

MEMORANDUM

Re: Scenic Roads By-law
Review

Michael Antonellis, MRP
MA Planning, LLC

REVIEW

The Planning Board has requested my review of the revised Scenic Roads By-law draft language. For the review I have referenced the new draft language with updates in response to the Attorney General's (AG) Office comments, I've reviewed the AG's comments dated 10/1/20, the original draft submitted to the AG, MGL Chapter 87, Section 3, and MGL Chapter 40 section 15c and 32. Based on my review I think most of the updates are appropriate and address AG comments. Please see my comments below.

The proposed revisions to the Scenic By-law do not address section 157-4, Designation of Scenic Roads. The Attorney General's office commented that in order to designate a numbered road as a scenic road then it must be contained entirely within the boundaries of Lancaster and must not be owned or maintained by the Commonwealth. The AG's office continued on to suggest reviewing with Town Counsel the language for the designation of Routes 70 and 117 as presented within the bylaw. I suggest confirming with Town Counsel the eligibility of these roads to be listed on the Scenic Roads list. It may be that those roads although previously accepted by the town as scenic, are not eligible per MGL 40 Sec 15C criteria.

Regarding section 157-8, Procedures, it is my understanding that per the AG's letter the notification of Public Hearing should come from the Tree Warden, not the Planning Board per MGL Chapter 87, Section 3 and Chapter 40, Section 3. Neither MGL Ch 87, Sec 3 or MGL Ch 40, Sec 15c state that notice shall be given by the Planning board. I suggest clarifying this with Town Counsel to ensure it is consistent with MGL.. It may be that "Planning Board" just needs to be stricken from the proposed 157-8(B)(1) and 157-8(B)(1)(a). This is a minor modification, and will not undermine the intent of the proposed bylaw.

The AG has commented that only enforcement under MGL 87 sec 6 can a town levy a fine of up to \$500. The AG then goes on to identify that only fines up to \$300 are available to enforce by-laws per MGL 40, sec 32, which includes a Scenic Roads by-law. I believe the AG is not necessarily requesting language revision to section 157-10, but suggesting that the town be aware that it can only enforce \$300 per the Scenic Roads by-law. If any change is to be made to this section I would suggest that it specifically mention the \$300 fine available for by-law enforcement per MGL 40, Sec 32. I also suggest this be clarified with Town Counsel.

From a long term planning perspective, going forward I encourage board members and residents to take inventory of scenic vistas and street scapes in town with particular historic or aesthetic value. Catalog what you see, be explicit as to what makes it worthy of note and define the boundaries of where it begins and ends. Then compare to the list of scenic roads that have been provided within the bylaw. This will help to provide a basis for the designation of those roads. It may be that you find more roads should be added, sections of roads removed, or some combination therein.

There are scenic vistas and street scapes within Lancaster that have rolling hills and fields that are likely used for hay. Those roads may or may not be included on the list provided, but I wanted to reference that since those roads may not necessarily include street side trees or stonewalls, but worthy of protecting. When development is proposed within property that has been noted as having particular historic or scenic value, the Planning Board can use that information by working collaboratively with the developer to maintain noted assets.

Regards,

Michael Antonellis
