



Town of Carver, Office of Planning and Community Development

Planning Board **Public Hearing** Meeting, for proposed Zoning Amendments, Minutes, March 3, 2020, Carver Town Hall, Meeting Room #4.

Attendees: Bruce Maki, Chairman; Jen Bogart, Member; William Sinclair, Member; Kevin Robinson, Member (6:13 PM)

Also Present: James Walsh, Planning Director

Absent: James Hoffman, Member

Bruce Maki, Chairman, opened the meeting at 6:05 PM

The Carver Planning Board hereby gives notice of a Public Hearing on March 3, 2020 at 6:00 P.M. at the Carver Town Hall, 108 Main Street, Carver MA 02330, relative to the following proposed zoning amendments to appear before Annual Town Meeting on April 14, 2020.

Mr. Walsh – We did receive comments from Select Board Member, Bob Belbin; they are at the top of the packet. Mr. Walsh reviewed what was in everyone's packet.

Zoning Amendment 1:

To amend Section 3730 of the Carver Zoning By-Law:

To make changes requested by the National Flood Insurance Program State Coordinator to the Flood Insurance Rate Map (FIRM) map panel numbers and effective date of FIRM map changes; change the effective date of the Flood Insurance Study; and entirely delete sub section 3732; or take any action relative thereto.

Discussion –

Mr. Walsh – This is the National Flood Insurance Program. The state contacted me regarding changes to the maps.

- 1- Updated panel numbers. Mostly only Suffix changes from a "J" to a "K". Added panels 25023C0337J and 25023C0341J.
- 2- Section 3732 was deleted as it no longer applies.

Planning Board Public Hearing Meeting, for proposed Zoning Amendments, March 3, 2020

Ms. Bogart – So this is happening later this year? Mr. Walsh – Yes, later this summer but they already know the date of approval. Mr. Maki – Who comes up with the numbers? Mr. Walsh – It is a coordinated effort between the State and the National Flood Insurance Program. Mr. Maki – So this was initiated by the State and we are here to approve the changes? Mr. Walsh – Correct. If we don't adopt the changes, we wouldn't be able to participate in the program. Ms. Bogart – If the State doesn't meet that deadline, does that nullify this approval? Mr. Walsh – They would work with us on that. Mr. Sinclair – As Mr. Robinson just arrived can Mr. Walsh update him prior to the vote? Mr. Walsh updated Mr. Robinson. Mr. Sinclair – Is "K" more restrictive than "J"? Mr. Maki – It tells you the elevation of the flood plain levels. In Carver, we aren't by the ocean but we do have rivers and streams that could flood. The flood areas could have changed. It was noted that there was no comment from Mr. Belbin on this article.

Motion to recommend Article 1 for Town Meeting: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (4-0)

Zoning Amendment 2:

To amend Section 2270 of the Carver Zoning By-Law:

By inserting the following language into – Sub Section 2272. Procedure: "if there are not any Transfer of Development Rights (TDR) credits or certificates available to a developer at the time a project is being proposed to the Planning Board, then the Planning Board may consider alternate measures to TDR credits such as, acquisition or donation of open space conservation easements, etc., of equivalent value to the TDR credits as determined by a third-party consultant with expertise in such property valuations; or take any action relative thereto.

Discussion –

Mr. Walsh –

2272. Procedure – Updated to read,

"If there are no Transfer of Development Rights (TDR) credits or certificates available to a developer at the time a project is being proposed then the Planning Board may consider, at its sole discretion, alternate measures that will further the purpose and intent of Section 2700" Mr. Walsh - This language was reviewed by legal counsel.

Mr. Sinclair – With this amendment, it will give the Planning Board a little room for negotiations with developers if they don't have any TDRs. This if for commercial buildings. Mr. Walsh – This came up as we had discussions with a potential developer. We consulted with legal and they clarified the existing TDR by-Law. Ms. Bogart requested

