



# TOWN OF CARVER

## Office of Planning & Community Development

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### Planning Board Minutes March 24, 2015

Posted in Accordance with the Provisions of M.G.L. Chapter 30A, Section 20B, authorized person Jack Hunter.

The Carver Planning Board met on March 24, 2015 at the Carver Town Hall, Meeting Room # 4, 108 Main Street, Carver, Massachusetts. Ms. Rosemarie Hanlon opened the meeting at 7:00pm.

**PRESENT:** Rosemarie Hanlon, Chair, Bruce Maki, Vice-Chair; Jim Hoffman, Secretary; Kevin Robinson, Chad Cavicchi

**ALSO PRESENT:** Jack Hunter, Director of Planning and Community Development; Madeleine Pompei, Administrative Assistant; members of the public

#### NEW BUSINESS

##### A. Receipt of Plans:

Mr. Hunter reminded the Board that plans were received from Post Road Operations, LLC for Sampson's Pond Residences. They would like to request a continuance. A Public Hearing will have to be scheduled.

**MOTION:** by Mr. Maki to schedule a public hearing on April 28, 2015 at 7:15pm

**SECOND:** by Mr. Robinson

**APPROVED UNANIMOUSLY**

##### B. Receipt of Plans:

Mr. Hunter stated the definitive plans for the High Street conservation subdivision have been received and will require a Public Hearing.

**MOTION:** by Mr. Maki to schedule a public hearing on April 28, 2015 at 7:15pm.

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

#### OLD BUSINESS

##### C. Marijuana By law Committee

Mr. Hunter reminded the Board that the by law committee had never officially been disbanded.

**MOTION:** by Mr. Maki to officially disband the marijuana by law committee

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

##### D. Planning Board Notes

Mr. Hoffman reminded the public that there would be a golf fundraiser in support of the Kane Family on April 25, 2015 at 1:00pm. The event is taking place at Bay Pointe Club, Onset, MA. There is also going to be a ball drop with prizes for closest and farthest from

pin. Mr. Cavicchi informed the public that Carver Girls Softball is looking for players, grades 1-8. Players especially needed for grades 5-8.

#### **E. Planner's Notes**

Mr. Hunter notified the Board that the Board of Selectmen would be hearing warrant articles at the April 7<sup>th</sup> meeting. Attendance would be helpful. He also reminded the Board and the Public that the Annual Town Meeting would take place April 14<sup>th</sup>. There are currently seven properties in North Carver with signed purchase and sales agreements. He indicated to that Board that it is going to get busy. Public water makes the properties a lot more palatable in the eyes of buyers.

#### **F. Approval of Minutes**

**MOTION:** By Mr. Maki to approve the minutes of December 9, 2014 as written

**SECOND:** By Mr. Hoffman

**APPROVED:** By four with Ms. Hanlon abstaining from the vote.

**MOTION:** By Mr. Maki to approve the Minutes of February 24, 2015

**SECOND:** Mr. Hoffman

**APPROVED UNANIMOUSLY**

#### **G. New Business**

Ms. Hanlon read the Public Hearing Notice into the record and noted the room change from room 1 to room 4. Mr. Hunter noted that the Town of Carver has been working with the MA DOT and the BDC in order to create a Spring Street Innovation Zoning District. Meetings with abutters took place over a year ago. Through grants there were studies done regarding the flow of traffic and impact on the neighborhood. There were follow-up meetings with abutters and the BDC has voted unanimously to bring the project to Planning. This project will most likely mirror the Whitworth property with high-end business development. The signage will comply with town bylaws. Mr. Hunter read a letter from MA DOT into the record. He noted that the state is actively pursuing a land-locked property to make it part of the parcel. This project cannot be approved until Town Meeting votes on zoning amendments. Mr. Maki stated he thought this would be tremendous for Carver. It is ideally located and could generate revenue. Mr. Robinson agreed. Mr. Cavicchi noted this is something the state does not usually do. Ms. Hanlon asked for public comment. Mr. Will Sinclair of 5 Lillian Way introduced himself as the vice-chair of the BDC. They have been looking at properties to create business opportunities but have the least amount of impact on the rural character of Carver. He feels this would be a great opportunity for the town. Mr. Hunter made note of the fact that Mr. Woolson was also in attendance.

**MOTION:** by Mr. Maki to send a request to Town Meeting to amend Section 20100 Establishment of the Town of Carver Zoning Bylaws by adding the Spring Street Innovation District.

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

In the Site Plan Review of the Fire Station, the height of the building was deemed to be an issue. The builder has suggested that a height of 40 feet will be necessary to accommodate the fire apparatus and living space. Mr. Robinson asked if this height would be applicable to any other structure. Mr. Hunter answered that it would not at this time, but that it might affect a new school building. Mr. Robinson commented that he could see why it would be

necessary. Ms. Hanlon asked for public comment. Mr. Bob Woolson of 65 Rochester Rd asked if this zoning amendment could be limited to only municipal buildings. He was assured that is how the amendment is written.

