



approved
5-22-18

Town of Carver, Office of Planning and Community Development

Planning Board Meeting Minutes, April 9, 2018, Carver Town Hall, Meeting Room #4. This meeting was videotaped for cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; William Sinclair; Kevin Robinson

Also Present: Stephen Cole, Planning Director

Absent: Chad Cavicchi; James Hoffman

Bruce Maki, Chairman, opened the meeting at 7:01 PM, followed by the pledge of allegiance.

Approval Not Required Plan:

- Eugene Cobb – South Meadow Road and Old South Meadow Road (Assessors Map 116, Lot 1-15)
Discussion and possible vote.

Mr. Cole – The paper maps were reviewed by the board at the last meeting. They are really just squaring off the lots. Mr. Maki – Are they swapping land? Mr. Cole – Yes, it meets conditions. Board members reviewed the map. Mr. Maki – Even lot 3A has frontage that meets requirements.

Motion to endorse Form A for Eugene Cobb as it meets all requirements: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Sign Permit:

- Carver Foot Spa, 300 Tremont Street, Suite 2

Mr. Maki – Noted that no one is here from Carver Foot Spa. Mr. Cole – This is a plaza. This is in compliance with existing by-laws. No lights. Mr. Robinson – Is this going in where there is already a sign? Mr. Maki – No new sign for new business. Mr. Sinclair – This is where the Dunkin Donuts is in South

Carver. Mr. Robinson – On the building? Marquee? Mr. Sinclair – On the marquee. This is just replacing what was there.

Motion to approve sign permit for Carver Foot Spa, 300 Tremont Street, Suite 2, with the addition of required Building Permit and no lighting. Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

7 PM Public Hearing (Continuance):

- On the application of Edaville Land Holdings, requesting Site Plan Approval pursuant to Section 3100 of the Carver Zoning by Law, for property located at Pine Street in Carver, MA.

Plans prepared by Arthur F. Borden and Associates, Inc., dated November 2, 2017, showing the paving and associated drainage on an existing parking lot, on two sheets for said development.

Mr. Cole - Applicant is not ready, continued to next meeting. A request was made for a lighting study. We haven't received that; until we do this project is stalled.

Motion to continue Public Hearing for Edaville Land Holdings to the meeting on May 22, 2018 at 7:00 PM:

Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Draft Zoning Amendments – 2018

Zoning Amendment #1

To amend Section 3347 of the Town of Carver Zoning Bylaw to allow artificial lighting up to 20 feet in height.

Section 3347 shall read:

3347. All artificial lighting shall be not more than eleven (11) twenty (20) feet in height in

pedestrian areas, and fifteen (15) twenty (20) feet in parking lots, and shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or any other property. The Planning Board shall require the applicant to provide a photometric lighting plan for all parking facilities which are used at night and shall determine if the parking facility will be lighted as evenly and fully as possible. The Planning Board shall require the applicant to provide the type and wattage of all proposed lighting for the parking areas.

Public—

Bob Belbin, 26 Gate St

I don't live by Edaville but know people who do. If they come back after the Town Meeting and amend their lighting plan it would put them up to 20', how does this effect that? Mr. Sinclair – Their application is already submitted and will follow the existing by-law. It is also up to the discretion of this Board. Overspill would be directed toward the facility and away from the residence. Mr. Belbin – I would hate to see that lighting shining on my house. Can you explain the photometric plan at town meeting? Mr. Sinclair – I am glad you brought that up. A key thing to understanding is that we are focused on public safety. When you are looking at that, you are just looking to make sure the public are safe. Mr. Maki – Also to show it doesn't spill onto other people's property.

Recommend Article 1: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Zoning Amendment #2 –

Mr. Maki - Battery Storage by Right. It should be by Special Permit. Point of order by Mr. Belbin – This can not be discussed as it is not on agenda. Ms. Kwesell – It was already voted on at last meeting.

Zoning Amendment #3 -

To amend Section 3580 of the Town of Carver Zoning Bylaw, Large-Scale Ground Mounted Solar Photovoltaic Installations, by adjusting setback distances in Section 3580.25.1 and adding a sub-section "Nuisance" to Section 3580.50, Abandonment or Decommissioning".

Section 3580.25.1 shall read (strikethrough text to be deleted; bold text to be inserted):

3580.25.1. Setbacks. For LSGMSPI, front, side, and rear setbacks shall be at least 50 feet on the applicant's property; provided, however, that where the lot abuts a residential property, the setback to the nearest residential structure must be 300 feet. is located in a Residential-Agricultural district, the setbacks shall not be less than 200 feet on the applicant's property. LSGMSPI shall be provided with 200 foot setbacks on all lot lines abutting the Residential-Agricultural district, regardless of the zoning designated for the proposed site. Vegetated screening shall be provided for a minimum of 50% of the specified setback. **The Planning Board may reduce the required screening and may reduce the required setbacks to a distance not less than 50 feet provided the LSGMSPI can achieve adequate 100% screening to abutting and adjacent properties.**

Every abutting property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8 feet in height at the time of planting staggered at a spacing of no more than 8 feet apart throughout the required setback dimensions. All required plantings shall be maintained throughout the project's life, and replaced as necessary. As an alternate to providing the required screening through vegetation, it is acceptable to increase the setback to 600 feet on the applicant's property while providing an acceptable alternate screening such as a stockade fence and single row of vegetation in close proximity to the project.