this contain some examples to better understand calculations and to have some consistency. Mr. Maki – This would be up to the Planning Board to determine what's right. Mr. Sinclair – We could table this one until next meeting and ask K&P to come up with some type of parameters to make it clearer. Mr. Walsh – I would suggest that you leave the language and then have the Planning Board work on that process when an application comes in. Mr. Sinclair – So we have a vague by-Law being approved by Town Meeting? For example, I come in, as an applicant, without TDRs. What if I don't agree with what the Planning Board comes up with? If K&P can come up with a paramant (Percentage of TDR?), it will be better received and followed. For example, we currently use 125% for decommissioning cost, across the board. Mr. Walsh – I will reach out to them tomorrow. Mr. Maki – Have you talked with SRPEDD re: TDR? Mr. Walsh – I have to talk with them to come up with a schedule. Mr. Maki – TDR can get very complicated. Mr. Sinclair – If we ever do one, we should have town counsel here. Mr. Maki – Does SRPEDD do this type of thing too? Mr. Walsh – Yes, they worked on the by-Law and helped with the Master Plan update. I can consult with both for suggestions.

Mr. Belbin's comments were read into the record.

"My only issue would be of a segregation of affordable housing on one property so the developer could have higher priced homes in another "other side of tracks". This must be balanced and possibility for every affordable house transferred two must be created."

1. *How many TDRs has Carver had or approved?*

Resp. No TDRs to date.

2. *How does this new proposal help the Town of Carver or the residents?*

Resp. Apartments and affordable residences

3. *How many existing Commercial Businesses will this help?*

Resp. It depends. – It's just another tool to help.

Motion to continue discussion on Article 2, to the next Zoning Amendment Meeting: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (4-0)

Zoning Amendment 3:

To amend Section 2260 of the Carver Zoning By-Law:

By deleting the Section entirely and replacing with a new Section 2260 Accessor Dwelling Unit (ADU) to include definitions of Accessory Dwelling Unit and Dwelling Unit; to allow an ADU as an accessory use to a single- family

dwelling in zoning districts where single-family housing is allowed; limit the number to one ADU per single-family lot; limit the size of an ADU to 800 square feet and a maximum of two bedrooms; or take any action relative thereto.

Discussion –

Mr. Walsh – The current bylaw is geared toward “elderly/handicapped” accessory apartments. There are a number of restrictions. Mr. Robinson – What is the purpose of dropping “apartment”? Mr. Walsh – It opens it up; “Accessory Dwelling Unit” could be for anyone; children, parent, etc., no age restriction or handicapped limitation. Mr. Maki – So right now it’s only for 55+ or handicapped? Do they have to be related? No. Mr. Robinson – What if everyone in the Town remodeled their house to include an “accessory dwelling unit?” Mr. Maki – There are a lot of people looking for a place to live but can’t afford a house. This would provide more housing units to the town and may provide something more affordable. Mr. Walsh – There are some people who need help staying in their home (financially); maybe a caretaker in the accessory unit. Mr. Robinson – I think it’s too open ended. Mr. Maki – All setback requirements still need to be met. The intent was just to open up additional housing for people. This would also help people that have an existing unit but the person has passed on. Mr. Robinson – Does it change the taxes? Ms. Bogart – The increased value of the house will increase their taxes. Ms. Bogart – I like the changes. Maybe to address Kevin’s concerns we could limit those permits. Mr. Sinclair – On the revised document – The 800 sq. ft. is scratched out? Adding, not to be exceeding 1000 sq. ft. to the structure. If we are changing it to 1000 sq. ft., that should be included in the definition. Ms. Bogart noted Mr. Belbin’s comments “attached or within” in the ADU definition. Mr. Sinclair – Under Use and Dimensional, (i) – Mr. Walsh clarified that this is stating this not allowing short terms stays (less than 1 month). Mr. Sinclair – I don’t think this should be allowed. This turns it into a business. Mr. Walsh – The language is trying to prevent short term rental. You may be a family member who doesn’t pay but some may pay rent. Mr. Sinclair – Knowing the community and the intent of the Master Plan; we are essentially allowing apartments for tenants other than family members. Mr. Robinson – How do we change the language? Ms. Bogart – Can we change it to “family members” with no age restriction? Mr. Maki – There are elderly out there that can’t afford the taxes that would benefit from renting out space. Mr. Sinclair – We are changing the intent of the by-Law. There are a lot of good changes in here but we need to understand the intent of the by-Law/Masterplan. Mr. Walsh – Maybe this should be tabled until next year? Mr. Sinclair – The rental area is troubling to me. Mr. Maki – What about the existing people that already have an apartment and that person has passed away?