**MOTION:** by Mr. Maki to send a request to Town Meeting to amend Article II, Section 2320 of the Town of Carver Zoning By-Laws to allow municipal structures to build to a height of 40 feet.

**SECOND:** by Mr. Robinson

**APPROVED UNANIMOUSLY**

Mr. Hunter introduced the third proposed amendment to allow dwelling units on the ground level in a village or village business district. Mr. Hunter stated that these could only be approved via special permit; the Planning Board would have discretion. Most, if not all inquiries at this time would be interested in using Town Water. Ms. Hanlon asked if this would apply to current business only. Mr. Hunter answered that the article may have to be amended to include existing or new construction. Mr. Cavicchi commented that ground floor dwellings would be handicap accessible.

**MOTION:** by Mr. Maki to amend the article to include new construction.

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

**MOTION:** by Mr. Maki to send the amended article to Town Meeting requesting an amendment to Article II, Section 2273 of the Town of Carver Zoning By-Laws in order to allow dwelling units on the ground floor under Special Permit provision in a Village or Village Business District.

**SECOND:** by Mr. Robinson

**APPROVED UNANIMOUSLY**

Mr. Hunter introduced three articles proposed by Mr. Robert Belbin. He said that he had spoken with both the Building Commissioner and the Health Agent regarding all three articles. Mr. Belbin of 26 Gate Street asked why his amendments were the only three published prior to this meeting. He felt that citizens should have the right to review all articles prior to a meeting. Mr. Hunter replied that there was no explanation or excuse. Mr. Belbin read his proposed article #2 into the record. He states this article would remove age limits and handicapped requirement from the Town of Carver Zoning By-Law 2260. He indicated this would expand the law to cover more people. It would also get rid of a three year requirement. Mr. Belbin stated that Government should not exist to fine people, it isn't right. There is a housing need for people who are looking for lower end rents. Ms. Hanlon stated she could not see any benefit to Carver in creating a multitude of two family dwellings. Mr. Hoffman questioned why language regarding accessory apartment permits being good for 3 years is in the by-law. Sharon Clarke, 3 Boulton Street, member of the ZBA and original by-law committee said that all Special Permits had to be renewed. The renewal was more of an enforcement of the first part of the by-law so that abutter's would have the opportunity to comment about kids living in the apartments, etc. She hadn't heard any complaints. She stated apartments change the character of a neighborhood, renewal of the permit was a safety measure. Mr. Hunter mentioned the issue was not renewal, it was the 55 or older requirement. Ms. Clarke said if you get rid of the age requirement, there are issues with who is renting these apartments. An accessory apartment could go to a family. The 55 and older requirement was put in place to show intent to house and elderly parent, giving

them some measure of independence. Mr. Maki thanked Ms. Clarke for explaining why the by-law was written as it is. Mr. Robinson reiterated that these were designed with elderly parents or a handicapped child in mind. Mr. Belbin stated the by-law makes no reference to family. He noted that the Board just approved apartments which will also add to the town. Issues with apartments or neighbors would be addressed by the Board of Health. Mr. Belbin stated that he couldn't live on his property because he isn't 55. His children could not live there either. He felt it would be a benefit to the town to have more rentals. The Zoning By-Laws provide restrictions and residents need a level playing field. Not fair that if you have a business, apartments will be allowed. This change will also help residents with children coming back home. Mr. Hunter stated that the comparison is not apples to apples. The 55 year age requirement should be considered carefully. Ms. Clarke commented that the earlier vote in favor of apartments was for the village district, not residential. There would be a different look and feel.

**MOTION:** by Mr. Maki, upon review of comments received from the Building Commissioner Mary McNeill, to decline recommending the proposed amendment.

**SECOND:** by Mr. Cavicchi

### **APPROVED UNANIMOUSLY**

Mr. Belbin read his second proposed zoning amendment (#3) into the record. He indicated that proper setbacks would still have to be followed if an addition is being built. He wants the by-law amended to indicate that if the addition is to be utilized by family, it should not have to go through the accessory apartment by-law process. The inside of an addition should not matter if it is being utilized by family. Mr. Belbin stated that his proposal is all about family. A family should be allowed to build an addition as they see fit. Government should not be able to touch the inside of his house. Mr. Hunter read a memo from Mary McNeill (Building Commissioner) stating that the proposed changes would conflict with the state building code. Mr. Belbin asked if Mr. Hunter had spoken with the Board of Health. Mr. Hunter replied that he had forwarded them the information but had heard nothing in reply. Mr. Robinson stated he was unclear as to why the current by-law had to change. Mr. Maki stated that his is all covered by the design standards set by the town. Ms. Hanlon agreed. Mr. Hoffman stated that if you are building an addition to your home, you are talking about an addition, not an accessory apartment. Mr. Belbin stated that if you are building the addition to accommodate family, you should be able to have it as you like. Mr. Hoffman asked why this would be necessary. Mr. Will Sinclair, 5 Lillian Way stated r. Belbin seems to be trying to circumvent accessory apartment by-laws. Ms. Sharon Clarke, 3 Boulton Street, stated she was not sure we wanted to define what a family is in by-laws. This amendment is meant to replace Section 2263 of the current by-law. She agreed with Mr. Sinclair and stated a kitchen, etc. would make it an accessory apartment. This would create a free-for-all as these homes come to be sold. They may have to be considered two-family. An accessory is meant to be part of the home. Mr. Belbin stated that Ms. Clarke was wrong. Ms. Hanlon asked as long as the rules were followed, the person living there does not have to be family by "blood, marriage, or adoption". Mr. Belbin replied if an addition were being built, anything on the inside should not be regulated. Mr. Hunter stated that the Supreme Court has defined family. Mr. Robinson and Mr. Cavicchi stated they were not comfortable with Mr. Belbin's definition of family.

