

6/4 (9)

Christine Joyce

From: John Murray
Sent: Thursday, May 31, 2012 2:53 PM
To: Christine Joyce; Dean Charter
Subject: Fwd: Acton/GenSel - Signs/Flags on the Town Common

FYI
Sent from my iPhone

Begin forwarded message:

From: Steve Ledoux <sledoux@acton-ma.gov>
Date: May 31, 2012 2:41:23 PM GMT-04:00
To: John Murray <jmurray@acton-ma.gov>
Cc: Janet Adachi <jkaieg@msn.com>, Nina Pickering Cook <npickeringcook@AndersonKreiger.com>, Stephen Anderson <sanderson@andersonkreiger.com>, Christine Joyce <cjoyce@acton-ma.gov>
Subject: Re: Acton/GenSel - Signs/Flags on the Town Common

I have conferred with Steve A and we agree to leave up until BoS policy discussion on Monday.

Please have Christine add it to Selectmen's business on agenda

Sent from my iPad, please excuse any brevity or typos

On May 31, 2012, at 2:23 PM, "John Murray" <jmurray@acton-ma.gov> wrote:

Steve,
I was speaking with Janet as you wrote in.

Janet's concern is that leaving the flag in place is contrary to practice of people asking permission to place sign or have events on the Common and ramifications with changing practice in an ad hoc manner.

Saying that she has left the matter to you and Town Counsel.

I suggest you call Steve A and discuss. Patch me in, if you like. Advise me as to your direction after weighing Janet's input. I need to stress that Janet and I have not engage in a content discussion. We have focused in a process/permission discussion.

Attached is an e-mail from Dean as to practice. Under separate cover, I will provide several examples of requesting permission to use or place a sign on the Common.

John

From: Steve Ledoux
Sent: Thursday, May 31, 2012 2:12 PM
To: Stephen Anderson
Cc: John Murray; Janet Adachi; Nina Pickering Cook
Subject: Re: Acton/GenSel - Signs/Flags on the Town Common

My sense is to leave it up and discuss Monday

Sent from my iPad, please excuse any brevity or typos

On May 31, 2012, at 2:08 PM, "Stephen D. Anderson"
<Sanderson@AndersonKreiger.com> wrote:

All:

It appears that the Selectmen have not established a formal written policy with respect to the Town Common governing the installation of signs, flags and other devices that may involve a 1st Amendment component. I have described below and attached a case from the First Circuit on Lexington's successful development of a policy to control activities on the Green while respecting valid 1st Amendment concerns. I recommend that Acton follow Lexington's lead and develop a thoughtful policy on this subject. Let me know if we should put together such a policy for the Selectmen's consideration.

In the interim, there is a question as to what to do about a flag that has been installed and left unattended on the Town Common and that may have a 1st Amendment message associated with it. There is a judgment call as to how to proceed in the absence of a formal written policy. The choices are:

1. Take it down now and hold it in safe-keeping for a reasonable time until claimed by its rightful owner. (This assumes that the Town has an unwritten policy of not allowing such devices to be installed and left unattended on the Common, without regard to what the message may be.)
2. Leave it for now and get a vote of the BOS on Monday night as to what to do about it pending the adoption of a formal written policy. (In other words, pending the adoption of a formal written policy, have the Board discuss the issue and announce an interim policy on Monday night – which could be a simple moratorium on placing any such devices unattended on the Town Common.)

Steve

From: Stephen D. Anderson
Sent: Thursday, May 31, 2012 10:24 AM
To: 'John Murray' (jmurray@acton-ma.gov)
Cc: Nina Pickering Cook
Subject: Acton/GenSel - Signs/Flags on the Town Common

Hi John:

Thanks for asking Christine to forward to us the relevant BOS policy governing signs/flags and other devices erected on the Town Common. While I await that information, Kevin mentioned that the Lexington crèche case probably provides a good analogy. Attached is a copy. Here's the gist of it (emphasis added):

This appeal requires us to decide whether the Town of Lexington, Massachusetts (the Town) violated the First Amendment by adopting a regulation that bans unattended structures from the historic Battle Green. The plaintiffs allege that this regulation infringes their First Amendment rights and that the

Town adopted it for an improper purpose, viz., to exclude the annual religious display of a crèche from the Battle Green. They also allege that, in all events, the Town's selective application of the regulation following its adoption renders it constitutionally infirm.

