

approved  
11/7/23

## ZONING BOARD OF APPEALS

Meeting Minutes of September 6, 2023  
@ 7:00 p.m.  
CARVER TOWN HALL  
MEETING ROOM 1

**Present:** Stephen G. Gray, Chairman. Frances Mello, Vice Chairperson. Members: Mark Poirier, James Barrington, and Jennifer Cullum were also present.

**Absent:**

The Meeting was opened at 7:00 P.M.

**A. Approval of Minutes:**

Approval of Meeting Minutes of July 12, 2023.

Vice Chairperson Mello made a Motion to accept the minutes as written and Member Barrington seconded the Motion. The Motion passed unanimously.

**B. Public Hearing: Case 125-19-2-R: Petitioner:** Jeffrey Benoit, seeking a Special Permit pursuant to Sections 2250, 5221 and 5300 et. seq. of the Carver Zoning By-law to reconstruct a single-family residence on a pre-existing non-conforming lot for property located at 48 Cranberry Road in Carver, MA (Assessors Map 125 Lot 19-0-R) in a Residential Agricultural District.

Mr. Benoit was present with his lawyer, Attorney Lawrence Hale.

Chairman Gray recused himself as he has a professional relationship with Attorney Hale on a case on which they are working currently.

Following discussion among Board Members concerning the fact that there would now be only four (4) voting members available due to the recusal of Chairman Gray, the Petitioner decided to withdraw without prejudice. He will refile when there is a full five (5) member Board, as unanimity of any vote would not be necessary as it would be if there were only four voting members present.

Member Poirier made a Motion to accept the withdrawal of Case 125-19-2-R without prejudice and was seconded by Member Barrington. The Motion passed unanimously.

Member Barrington made a Motion that the application fee be waived when and if the Petitioner re-files which was seconded by Member Poirier. The Motion passed unanimously.

**C. Public Hearing: Case 21-2-2: Petitioner:** Robb D'Ambruoso, Esq., on behalf of Vittorio M. Artiano, Jr., seeking a Variance following an Appeal of a decision by the Building Commissioner, denying a request to install a 9-foot high x 22.83 wide wall sign (205.47 square feet – proposed wall sign exceeds the maximum area of 10% of the building wall, pursuant to Section 3521). The subject property is located at 7 Commerce Way, Assessor's Map 21-2-2.

Attorney D'Ambruoso was present with his client, Mr. Artiano. He reviewed the project for a wall sign in the Industrial Zone that was denied by the Building Commissioner for exceeding the allowed dimensional size (not greater than 10% of the wall space, per Section 3521). He stated that the sign by-law was amended in 2022, and the language in the By-law did not provide jurisdictional direction to someone if they wanted to exceed the size allowed.

Chairman Gray reviewed the Carver By-Laws with regard to signage. He stated the current By-law is silent as to the specific local authority that has jurisdiction in cases involving requests for oversized wall signs. However, he noted that Sections 5221 and 5310 give the Zoning Board authority to grant Special Permits under circumstances when the By-laws do not specifically designate otherwise.

Board Members agreed that the case before them would be better cast as a request for a Special Permit rather than as a request for a variance.

Attorney D'Ambruoso stated that the warehouse-type structure on which the proposed wall sign is to be placed is located in an industrial zoning district. He said it would provide visibility for the benefit of the targeted audience. He alleged that it would not be a detriment to neighbors or the neighborhood generally.

The sign will cover approximately 15% of the building wall and be of an acrylic 3D variety. It will extend outward from the wall of the building by approximately three (3) inches. He said there would be a downward-facing light that would be installed above the sign, thereby reducing unnecessary glow. It will not be lit internally.

No opposition was received from any member of the public.

Member Poirier made a Motion to grant the Special Permit as requested. The Motion passed unanimously.

Member Mello made a Motion to allow the Special Permit with the condition that the sign does not exceed 15% of the wall space, per the information that was provided. The Motion was seconded by Member Barrington and passed unanimously.

Member Mello made a Motion that the sign will be 3D acrylic and will extend outward from the exterior wall by three (3) inches. The Motion was seconded by Member Poirier and passed unanimously.

Member Poirier made a Motion that the sign will not be lit internally, and the illumination will be limited to a downward-facing light installed above the sign. Also, that the grant was subject to the plans and drawings of record. The Motion was seconded by Member Barrington and passed unanimously.

#### **D. Discussion:**

Member Mello gave the Board information about an oversized garage/hobby shop on a case that came before it in 2021. She stated that what was approved and what has been constructed do not align.

Member Mello has notified the Zoning Enforcement Officer/Building Commissioner and is awaiting a response from him. The property address is 48 South Meadow Street.

Discussion of use of former Board Members and/or other individuals as unpaid, non-voting consultants.

Member Mello agreed that the Board should be allowed to use consultants to review projects, if needed, relying on both their experience and expertise. Members Cullum and Barrington agreed, as did Member Poirier.

Member Barrington made a Motion to allow the ZBA to use individuals as unpaid, non-voting consultants on certain projects, subject to the following conditions. The Motion was seconded by Member Poirier and passed unanimously.

Conditions approved by the Board:

1. The proposed consultant does not have a conflict of interest.
2. The involvement of a consultant would be voted in open session by the Board.
3. Information provided to the Board by the consultant may be discussed by interested parties who will be afforded an opportunity to be heard at a Public Hearing.
4. Any advice or information provided to the Board by the consultant would be made part of the record.

The next Zoning Board of Appeals meeting was scheduled for the date of November 8, 2023, unless an earlier date was found to be necessary.

Member Poirier made a Motion to Adjourn that was seconded by Member Barrington. The Motion passed unanimously.

Respectfully submitted,

Patricia A. Pacella  
Recording Secretary