The provided screening shall obscure from view on all sides at least 50% or 100% if the project is located in the Residential-Agricultural zoning district, of the project from adjacent properties, including upper levels of existing structures at the time of construction, within three years of the start of construction or earthwork activities. Security fences, roadways, and equipment shall not be placed within the required setback, except for that which is required to access the site from an adjacent roadway, or to transmit the generated power to the grid. Access roads and transmission lines shall be placed in such a manner as to not create an unobstructed view of the project from adjacent property lines.

Section 3580.50 .1 Nuisance– Shall be inserted as follows:

Any LSGMSPI which has been abandoned consistent with Section 3580.52 of this by-law and not removed within 120 days after the date of discontinued operations and/or is not maintaining required screening pursuant to the by-law shall be considered a nuisance and detrimental to the neighborhood. The Town may enter the property and physically remove the installation. The costs for the removal may be charged to the property owner and/or owner of the LSGMSPI. In addition to the foregoing remedy, whoever fails to remove the abandoned LSGMSPI shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. As an alternative, the enforcing authority may utilize the non-criminal disposition procedure under Article XX of these by-laws. The penalty under the non-criminal disposition procedure for each violation shall be one hundred dollars (\$100.00). Each violation shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.

Nuisance language had no modification

Mr. Maki - We have kept 200' but added ability to reduce 50'. And reduce screening.

Public

Unnamed audience member – Why would you reduce screening? Mr. Maki – There are times when changes are needed. Audience Member - Bog owner put in solar; the only area visible is directly by my house. Bog owner clear cut trees and opened that up. If that provision is put in there, in my case, I am not concerned about the distance but more of the screening. If he is required to put growth back up I am not concerned but I don't want to look at panels. Mr. Maki – In that case the Board would look at it and make a decision. Mr. Sinclair – The Planning Board may reduce setback to not less than 50' provided the developer can provide 100% screening. That is up to this Board to make determination. A site visit would be necessary. Mr. Cole – The only threshold where screening is relaxed is when there is more than 500'. Mr. Sinclair – In certain circumstances, two solar farms next to each other, required 200' buffer X2, giving too much unused space. This change gives this Board an opportunity to change that. All of us, on this board, agree that we must keep the 200' from property line.

Mike Jones – I went through this in 2015; when did the 100% screening come in? Mr. Sinclair – I believe this was in the original bylaw. Mr. Jones – This is still an issue for me. Mr. Sinclair – We will take a look at it.

Alan Germaine – the flexibility on the 50' is a great idea. I would like to see a little more restrictive language for future Board Members. Maybe "under the following circumstance/conditions". I trust this Board to do what's right but I can't speak for down the road. Mr. Maki – We really wanted the flexibility as we don't know what will come before us. Other Boards were able to grant waivers and we wanted to keep it with ourselves. Mr. Germaine – We do need to rely on our elected officials but down the road this could get away from us with the wrong people sitting up there. Mr. Sinclair – I think the idea of more restrictive conditions is something to consider; I need time to think about this.

Mr. Ward, 20 West Street – I am a cranberry grower and a solar farmer. I was hoping that this amendment might give the possibility of some relief. I had in mind a project to carry on the growing of cranberries with solar above them. I have 5.5 acres of solar. The buffer must include the road and fence; it ends up being 225' to get to the fence. The panels are back 225-230'; I give up some 5.5 acres just to keep that buffer. I feel its very important to protect our neighbors; they shouldn't have to see my solar panels. The proposal I have would be a little less than 200' to corner; I had hoped for some relief for that. Mr. Maki – I think that is a situation we would look at. Mr. Ward – This is a new project that I haven't have time to review with my neighbors. Mr. Sinclair – On that proposed idea; under new proposed bylaw, this Board would have the ability to make adjustments. Mr. Ward – If my neighbors do not want this, I will not pursue it.