Mr. Belbin’s comments –

1. Purpose and Intent –

**2261- We should keep the ADU language on NOT allowing it in a Townhouse development. This limits the ability for a town house development to create twice as many units.*

2. Definitions

Add in ADU definition: An ADU is “attached or within”.

Reason: This allows the ability to put an addition on an existing structure. It also streamlines the ability property owners from gaining an addition then having to pay again to convert to an addition to a dwelling.

**If an addition is built, or a living area which included a bedroom/s, living, kitchen and bathing facilities but does not have locked doorway (privacy) separating living areas or separate entrances, it is not an Accessory Dwelling Unit, but an addition; this is set out in the health and safety code 105 CMR 410.00: Minimum standards of fitness for human habitation (State Sanitary Code, Chapter II). It must be stated that this is allowed.*

If family situations change and locked doors are placed, the property owner needs to follow the by-Law.

2262. Procedural:

Add: ADU must meet all setback by-Law requirements.

D. Use and Dimensional Requirements

Add: Within or attached to a lawful existing or new single-family structure.

b. Add: a second ADU may be allowed, provided that at least one is an affordable housing unit.

Reason: to increase affordable housing for residents.

d. The ADU should be consistent with other similar properties in Town.

Question: What is meant by "privacy of abutting property is maintained"? This should be removed.

e. Change 800to 1000 sq. ft.

Reason: ADU above Commercial allows 1000 sq. ft. We should standard like by-Laws. Plus the average two-bedroom apartments are 1138 sq. ft.

Rent café: a two-bedroom apartment has an average living space of 1,000 sq. ft. Nov 30, 2018 2-bedroom apartments are 1138 sq. ft.

2018 Census: The median size of multifamily units built for rent was 1,081 sq. ft., while the median of those built for sale was 1,414 sq. ft.

f./g./h./i./ - Agree with

j. Add: Must have separate electrical utilities.

Mr. Sinclair – Let's take some time to digest and revisit at the next meeting.

Audience

Mr. Moore – 12 S. Main Street -

The by-Law says ADU, can it be freestanding? Mr. Walsh -No, attached or within. Mr. Moore – Does the owner have to be living there? Ms. Bogart – Right now they have to be living there; that was removed in the new language. Mr. Moore – People of this Town like the open space. By allowing this, we are ignoring the 1.5 acre per residence as there would now be 2 residences. What voice do the abutters have? If we leave it as is but allow the owner of the ADU to rent for supplemental income/relief/hardship once the original intended passes, once the home is sold, it should end. Mr. Maki – That would be a deterrent for selling the house. Mr. Moore – You could still use it but not as an ADU.

Leah Thibeault, 17 Jill Marie Drive & Pat Powers, 1 Jill Marie Drive, Waterview Village –

We hear they are building behind us. Will there be talk about low income housing? Mr. Maki –This is a meeting for Zoning Article amendments for the Town Meeting. There was a presentation at the Select Board meeting and the Planning Board meeting. They will have additional meetings down the road. Mr. Walsh – They haven't filed an application and plan on having public sessions in the early spring. Ms. Thibeault - How can we get notified? Mr. Walsh gave his business card to Ms. Thibeault and Ms. Powers who will get it to their Board members.

Motion to continue discussion for Article 3 to the next meeting: Mr. Robinson

Second: Mr. Sinclair

Approved: Unanimous (4-0)

Zoning Amendment 4

To amend Section 5000.2 of the Carver Zoning By-Law:

By striking out Non-Medical Marijuana Overlay District/Cultivation and Processing (NMOD/CP) and replace with Non-Medical Marijuana Overlay District/North Carver (NMOD/NC; by striking out Non-Medical Marijuana Overlay District/Retail (NMOD/R) and replace with Non-Medical Marijuana Overlay District/South Carver (NMOD/SC; and make said changes throughout Section 5000 of the By-Law; and allow cultivation/processing and retail use in both the NMOD/NC and NMOD/SC overlay districts; or take any action relative thereto.

