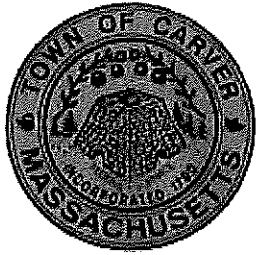


approved  
11/5/18



# TOWN OF CARVER

## Zoning Board of Appeals

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Carver, MA 02330

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### Minutes of October 30, 2018 Meeting Room #1 – 6:00pm

Present: Chairman Stephen G. Gray; Vice-Chairperson Sharon Clarke; Members Eric Mueller, James Nauen, and Frances Mello.

Chairman Stephen G. Gray announced that the meeting was being recorded by Area 58 Cable Studio.

Chairman Stephen G. Gray directed the Board and members of the public through the Pledge of Allegiance.

Meeting opened at 6:05 P.M.

### MINUTES

Board members received and reviewed a copy of the Minutes of the October 16, 2018 meeting. A Motion was made by Mr. Mueller to approve the minutes as written, seconded by Ms. Clarke.

**Vote 5-0**

Board members received and reviewed a copy of the Executive Session Minutes of the July 11, 2018 and September 11, 2018 meetings. A Motion was made by Ms. Mello to approve the minutes as written, seconded by Ms. Clarke.

**Vote 5-0**

### PUBLIC HEARINGS

**Continuance of Case No. 34-1** – Petitioner: Davenport Building Company; 20 North Main Street; South Yarmouth, MA 02664. The Petitioner is requesting a Special Permit pursuant to Section 5300 of the Carver Zoning By-Law, for property located at 14 Andrews Point Road in Carver, MA (Assessors Map 1 – Lot 8) to demolish and reconstruct a new home on a pre-existing nonconforming lot in a Residential Agricultural District.

Chairman Gray read the Public Notice, stating that a Public Hearing was opened on October 16, 2018.

Chairman Gray stated that Town Counsel had sent a letter to the Board late this afternoon and handed a copy to counsel for the Petitioner, Richard Serkey, Esq., to review. This letter is attached and made part of the record.

Mr. Nauen had recused himself from this case previously.

Chairman Gray welcomed Jeffrey Merritt, the owner of the subject property, for public comment. Mr. Merritt explained that he has had further discussions with his neighbors regarding the proposed project.

A letter from the Building Commissioner was presented to the Board, stating that a Special Permit would not be needed in his opinion. This letter is attached and made part of the record.

A revised plan from Mr. Serkey was given to the Board to review. Pertinent dimensional measurements were now added to this Plan. This Plan is attached and made part of the record.

Chairman Gray then welcomed neighbor Lisa Zarba of 12 Andrews Point Road for public comment regarding her concerns with Mr. Merritt's plans.

Chairman Gray welcomed Mark Bennie of 22 Lakeview Street for public comment. He, too, stated his concerns and noted that he, his wife, and Mr. Merritt had met on October 20, 2018 to discuss the plans and voiced their concerns at that time.

Chairman Gray welcomed John Capparella from Andrews Point for public comment. He also stated his concerns and that the conversation he had with Mr. Merritt was "uncordial." Mr. Capparella explained that he disagreed with the opinion of Town Counsel concerning the definition, meaning, and interpretation of the word "reconstruction" in section 2254 of the bylaws.

The concerns expressed by the above-referenced neighbors all related to issues regarding the proposed construction being too large for the neighborhood, with resulting loss of privacy.

Chairman Gray gave Mr. Merritt a chance to respond to Mr. Capparella. He stated that he did not recall their conversation being a "shut down." He explained that he had reduced the size of the house to fit better on the lot.

Chairman Gray asked Mr. Merritt if he were planning on living in this house and he responded in the affirmative.

Chairman Gray also inquired whether the proposed construction would be on any part of the footprint of the existing home that would be demolished. Michael Williams of Davenport Construction, on behalf of the Petitioner, was able to confirm this.

Mr. Mueller questioned whether there would be any vegetation taken down during the proposed construction and Mr. Merritt responded that there would be scrubs that would be removed.

A Motion was made by Ms. Clarke to close the Hearing, seconded by Mr. Mueller. **Vote 4-0**

A Motion was made to accept a request by the Petitioner to withdraw his request for zoning relief based on the letter from the Building Commissioner and Legal Counsel that the proposed project was allowed as "of right" based on the wording of section 2254 of the bylaws, seconded by Ms. Mello. **Vote 4-0**

**Continuance of Case No. 24-4A** – Petitioner: David Mulcahy, dba ohDeer South Shore, P.O. Box 340, Kingston, MA 02364. The Petitioner is requesting a Variance pursuant to Section 5222 and Section 2230 of the Carver Zoning By-Law for property located at 157 N. Main Street in Carver, MA (Assessors Map

24, Lot 4A) to construct an addition to the rear of a pre-existing nonconforming residence in a Highway Commercial District, said addition for the purpose of an office and the storage of business materials.

Chairman Gray read the Public Notice, stating that a Public Hearing was opened on October 16, 2018.