The district court found these charges unpersuasive and granted summary judgment in the Town's favor. We affirm: **the record shows beyond hope of contradiction that the ban on unattended structures is a content-neutral restriction on the time, place, and manner of speech, narrowly tailored to achieve a significant governmental interest and framed so as to allow access to ample alternative avenues of communication. By the same token, there is no violation of the Free Exercise Clause because the regulation is a neutral law of general applicability.** Lastly, the plaintiffs' claims of selective enforcement fail due to evidentiary insufficiency; the regulation was only intended to apply to private parties, and there is nothing in the record that shows preferential treatment in respect to any unattended structure erected by such a party.

...

After seeking legal advice, the Board modified the rules governing use of the Green in several ways. First, it limited permit eligibility for public expressions on the Green to active events of less than eight hours in duration. Second, it restricted displays of a ceremonial nature to those "in connection with special events and limited in duration to the period required for such events." Third, it added an explicit prohibition against "placement on the Green of any unattended structure." For ease in reference, we annex a copy of the regulation, as amended, as an appendix to this opinion.

It will be helpful to measure the Acton policy against the Lexington regulation that was upheld against a specific Free Speech challenge.

Steve

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Christine Joyce

From: Dean Charter
Sent: Thursday, May 31, 2012 11:07 AM
To: John Murray
Cc: Christine Joyce; Frank Ramsbottom; Stephen Anderson
Subject: Re: Signs on the Common

I cannot recall any written policy. The practice has always been to get BOS approval for any such installations.

Regards

Dean

Sent from my iPhone

On May 31, 2012, at 9:42 AM, "John Murray" <jmurray@acton-ma.gov> wrote:

Please forward the Town's policy concerning signs on the Common and anything we have as policy for speech on the Common to Steve Anderson ASAP.

John

The Attorney General of Massachusetts has determined:

1. Email is defined as any message created and received on an electronic mail system. An electronic mail system is a service that provides facilities for creating messages, transmitting them through a network and displaying them on a recipient's computer terminal. The email message may be text or word processing documents, spreadsheets or other data compilations transmitted through such a system.
2. All email created or received by an employee of a Massachusetts governmental unit is a public record. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics. G. L. c. 4, § 7(26). Email is, therefore, a public record and it is subject to the requirements of the Public Records Law. G. L. c. 66.
3. All email messages are subject to public access and disclosure through the provisions of the Massachusetts Public Records Law. G. L. c. 66, § 10.
4. All email messages may be sought and obtained through the discovery process in litigation and may be admissible as evidence in a court of law.

Christine Joyce

From: Steve Ledoux
Sent: Monday, September 20, 2010 10:31 AM
To: Christine Joyce
Subject: FW: Emailing: Signs Within the right of way Policy



Signs Within the
right of way ...

Steven L Ledoux
Town Manager
472 Main Street
Acton, MA 01720
Telephone (978) 929-6611

When writing or corresponding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential.

-----Original Message-----

From: Frank Ramsbottom
Sent: Friday, September 17, 2010 2:54 PM
To: Steve Ledoux
Subject: Emailing: Signs Within the right of way Policy

Steve Attached is the policy for signs within the right of way. This policy is for both the Banners and A Frame signs. Although it does not say it in the policy it has been the policy to only allow signs for events which take place in Acton. One exception to this which I approved last year was for a breast cancer event at Emerson Hospital.

Given the recent sign issues I have been taking a conservative approach to this policy. There are currently many approved signs out there. This is sign season.

Any sign which does not come under this policy can be approved by the BoS.

The intent of the policy was to allow the approval of most signs without having to go to the BoS.