Savery Moore – How much of a say does an abutter have? Mr. Maki – I was wondering the same thing; personally I wouldn't reduce it if the abutter did not want it. However, as noted, another member may see it differently. Ms. Kwesell – the change was to require **adequate** screening. The Board would determine the level of screening. Audience – If someone objects to it then roll back to the rules. Mr. Sinclair – Under existing by-law, special permit may be granted by the Planning Board with specific guidelines. Mr. Sinclair read the guideline. As it stands now, if I came in with a large solar project and my abutter didn't like it because... that gave this Board the right to say no. Mr. Moore – Not so much for the current but what the abutter wants to do in the future. Can they insist on the 200'? Mr. Sinclair – That would be one of those things that could be brought before the Board. Mr. Germaine – The entire by-law is the Boards interpretation. I wanted to tighten the language for down the road. Mr. Sinclair – The Board Members will change every year.

Ms. Kwesell – We could change language – “The Planning Board shall not reduce any required screening or required setbacks without taking into consideration abutting uses, topography and impact to the neighborhood. Mr. Maki – Should it include approval of the abutter? Ms. Kwesell – I would recommend no as it is hard to defend. You have to take everything into consideration re: abutter/neighborhood.

Bob Belbin – Having “adequate” screening is very vague. Will this language help with screening issue? Mr. Maki – How is adequate screening defined? Ms. Kwesell – “every abutting property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8 feet in height at the time of planting, staggered at a spacing of no more than 8 feet apart throughout the required setback dimension. All required plantings shall be maintained throughout the project’s life, and replaced as necessary.

Mr. Sinclair – Under existing bylaw 3580 25.1 - *Every abutting property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8' in height at the time of planting staggered at a spacing of no more than 8' apart throughout the required setback dimensions. All required plantings shall be maintained throughout the project's life, and replaced as necessary. As an alternate to providing the required screening through vegetation, it is acceptable to increase the setback to 600' on the applicant's property while providing an acceptable alternate screening such as a stockade fence and single row of vegetation in close proximity to the project.* This is not changing.

Mr. Ward – If you don’t have vegetative buffer, the setback could be 600’ rather than 200’? Mr. Sinclair – Correct.

Motion to recommend Zoning Article 3 for Town Meeting, as amended by town council: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Zoning Amendment #4 –

To amend the Town of Carver Zoning Bylaw for purposes of regulating recreational-use marijuana establishments within the Town, including establishments for the cultivation, processing, testing, product manufacturing and retail sale of recreational-use marijuana establishments, which uses shall be allowed pursuant to the issuance of a special permit and site plan approval within a designated marijuana overlay district.

There was concern over the maps at the last meeting. Maps were provided to the audience as well as medical and recreation use by law language. A number of 20 of liquor stores in town could be the cap for marijuana stores. My calculations came in at .8 and would require 2 licenses. Mr. Sinclair – What if after this bylaw is passed and we end up with more liquor stores; adding to marijuana location? Ms. Kwesell – There is a lot of problems with this language; the town would have to provide the 20%; if you petition the general court, the town would have to issue retail license over 20%. You can not do this without going to town meeting first. Mr. Sinclair – We should include “max of 2 or 20% of liquor licenses in town” All agreed.

Public -

Mr. Belbin – Copeland & page – 20% of license issued for retail sale of alcohol beverages. We have more than four locations (including New England farms). Ms. Kwezell – this is for package store license. Mr. Germaine – Should we show how we got to the number you're stating? I am in favor of 2 but the numbers don't work? Ms. Kwezell – it has to be a number over 20%. It is 20% or over. If it is .8, that is 1 silence; you could go with 1 license but I think that all of the licenses have to be checked to make sure the NE Farms type stores are not under those licenses. You can still amend this on the Town Meeting floor. Mr. Robinson – We don't want anyone thinking that 50% is the calculations. Ms. Kwezell – Language is "only two will be allowed to operate at any one time". Paul Brennan – differences in the license cultivation, testing and manufacturing will these be licensed separately? Ms. Kwezell – This does not apply to those areas; just to retailers. The CCC will issue separate licenses for those. Mr. Brennan – Does this overlay district apply to only retailers? Ms. Kwezell – This overlay district is for marijuana establishments which apply to all. Joe Casey – Walpole Ma – I am looking to build a green house for cultivation? Is there space allocated in this town for this? Mr. Maki – We do have our overlay district; if you could find a place to put it. Mr. Brennan – By essence of where overlay district is you have pretty much eliminated that and they can't accommodate. Ms. Kwezell – What the land is used for doesn't mean that will be the same in the future. The Board is providing an adequate area. Mr. Maki – Could this be revised in the future? Ms. Kwezell – It's a zoning change and would have to go to Town Meeting. Bob Belbin – The overlay district – I have researched our zoning maps industrial A – The one on the southern end where you have two companies (AD Makepeace and Ocean Spray) – who is going that far to put something there? By creating this district, it really is saying you can't have it here in this town. Mr. Sinclair – The existing business that is there today may not be there tomorrow. Mr. Belbin – I did talk to them and they don't intend on selling (this was a while ago). I would like to present a change in the overlay district. It would increase it on the southern end. Siepet Street to Industrial A. Mr. Sinclair – That would require a zoning change. Your proposal would have to be made at Town Meeting. Mr. Belbin – The URP is Industrial A; why not include it as well? I will be presenting it at town meeting. This could provide a lot of revenue. Mr. Brennan – The municipality can do a 2% tax and an additional 1% on sales. They sometimes offer host community offering. Mr. Kwezell – Under new act, the HCA can be up to 3%. Money has to be used for specific items and kept in separate account. Medical marijuana and recreational are different. You could maybe get extra patrols, dare programs, etc. HCA are for 5 years. There is nothing that prohibits it from being renegotiated. We put in our agreements that it can be renegotiated after 5 years.