Mr. Gray handed a letter from Town Counsel that was received by the Board late this afternoon to counsel for the Petitioner, Richard Serkey, Esq.

Mr. Nauen recused himself from this case.

Mr. Serkey stated that he preferred to have a full five (5) member Board present and requested a continuance of the Public Hearing so that the newly appointed Board Alternate could be present.

A Motion was made by Ms. Clarke to approve the request to continue the case to the date of November 5, 2018, seconded by Ms. Mello. **Vote 4-0.**

**Case No. 37-1** – Petitioner: Wendy Bullock, 8 Hughes Street, Plymouth, MA 02360. The Petitioner is requesting a Special Permit pursuant to Sections 5300 and 2260-2263 of the Carver Zoning By-Law, for property located at 6 Godfrey Circle in Carver, MA (Assessors Map 37-Lot 1) to increase the size of a proposed in-law apartment from 800 square feet to 1000 square feet in a Residential Agricultural District.

Chairman Gray read the Public Notice.

Mr. Nauen noticed that the previous owner of the subject property was not shown on the Application and wanted this information to be provided by the Petitioner.

The Petitioner explained that the proposed in-law apartment would be for her mother and father who are approximately 70 years old. The Plans show a main house including the apartment. The entire project would be new construction.

Chairman Gray explained that the entrance and exit of the proposed in-law needed to be placed on either the side or the back of the house rather than the front as depicted in the Plan, pursuant to section 2262 of the by-law.

A Motion was made by Ms. Clarke to close the Public Hearing, seconded by Mr. Mueller. **Vote 5-0**

A Motion was made by Ms. Clarke that the Board find that the benefits of the proposed use outweigh its detrimental impacts on the Town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site, seconded by Mr. Mueller. **Vote 5-0**

A Motion was made by Ms. Clarke to grant the Special Permit per the Plans submitted, but for the entrance and exit for the in-law that would be moved to the side or the back of the house rather than the front as depicted, and that the Petitioner would be allowed an accessory apartment of 965 square feet, seconded by Ms. Mello. **Vote 5-0**

**Case No. 449-53** – Petitioner: David Taylor, 27 Leonard Street, Carver, MA 02330. The Petitioner is requesting a Variance pursuant to Section 2300 of the Carver Zoning By-Law for property located at 27 Leonard Street in Carver, MA (Assessors Map 49, Lot 53) to construct a free standing 28 x 28 detached garage in the side yard in a Residential Agricultural District.

Chairman Gray read the Public notice.

Chairman Gray welcomed Petitioner David Taylor and his wife, Carol Taylor, for public comment.

They explained that the proposed garage would be placed in front of the existing house, per the plans.

The Board had a discussion with the Taylors concerning whether the proposed garage could be located on the lot in such a way that it would not be in front of the house.

Ms. Clarke came to the conclusion that they should proceed with the proposed plans, as relocating the proposed garage on the lot would cause hardship based on both the shape and topography of this lot.

Ms. Mello expressed that she would like have a site visit on Saturday, November 3, 2018, at 9:00 A.M., with owners and Board present, before making any decision.

A Motion was made by Ms. Mello to continue the Public Hearing until the next meeting of November 5, 2018, with a site visit to be scheduled on November 3, 2018 at 9:00 A.M., seconded by Ms. Clarke. **Vote 5-0**

**Case No. 8-26** – Petitioners: Clarke A. Griffith, Trustee and Suzanne R. Lyons, Trustee, P.O. Box 127 South Carver, MA 02330. The Petitioners are requesting a Special Permit pursuant to Section 5300 of the Carver Zoning By-Law for property located at 7 Lakeview Street in Carver, MA (Assessors Map 8, Lot 26F) to modify the use of the existing home office, established for the purpose of harvesting/billing, to an office for rent in a Residential Agricultural District.

Chairman Gray read the Public Notice.

Chairman Gray welcomed Mr. Griffith and his counsel, Aaron Burke, Esq., for public comment.

Chairman Gray presented and read from a letter from a previous Building Commissioner for the Town of Carver in which he had approved the now existing home office which is a free-standing building.

Mr. Burke explained that Mr. Griffith would like to rent this office but that, at this time, the Petitioner did not have a specific idea of who and what would be going into this building.

The Board expressed that it wanted more information so it could make an informed decision based on the Use Regulation Schedule of section 2230 of the by-laws.

Chairman Gray also mentioned that he wanted the Petitioners to do additional research on what they had thought had been a Special Permit that the Board had granted them previously.

Ms. Clarke suggested that they speak with Director of Planning, Stephen Cole, regarding this.

Mr. Burke and Mr. Griffith thanked the Board, as they now had a better understanding of the direction they needed to take to move forward with this case.

A Motion was made by Ms. Clarke to continue the Public Hearing to the next meeting of November 5, 2018, seconded by Mr. Mueller. **Vote 5-0**

A Motion to adjourn was made by Mr. Nauen at 8:25 P.M., seconded by Mr. Mueller.