

approved
1/25/22

ZONING BOARD OF APPEALS

Meeting Minutes of January 11, 2022
@ 7:00 p.m.
CARVER TOWN HALL
MEETING ROOM #4

Present: Stephen G. Gray, Chairman. Members: Frances Mello, Frank Casey, and Mark Poirier. Alternate Member, James Barrington, was also in attendance.

Absent: Vice-Chairperson, Sharon Clarke

Recording Secretary, Patricia A. Pacella, was present as well.

Meeting opened at 7:00 P.M.

A. Approval of Minutes:

Approval of meeting Minutes of October 26, 2021. Member, Mark Poirier, made a Motion to accept the minutes as written and Member Barrington seconded the Motion. The Motion passed unanimously.

Approval of meeting Minutes of December 7, 2021. Member, Fran Mello, made a Motion to accept the minutes as written and Member Poirier seconded the Motion. The Motion passed unanimously.

B. Request by Deborah Myers, 13 Priscilla Mullens Way, for a two (2) year renewal of a Special Permit for the operation of a home-based horse stable business.

Ms. Myers was present and stated she was seeking a renewal of her Special Permit for the operation of her home-based horse stable business. She said the only change that has occurred since she last appeared before the Board was that she had downsized to four horses, and from four buildings to three. She stated one building had been removed from the property. Ms. Myers testified that she had three horses on the property currently that belonged to her and one horse that is being boarded. Per her knowledge, there have been no complaints made against her or the property.

Chairman Gray asked for comments from Board Members, but there were none.

Member Barrington made a Motion to renew the Special Permit for two years for an operation of a home-based horse stable business. The Special Permit would be limited to four horses and three buildings with the same Conditions as the previous Permit. Member Mello seconded the Motion. The Motion passed unanimously.

Continued Public Hearings:

C. Public Hearing: Case 12-16-24R: Petitioner: Douglas Riccio requesting dimensional Variances pursuant to Sections 2320 and 5222 of the Carver Zoning By-law for property located at 21 Quaker Road in Carver, MA (Assessor's Map 12, Lot 16-24R) so as to construct an attached 2 car garage along with a master bedroom and family room addition in the Residential Agricultural District. Variances are being requested due to the need for front and side setback relief.

Chairman Gray stated this Public Hearing was opened on December 7, 2021. He also remarked that the Board had conducted a site visit on January 8, 2022.

Member Barrington recused himself as an abutter to this Petitioner.

Chairman Gray noted that, due to Member Barrington's recusal as well as Vice-Chairperson Clarke being absent, the Petitioner would require a unanimous Decision of the Board if it were to grant the requested Variances, as there were only four voting Members present. He offered the Petitioner the opportunity to continue the Public Hearing to the next Board meeting date if he desired to proceed with a 5 Member Board (a 4-1 vote to grant would be satisfactory). Mr. Riccio declined and elected to proceed.

For the record, Chairman Gray read an email from the Health Agent, Kevin Forgue, dated December 13, 2021. This email stated that the proposed foundation wall is to be constructed less than the twenty (20) foot minimum from the existing septic leaching area but that a polyvinyl barrier is to be placed at the foundation that will stop any potential migration of effluent from the septic system through the foundation. Additionally, he indicated that the current septic system has sufficient capacity for any increased sewerage generated as a result of the proposed addition and garage.

Mr. Riccio stated there was one slight change to the original plans and informed the Board that the height of the existing house on the lot was at 14.55' and that the height of the proposed construction is 24.475'.

Chairman Gray noted that the Board had observed during their site visit that the height of the proposed construction would be in keeping with the neighborhood, as other houses nearby, including the one directly across the street, had a similar difference in their roof heights.

No other new information was received by the Board. No opposition was received from any members of the public.

Member Poirier made a Motion to close the Public Hearing and was seconded by Member Mello. The Motion passed unanimously.

Member Mello made a Motion that the Board find that, owing to circumstances relating to soil conditions and/or topography of the structures or lot, but not affecting the district generally, a literal enforcement of the provisions of the Bylaw would involve substantial hardship to the Petitioner. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw. The Motion was seconded by Member Casey. The Motion passed unanimously.

Member Mello made a Motion per Bylaw 5222 and Massachusetts General Laws, Chapter 40A, Section 10, that a dimensional side setback variance of 10 feet (on the side where the proposed construction is to occur) and a dimensional frontage variance of 15 feet be granted from the Carver Zoning ByLaws, Section 2320, owing to the soil conditions and/or topography of the subject lot, with Conditions as listed below.