It was noted that Mr. Belbin had a comment on this article,

"Please explain the changes and reasons"

Discussion –

Mr. Walsh – There are two districts, Cultivation and Processing & Retail. There are people looking to do both together. Mr. Robinson – If we do that, it eliminates the overlay? Mr. Walsh - The overlays will stay the same but adding the ability. Mr. Maki – Originally when Mr. Cole was here, he thought the growing/manufacturing should be done in N. Carver. There has been very little activity on the growing/manufacturing end. There will still be an overlay, but with specific locations with multi use. Ms. Bogart – This was tough for me. I ended up being okay with both in north and south. However, projects that come to town are asking to change the by-Law in order to do business with the town. They just don't want to follow the by-Law. Sometimes change is needed but I don't want to be changing the by-Law just so they can do business here. Mr. Maki – When I presented this, there were a lot of questions. I explained that as time went on, we would need to tweak the by-Law. In South Carver, we created a district that was essentially unusable. Mr. Sinclair – I am against marijuana growing and distributing in our district; the more we can restrict it the better. Mr. Maki – Would the setback requirements be the same for both? Mr. Walsh – The buffer zone was changed by the state. Now its limited to public or private, primary or secondary, pre-k. Churches are no longer included in that definition. It is still 500' to property line.

Motion to not recommend Article 4, to the Town Meeting: Mr. Sinclair

Motion withdrawn by Mr. Sinclair

Ms. Bogart – When this is presented, can we disclose the number of applications and where they are looking to do business? Mr. Walsh - I have had inquiries looking to do both a while ago. I have not had too many inquiries since then. Ms. Bogart – I want Town Meeting to hear the background on this when they are voting on it. I would be more comfortable sending this to the Town Meeting if they have all of that information and that there is specific interest. Mr. Maki – We could do that; it will probably be asked anyway.

Motion to not recommend article 4 to the town meeting: Mr. Sinclair

Second: None heard

Motion failed

Motion to recommend article 4 to town meeting with the town meeting being told about inquiries: Ms. Bogart

Second: Mr. Robinson

Approved: 3-1, Mr. Sinclair

Zoning Amendment 5

To amend Section 5000.5, Subsection 2 of the Carver Zoning By-Law:

In accordance with updated state regulations by adding to the end of the sentence "... a pre-existing public or private school providing education in Kindergarten or of any of grades 1 through 12."; and striking out Subsection 2 (a), 2 (b), and 2 (c); or take any action relative thereto.

It was noted that Mr. Belbin is in agreement to this amendment.

Discussion –

Mr. Walsh – This is changing the buffer zone. The current bylaw prohibits being within 500' from schools playground libraries, public parks, etc. The proposal is (based on the state changing their buffer zone), 500' of preexisting private or public-school providing education in kindergarten or of any grades 1-12. Ms. Bogart – What happens if we leave it as is? Mr. Maki – We do have the 500' restriction from the church right now. If we keep that is it still lawful? Mr. Walsh – According to our attorney's, yes, it is. Mr. Maki – So we can add restrictions but can't do less than what the state has?

*Motion to not recommend Article 5 and to leave existing bylaw: Mr. Sinclair
Second: Ms. Bogart*

Discussion:

Mr. Sinclair – If town council will defend us in court. Morally and for this community, I think we have the restrictions necessary. We created the overlay district for a reason. We are improving on what they have for regulations at the state. Mr. Maki – I think you could put buffer requirements on there as it is an improvement. I would like to know if it affects the manufacturing/distribution? Mr. Walsh – The State says 500', you would just keep what you already have in your bylaw. Mr. Maki – Have we made this overlay district useless? We don't have the same restrictions on package stores.

Approved: 3-1, Mr. Maki

Zoning Amendment 6

To amend Section 3580 of the Carver Zoning By-Law:

To make the reduced setback requirements for Conventional Large-Scale Ground Mounted Solar Photovoltaic Installations (LSGMSPI) consistent with the reduced set back requirements for Dual Use Large Scale Ground Mounted Solar Photovoltaic Installations (LSGMPI) and make any other changes necessary to clarify the reduced setback requirements for both types of installations; or take any action relative thereto.

It was noted that there was no comment from Mr. Belbin for this and the remaining articles.

Discussion –

Mr. Walsh –

If we use consistent setbacks for both, with an easy to understand table, I thought it would be better. There was confusion over all of the different setbacks.

