

RULES AND REGULATIONS OF THE NEEDHAM PLANNING BOARD
GOVERNING ITS ADMINISTRATION OF THE
SCENIC ROAD ACT (MGL CH. 40, SEC. 15C)

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

"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 the 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.

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. NEEDHAM STREETS SUBJECT TO THE PROVISIONS OF THE SCENIC ROAD ACT

Charles River Street - 1982 ATM
South Street - 1982 ATM
Central Avenue (between Nehoiden St & Marked Tree Road) - 1989 STM

3. DEFINITIONS

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

"Cutting or removal of trees" shall not be construed to include routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks, roots, or whole trees as determined by the Tree Warden, or sound limbs, trunks, or roots of a tree with a diameter of one and one half inch diameter or smaller, DBH (diameter at breast height) or four feet from the ground.

"Repair, Maintenance, Reconstruction, or Paving Work" shall mean any work done within the right-of-way by any person or agency, public or private. Within this

definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alterations of existing ones is also included, insofar as it takes place within the right-of-way.

"Road" shall mean the entire right-of-way including, but not limited to a vehicular travelled 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. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stone walls are within the right-of-way, it shall be presumed to be within the way 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, or totalling less than five feet in length.

"Tearing down or destruction of stone walls" shall not be construed to include temporary removal and replacement within 30 days at the same location with the same materials.

"Trees" shall mean any woody plants having trunk diameter of one and one-half inches or more, one foot from the ground.

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

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

5. PROCEDURES

5.1 Filing

Any person or organization seeking the consent of the Planning Board under Sec. 15C, Ch. 40, MGL (The Scenic Roads 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 on Scenic Roads, shall submit a request with the Planning Board together with the following:

- a. An identification of 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 changes proposed;
- c. a list of owners of property located in whole or in part within 100 feet of the proposed action;
- d. except in the case of town agencies, a filing fee of \$50.00 plus a prior deposit sufficient to cover advertising, notification, and other necessary costs for the public hearing, 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 after it is accepted and signed for by the Planning Board or its staff.

5.2 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. This notice shall contain a statement as to the time, date, place, and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of this notice shall be sent to the Selectmen, the Conservation Commission, the Historic Commission, the Public Works Department, the Town Engineer, the Tree Warden, and the owners of property within 100 feet of the proposed action.

5.3 Timing

The Planning Board shall hold a public hearing within 45 days from the date on which notice of submittal is received by the Town Clerk, and shall make a decision within 60 days of that receipt; unless a longer time is agreed to by the applicant.

5.4 Tree Warden

Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under Ch. 87, MGL. Consent to an action by the Planning Board shall not be construed as interfering consent by the Tree Warden, or the reverse.

6. CONSIDERATIONS

In acting on Scenic Road, the Planning Board shall take into consideration the following:

1. Preservation of natural resources;
2. Environmental and historical values;
3. Scenic and aesthetic characteristics;
4. Public safety;
5. Traffic volume and congestion;
6. Relationship of road design to the standards of the Planning Board's Subdivision Regulations and the Massachusetts D.P.W.:
7. Compensatory actions proposed, such as replacement of trees or walls;
8. Functional urgency of the repair, maintenance, reconstruction, or paving;
9. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls;
10. Evidence contributed by abutters, town agencies, and other interested parties;
11. Other sound planning principles.