Conditions on the Motion are as follows:

1. Subject to the Plans of record ("Proposed Addition Plan, 21 Quaker Road, Carver, MA," prepared by KLIM Land Surveying, Inc., dated September 3, 2021 and drawings dated December 22, 2021);
2. Any necessary inspections/waivers from the Health Department relative to septic concerns;
3. As described above, the relocation of the shed situated currently to the right side of the subject property to the left rear and the removal/demolishment of the existing shed to the left rear.

The Motion was seconded by Member Poirier and was passed unanimously.

D. Public Hearing: Case 82-1-1R: Petitioner: Keith and Carol Howes requesting a Special Permit pursuant to Sections 2245(c), 5221, and 5300 et. seq. of the Carver Zoning By-law, for property located at 223 Meadow Street in Carver, MA (Assessors Map 82 Lot 1-1-R), so as to construct a 30 x 60 (1800 square feet) detached garage (maximum allowed is 700 square feet) in a Residential-Agricultural District.

Chairman Gray stated that this Public Hearing was continued from December 7, 2021. He mentioned that a site visit of the property was conducted by the Board on January 8, 2022.

Petitioner, Carol Howes, was present. She said the size of the garage on the ground level had been decreased in size since the initial Public Hearing (now 28 x 20 or 1540 square feet). Ms. Howes mentioned there would also be a second floor "loft" which would be used for storage and would be enclosed completely with a laid floor. She stated the size of this "loft" would be 28 x 20 feet (560 square feet). Thus, the total square footage proposed would be 2100, which is (3) three times the size allowed by right under 2245(c) of the Bylaw, as observed by various Board Members.

Ms. Howes only presented the Board with hand drawings at this time.

Chairman Gray shared his concerns about the proposed size of the structure and the "loft" area. He reminded everyone that the Petitioners were asking for three times the size allowed by the Bylaw and perhaps they should rethink the "loft" area and maybe downsize further.

Other Board Members agreed that size was a concern. Member Poirier also stated he would like to see a plan that is a bit more formal that could be presented to the Board, and not just a hand drawing.

Member Barrington remarked that during the site visit, he felt that the overall size of the proposed garage as contrasted to the house on the property was quite significant.

Chairman Gray stated for the record that no dimensions relating to the "loft" were discussed at the initial Public Hearing. He also did compliment Ms. Howes on a beautiful and well-kept property.

At the request of Ms. Howes, the matter was continued to allow the Petitioners the opportunity to obtain professional drawings/plans of the proposed construction and to decide whether they wished to proceed with a 2100 square foot proposal, or if they would consider downsizing. Board Members advised Ms. Howes that they have yet to approve a garage in Town as large as 2100 square feet.

Member Mello made a Motion to continue Public Hearing, Case 82-1-1R, to February 23, 2022 at 7:00 P.M. The Motion was seconded by Member Barrington. The Motion passed unanimously.

E. Public Hearing: Case 100-6-OR: Petitioner: Wenham PV I, LLC requesting dimensional Variances pursuant to Section 2320 and 5222 of the Carver Zoning By-Law for property located at 27 Wenham Road in Carver, MA (Assessors Map 100, Lot 6, OR) so as to construct a "dual-use" solar project in the Residential Agricultural District. Variances are being requested due to the irregular shape of the parcel and the need for frontage relief (the subject lot has 105 feet of frontage; minimum requirement is 150 feet).

Chairman Gray advised the Board that he had received an email from the Planning Department that had been authored by a representative of the Petitioner, requesting that the Zoning Board of Appeals continue the Public Hearing on this case, so that the Planning Board could have an opportunity to review the proposed project.

Member Mello made a Motion to continue Public Hearing, Case 100-6-OR, to February 23, 2022 at 7:00 P.M. The Motion was seconded by Member Barrington. The Motion passed unanimously.

CORRESPONDENCE:

Chairman Gray stated the Board had received another letter from Resident, Cornelius Shea, who had also copied other Carver departments. The Board decided to take no action regarding the letter at this time, as it was observed that the relief requested had to do with the reassessment/reclassification of a certain property in Town.

Member Mello made a Motion to adjourn and was seconded by Member Poirier. The Motion passed unanimously at 8:15 p.m.

Respectively submitted,

Patricia A. Pacella