Audience, Mr. Moore –

I was at the Planning Board meeting last week. The Snapit Street dual-use needed to make a change in his plans due to 25' setback because the by-Law stated that all abutters on the project could object to that. Our intent was to protect the abutter and make sure that an abutter would get 200'. It should not state "all direct abutters" It should say "any direct abutters."

2B & 2C Adding direct abutters that do not sign the waiver maintain 200'.

2b – To allow setbacks of a minimum of 12.5 feet if arrays are abutting a bog or other agricultural use as defined in G.L. c. 128, 1A provided standard setbacks and screening requirements are waived in writing by ~~all direct the~~ **owners of said abutting bog or agricultural land in a RA zoning district**. Direct abutters who do not wish to grant a waiver will retain the 200' setback along their entire abutting boundary

Mr. Walsh referenced the table that he created for requirements by zoning. This is an attempt at consistency. Mr. Maki – What about 600' for screening. Mr. Walsh – That language is still in the document. My changes are just organizational. The only content change is from Mr. Moore's comments tonight. Mr. Sinclair – I think the reorganization of the language is fine; we do need to make sure that Mr. Moore's changes are added.

Motion to continue discussion for Article 6 to the next meeting: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (4-0)

Zoning Amendment 7

To amend Section 3580 of the Carver Zoning By-Law:

By removing the Frontage requirement for conventional Large scale ground mounted solar photovoltaic installations (LSGMSPI) and Dual Use Large Scale Ground Mounted Solar Photovoltaic Installations (LSGMPI) so long as access to the site meets the requirements of the Carver Fire Department and the Applicant owns the access or if using an easement or right of way owned by another party, then the Applicant shall provide a written agreement providing access to the solar project for the life of the project.

Discussion –

Motion to continue discussion for Article 7 to the next meeting: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (4-0)

Zoning Amendment 8

To amend Section 3580 of the Carver Zoning By-Law:

By eliminating the requirement that a Conventional Large Scale Ground-Mounted Solar Photovoltaic Installations (LSGMSPi) and Dual Use Large Scale Ground Mounted Solar Photovoltaic Installations (LSGMPI) and shall follow the dimensional requirements established in “3580.25.1.1 Table of Dimensional Requirements for Large Scale Ground Mounted Solar Photovoltaic Installations both Conventional and Dual Use; or take any action relative thereto.”

Discussion –

Motion to continue discussion for Article 8 to the next meeting: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (4-0)

Zoning Amendment 9

To amend Section 3500 of the Carver Zoning By-Law:

Signs to review and make any changes deemed necessary; or take any action relative thereto.

Ms. Bogart –

3516 – Administration - Signs on telephone poles, trees, shouldn't be there. It is very difficult to have them taken down. The intent was to make it easier to remove illegal signs. Mr. Walsh – I did meet with the Building Commissioner. He made some additional notes and we reorganized a little. Ms. Bogart – I think it should be the Building Commissioner or someone the Building Commissioner designates. Mr. Walsh – The Town Administrator is the one that can designate other people. Ms. Bogart – I was hoping to streamline the process. Mr. Walsh – We would communicate with the Town Administrator and arrange to get it done. Ms. Bogart - So the Building Commissioner can't designate someone? Mr. Walsh – He could ask them but the Town Administrator can direct them. The Building Commissioner is only here three days a week. The Town Administrator is in charge of assigning jobs to personnel. Ms. Bogart – Can we have both? Mr. Walsh – I would keep it like it is.

Ms. Bogart - Directional signs on poles – right now it says unlimited, can we restrict to maybe 3 at an intersection?

Mr. Sinclair – We have approved 8-10 in the past. There is a process in place and they have to come before this Board.

Mr. Walsh – In speaking with the attorney, there was a recommendation that the footnotes were numbered in the table.

Motion to recommend Article 9, to the Town Meeting, as presented: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (4-0)

Adjournment:

Motion to adjourn at 9:20 PM: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (4-0)

Next Meeting for Zoning Amendments – 3/4/2020

Carver Planning Board Proposed Zoning Amendment Public Hearings

~~*Tuesday, March 3, 2020 at 6:00 PM*~~

Wednesday, March 4, 2020 at 6:00 PM

Tuesday, March 10, 2020 at 6:00 PM

Wednesday, March 11, 2020 at 6:00 PM

Attachments: Mr. Belbin's comments on the