtained from the Boxford Assessor's Office. Prior to the public hearing the applicant shall provide the Board with proof of notice to abutters with Certificates of Mailing or other proof of delivery acceptable to the Board.

3.3 Timing

The Planning Board shall hold a public hearing within forty-five (45) days of receipt of a properly filed request, and shall make a decision within sixty (60) days of that receipt, unless a longer time is agreed to by the applicant. The date and time of the public hearing shall be set outside of normal weekday work hours (8:00 AM - 5:00 PM, Monday - Friday) so as to encourage maximum citizen participation.

3.4 Tree Warden

Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under M.G.L. Ch. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

3.5 Emergency Repair

The procedures of this article shall not be required when the Tree Warden or his deputy act in an emergency in accordance with M.G.L. Ch. 87 to remove fallen trees or limbs which cause an obstruction to public travel or a dangerous situation with respect to utility lines.

3.6 Informal Filing and Review Procedures

3.61 Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.

3.62 The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a

statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.

3.63 Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.

3.64 Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion together with dated photographs of the restored wall.

SECTION 4. DESIGN STANDARDS

4.1 Curb Cuts

Each lot fronting on a scenic road shall generally have one driveway curb cut. The paved width of a driveway for a single family home shall not exceed twelve (12) feet, or eighteen (18) feet for any multi-family dwelling. Subdivision roads and new roads for commercial properties shall be governed by the applicable town regulations for these types of developments. The use of common driveways is encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Boxford.

4.2 Stone Wall Removal Limitations

- a) The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall plus three (3) feet on either side.
- b) Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.
- c) No wall shall be cut without construction of an appropriate terminus.
- d) In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.
- e) Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.

4.3 Tree Removal Limitations

- a) No tree with a trunk exceeding eight (8) inches in diameter, one (1) foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.
- b) No cluster of trees located within six (6) feet of each other, with individual trunks exceeding six (6) inches in diameter, one (1) foot above ground level, shall

be cut for a driveway unless the curb cut cannot otherwise be safely located.

- c) For each tree with a trunk exceeding six (6) inches in diameter, one (1) foot above ground level, that is removed, a tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted, or an equivalent payment into the town-wide tree replacement fund shall be made. This section shall not apply to projects undertaken by the Town of Boxford.

4.4 Waivers

The Planning Board may waive the design standards, as set forth under this Section 4 herein, if it finds that the waiver is consistent with the considerations and intent of Section 5. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.

SECTION 5. CONSIDERATIONS

In acting on applications for alterations to scenic roads, the Planning Board may take into consideration the following:

1. Preservation of natural resources;
2. Environmental and historical values;
3. Scenic and aesthetic characteristics;
4. Public safety;
5. The characteristics of local residential traffic and resident expectations;
6. Relationship of road design to the standards of the Planning Board's subdivisions regulations and of the Massachusetts D.P.W.;
7. Compensatory actions proposed, such as replacement trees or walls;
8. Functional urgency of the repair, maintenance, reconstruction, or paving;
9. Additional evidence contributed by abutters, Town agencies, and other interested parties;
10. Other sound planning consideration.

SECTION 6. DECISION AND REPORTING

The Planning Board shall within sixty (60) days of receipt of a properly filed request submit a written determination of consent or denial to the applicant and a copy to the Board of Selectmen, Town Clerk, Tree Warden, Superintendent of Public Works, and if applicable to the Historic District Commission. A report of denial shall include an indication of what modifications, if any, would lead to consent. The Planning Board may require sufficient bond to be posted to ensure restoration of the site.

SECTION 7. ENFORCEMENT

7.1 Filing and Restoration Requirement

Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval

from the Planning Board and in violation of these regulations will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square-inch per square-inch basis at locations specified by the Planning Board. A square-inch per square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured 1 foot above ground level.

7.2 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.

7.3 Penalty

Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of the scenic road in violation of this Section may be subject to a fine of not more than three hundred dollars (\$300.00), as set forth under the Scenic Road Act, MGL Ch. 40, Sec. 15C. Each day that a violation continues shall constitute a separate offense, until an application is made to the Planning Board, with continued progression toward a good faith effort for restoration. In addition, the Planning Board and Building Inspector may withhold or revoke any current or pending permit on the property associated with said violation.

7.4 Enforcement Authority

The Planning Board, the Building Inspector and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.