Have a nice weekend

Frank Ramsbottom
Building Commissioner, Town of Acton
472 Main Street
Acton MA 01720
Phone 978-264-9632
Fax 978-264-9630
framsbottom@acton-ma.gov

The message is ready to be sent with the following file or link attachments:

Signs Within the right of way Policy

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

TOWN OF ACTON
BOARD OF SELECTMEN

POLICY NO. _____

Date of Adoption _____

Subject: Signs within the Right of Way

1. Need for this policy: Certain routine requests for signs within the right of way currently must come before the Selectmen for approval. By providing a set of guidelines the Board can reduce their deliberations.
2. Objective of this policy: To provide a standard, published set of guidelines for approving sign requests.
3. Projected impact of this policy: It is anticipated that adoption of this policy will have little impact of the workload of the Town Manager or staff, will decrease the number of items that must come before the Selectmen and will provide citizens with a procedure for their sign requests.
4. Statement of Policy:

(a) Banners across public ways controlled by the Selectmen may be authorized by the Town Manager, or his designee under the following conditions:

1. Sponsors must be a non-profit, charitable, organization.
2. Only one banner may be allowed per event.
3. It may be displayed for a maximum of 14 days immediately before and during the event.
4. Banners may be installed at one of the preset permanent locations. Any other locations for banners are subject to Town approval.
5. No banners are allowed over State highways or, on or over State bridges.
6. Banners are prohibited in Acton Center Historic District unless specifically approved by the Board of Selectmen.
7. Town to install all banners.
8. No fee will be charged.
9. Insurance is not required as a condition of approval, but is strongly recommended.
10. Banners must be made of a mesh material, with grommets along the top and at the four corners. They can not exceed 3' x 20' in dimension.

(b) Religious signs for directional purposes on ways controlled by the selectmen may be authorized by the Town Manager or his designee under the following conditions:

1. Only two such signs may be allowed per congregation.
2. The congregation is to select the locations within the right of way, but not in a State layout. They must be approved by the Town.
3. The maximum display area for each sign is six square feet.
4. No fee will be charged.

(c) Signs on public shade trees are not allowed

(d) Temporary a-frame signs for the purpose of advertising charitable, non-profit events or functions may be authorized by the Town Manager or his designee.

1. Sponsors must be a non-profit, charitable, organization.
2. Only four such signs may be allowed per event.
3. They may be displayed for a maximum of 14 days.
4. Locations subject to Town approval, but not in a State layout.
5. The maximum display area is 10 square feet.
6. No fee will be charged.
7. Insurance is not required as a condition of approval, but is strongly recommended.

(e) Signs not conforming to this written policy are subject to the approval of the Board of Selectmen.

5. Means by which this policy shall be implemented: This policy shall be implemented by the Town Manager or his designee. An information packet will be developed detailing the procedure to be followed for filing a request.

6. Effective date of the policy and implementation target date: This policy will be effective immediately upon adoption by the Board of Selectmen under the procedure set forth in Policy 1000.0.

