

approved
10/30/18



Carver Zoning Board of Appeals

EXECUTIVE SESSION Meeting Minutes for July 11, 2018, 7:00 PM

Attendees: Stephen Gray, Chairman; Sharon Clarke, Vice Chairman; Eric Mueller, Member; James Nauen, Member; Frances Mello, Alternate Member

Absent: Steven Maynard, Member;

Entered into Executive Session at – 8:04 PM

Executive Session under M. G. L. c 30A, S 21 (a) (3):

To discuss strategy with respect to pending litigation in the case of the Town of Carver Planning Board v Town of Carver Zoning Board of Appeals, Plymouth Superior Court, Docket # 1683CV00720, as an open meeting may have a detrimental effect on the litigation position of the public body; votes may be taken.

Discussion:

Mr. Gray – There has been activity on this case that I want to update you on. The Borrego case which is the subject on this appeal. This board gave two variances, which were appealed by the Planning Board. After that appeal, Borrego was able to obtain frontage. They have agreed to reduce the size of the panels and reconfigure the array in such a way that it no longer needs side variance. The Planning Board voted to accept the revised plan. The Planning Board is now in a position of having an appeal that is no longer needed. Through its counsel and ours, there has been discussion. They are looking for a Joint Motion for Remand asking for case to be removed from Superior Court, back to us.

Mr. Gray read the Joint Motion for Remand to the Board. There is no issue to be litigated. I have requested of our counsel, correspondence from the attorney for Borrego. I received an email from him On July 4. I don't think that we should rescind any decision made by this Board. Allowing a petitioner to withdraw is different. For purposes of this particular matter, we must allow the Planning Board a way to withdraw. I have been advised by counsel that we can not vote to accept until Joint Motion for Remand is accepted by the court. The motion was filed one day ago and will not have action for a little while. We can't go to step two until then. Ms. Mello inquired as to why the Planning Board can't withdraw their appeal? Mr. Gray indicated that the Planning Board prefer it be done this way.

There is no need to take any votes tonight. We will do that after the remand is allowed by the courts.

Adjournment:

Motion to adjourn Executive 8:19Pm Session: Ms. Clarke

Second: Mr. Nauen

Approved: Unanimous (5-0)

Motion to adjourn at 8:20 PM: Ms. Mello

Second: Ms. Clarke

Approved: Unanimous (5-0)