**MOTION:** by Mr. Maki to not approve the proposed amendment for Town Meeting

**SECOND:** by Mr. Robinson

### **APPROVED UNANIMOUSLY**

Mr. Belbin read his proposed article (#4) into the record. By-laws give definitions of what an apartment is. Mr. Belbin stated his idea is to standardize the language and terminology of the laws in place. He feels we would be progressive in standardizing the language. For instance, the by-laws don't state they are part of a health code. The proposed amendment would help the town understand what's going on. Mr. Hunter stated that he had spoken with Kopelman and Paige regarding this amendment. They felt it was frivolous. Mr. Maki commented that this is already covered and not necessary. Mr. Hoffman asked what Mr. Belbin's issues were. Mr. Belbin replied that he had been denied by ZBA due to a locked door. He stated there was also an email from Sharon Clarke regarding the definition of "kitchen". Mr. Belbin feels this amendment would properly define what an apartment is. He said that the Zoning Board approved an apartment that was detached, in a garage. Ms. Hanlon stated that permit was denied by the building department. Mr. Belbin stated he went to Zoning and was approved. Why should one Board or Department have different definitions for the same thing. Ms. Hanlon said that assessors are not building. Mr. Belbin stated that he is being assessed for two kitchens and he did not have two. Mr. Maki stated that all of this is covered under current by-laws. The amendment is not necessary. Mr. Robinson and Mr. Cavicchi agreed the amendment is unnecessary. Mr. Will Sinclair, 5 Lillian Way, stated this is clearly an interpretation, everything is covered under state law. He believes Mr. Belbin has issues with ZBA, or assessor, or Board of Health interpretations. Ms. Hanlon asked if Ms. Clarke had any comment. Sharon Clarke, 3 Boulton Street, stated that the Building Commissioner and Board of Health say these changes are not needed. We may have found some things in the past that needed tweaking. ZBA would be consulted only if the area exceeds 800 sq. feet. Illegal apartments have been found, Mr. Belbin's being one. In 2010 when he came before the ZBA, he was denied on every count. He (Mr. Belbin) is probably wondering why he is being assessed as a 2 family or having an accessory. Mr. Belbin stated his addition was not illegal. Mr. Hunter reiterated the feeling of the Building Commissioner, the Board of Health Officer and Kopelman and Paige. Ms. Hanlon asked if there was any further public comment.

**MOTION:** by Mr. Maki not to approve the proposed amendment to Town Meeting

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

**MOTION:** by Mr. Maki to close the Public Hearing

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

## **H. Correspondence**

Mr. Hunter referred the Board to the letter from MEPA and indicated it was for information.

**MOTION:** by Mr. Maki to adjourn

**SECOND:** by Mr. Hoffman

**APPROVED UNANIMOUSLY**

**The Carver Planning Board meeting was adjourned at 8:50pm on March 24, 2015**

Respectfully submitted,

Madeleine Pompei

### **Table of Documents**

Exhibit 1 Meeting Agenda – March 24, 2015

Exhibit 2 Special Permit Application Post Road Operations for Sampson's Pond Residences

- Exhibit 3 Definitive Subdivision Application - Adriano Cimbron
- Exhibit 4 Public Hearing Notice for proposed changes to Carver Zoning Bylaws
- Exhibit 5 Proposal to amend Zoning Bylaws to create Spring Street Innovation District
- Exhibit 6 Letter from Mass DOT
- Exhibit 6 Proposal to amend Zoning Bylaws for Municipal Buildings
- Exhibit 7 Proposal to amend Zoning Bylaws to allow ground floor dwellings in Village or Village Business Districts
- Exhibit 8 Proposal to amend the current requirements for an accessory apartment
- Exhibit 9 Proposed Article #2 Reply from Building Commissioner
- Exhibit 10 Proposal to amend Zoning Bylaw 2260
- Exhibit 11 Proposed Article #3 Reply from Building Commissioner
- Exhibit 12 Proposal to amend Zoning Bylaws by adding definitions
- Exhibit 13 Proposed Article #4 reply from Building Commissioner
- Exhibit 14 Email from Health Agent re: proposed Article #4
- Exhibit 15 Letter from MEPA
- Exhibit 16 Meeting minutes, December 9, 2014
- Exhibit 17 Meeting minutes, February 24, 2015