7. Date on which the policy shall expire. Indefinite.

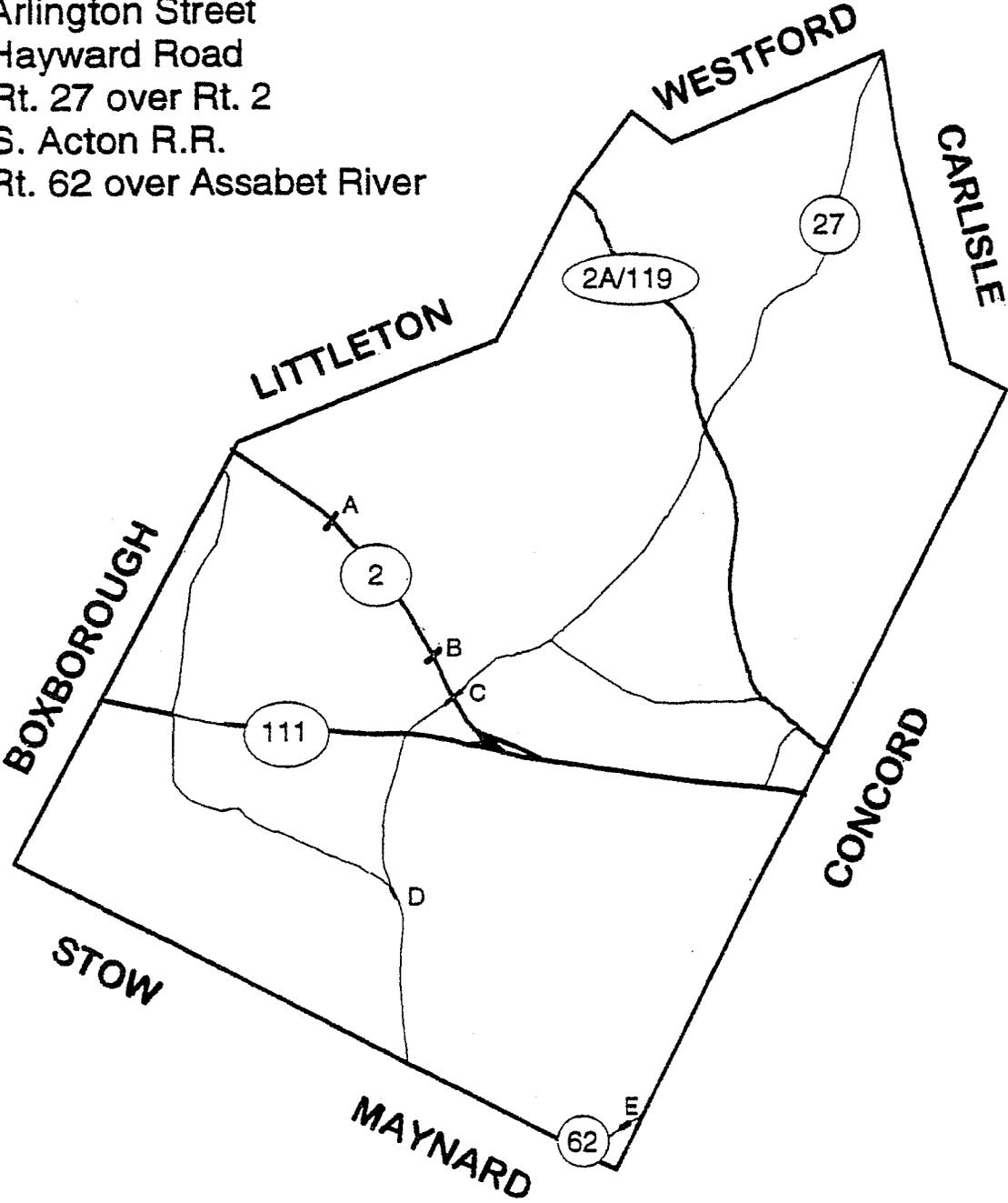
Board of Selectmen

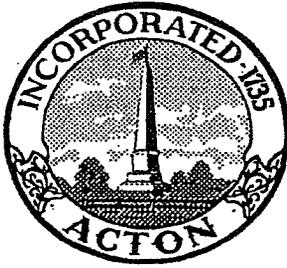
Clerk

State Controlled Layouts and Bridges within Acton

Bridges

- A. Arlington Street
- B. Hayward Road
- C. Rt. 27 over Rt. 2
- D. S. Acton R.R.
- E. Rt. 62 over Assabet River





TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9632
Fax (978) 264-9630

Building Department

Construction and Design Guidelines for Banner
(These guidelines supercede any specifications in the policy itself.)

1. The maximum dimensions for banners are three feet high by twenty feet wide.
2. The banner must have wind vents (or slits) in it.
3. The banner should also have sufficient rope, top and bottom, to allow for positioning across a 75-foot span. You should allow enough rope, considering the width of the banner, to secure both sides to the utility poles. A No. 7 (7/32") braided nylon rope is recommended.
4. The banner should have grommets spaced about two-feet on center, both top and bottom.

Revised February 14, 2000