Alan Germaine – We don't want large facilities in this town! North Andover just turned it down. This is in need of a lot of due diligence. We can relook at next years' Town Meeting. No one knows what is really going to happen; it is in it's infancy. Mr. Sinclair – We have a moratorium in place today and are asking to renew until 6/2019. My interpretation is that the state has not done their due diligence on this. Ms. Kwezell – The marijuana establishment can go into the town in respective areas – process; manufacturing etc. This is why we are wanting the moratorium to go out to 6/2019 and is for establishments (all). Mr. Brennan – I toured the Taunton cultivating facility which is 80000 sq. ft. There projection is \$100 million within 5 years. Mr. Moore – HCA up to 3% specified; excise tax 3.75% can go to any use once state gives it to the town? Ms. Kwezell – Yes. Mr. Belbin – To ensure safe access – in my opinion it really is no access. Mr. Maki – This could change but we have time to learn about it. Mr. Belbin – Industrial A district – 60K sq. ft.; 175' frontage, is the first block on AD Makepeace 175' frontage (federal road)? Ms. Kwezell – It might not be the frontage. Mr. Maki – If two owners want to sell; those properties can be joined. Mr. Belbin – The set backs on it are interesting; some buildings are close to road. Mr. Sinclair – Town Meeting hasn't adopted it yet; if they do, does it meet the bylaw? If someone sells and it doesn't meet requirements (approved at Town Meeting), then it doesn't meet requirements. Mr. Brennan – moratorium? Mr. Germaine – point of order different article already voted on. Mr. Belbin – 5000.4 - In here it doesn't say anything about a church. I think with the medical one; it was included. Mr. Sinclair – We aren't talking about medical. We are talking about retail. Mr. Belbin – Under this bylaw that is being presented it isn't included, why? Ms. Kwezell – Perhaps it could be added "for religious institutions where CCD classes are held." Mr. Belbin – we should include "religious building". Mr. Germaine – We have houses operating as a church. Mr. Belbin – #3 cultivation and processing facilities – same setbacks? Ms. Kwezell – Yes, same as industrial A. Mr. Belbin #6 – Is the intent for that wording to limit the type of signage that is there? Mr. Sinclair – Example? Mr. Belbin – A picture of a marijuana leaf? Ms. Kwezell – Can not

do that – state regulations. Ms. Kwesell – The police chief can review; he/she will make recommendations. Mr. Sinclair – Dimensional requirements are in the sign bylaw. Mr. Belbin – Description of security measures – I want to protect security features and their interests (section iii). Ms. Kwesell – Security systems, cameras are negotiated with the Board of Selectmen and licensee. They have regulations on time to report. Employee has to ask for license. Mr. Belbin – 9-8 hours of operations should be increased when comparing to alcohol sales. Add “Can be increased on this time” 2C security plan required – this should be protected. J – No outside storage permitted – What does this include? Pallets? Barrel? Mr. Maki – We go through all of this with every business; this is just the beginning of all of this. Mr. Belbin – 5000.6 – Onsite consumption – Is the business held accountable for individuals consuming in their car? I don’t want the business to be held at fault. Mr. Sinclair – If the situation occurred with alcohol consumption and there was a fatality they would go back to package store. Mr. Belbin – I do not smoke marijuana. I do agree with it though.

Motion to recommend for Town Meeting Zoning Amendment #4: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Other Business:

Planning Board Member Notes:

- None

Planning Director Notes:

- Last week we were called to Linbis Path. Previously, there was a violation on no cut buffer. The past three storms have caused fallen trees; additional disturbances. Developer will hire a licensed land surveyor with revised site plans. At receipt of these items, the Board will be advised.
- Mr. Sinclair – Zoning Articles. Ms. Kwesell – we should review all liquor licenses to be sure. Mr. Cole will follow up on that.

Motion to close Public Hearing on all Zoning Amendments: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)

Minutes – March 27, 2018

Tabled until next meeting.

Next Meeting date:

The next meeting has been scheduled for May 22, 2018 at 7:00 PM.

Adjournment:

Motion made to adjourn at 8:54 PM: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (3-0)