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1/15/19*

CARVER ZONING BOARD OF APPEALS
MINUTES OF November 5, 2018 MEETING
Room 4 – 7:00 p.m.

Present: Stephen G. Gray, Chairman; Sharon Clarke, Vice-Chairperson; Members Eric Mueller; Frances Mello; Alternate, Robert Burr. Also present: Marianne MacLeod, Recording Secretary.

Chairman, Mr. Gray, opened the meeting at 7:00 P.M. He introduced the Board members.

MEETING MINUTES:

The Minutes of October 30, 2018 were reviewed.

Ms. Mello found a typo.

Ms. Clarke made a Motion to accept the Minutes with the correction of the spelling of the name "Aaron," seconded by Mr. Mueller, voted and passed unanimously 4-0-0.

PUBLIC HEARINGS:

PUBLIC HEARING (Continued from October 30, 2018): Case No. 24-4A: Petitioner: David Mulcahy, d/b/a oh Deer South Shore, PO 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 North 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.

Mr. Gray received a formal request from the Attorney for the Petitioner for a Continuance.

Richard Serkey, Esq., on behalf of the Petitioner, explained that he sent a letter to the Board on October 31, 2018 requesting a Continuance. Mr. Gray asked the reason for the request. Mr. Serkey said that the Petitioner has a pending Hearing for site approval that has begun before the Planning Board. It will resume on November 13, 2018, and may be continued because the Petitioner may need to seek a Special Permit as the property is in the Water Resource Protection

District. As such, the Petitioner may require a Special Permit due to pesticides that would be stored at the property.

Mr. Gray asked Mr. Serkey to confirm that he waives any objection to Mr. Burr sitting on the case and participating in the Hearing. Mr. Serkey answered in the affirmative and had already sent a letter to the Board in this regard.

Mr. Gray also asked about a meeting that Mr. Serkey plans to attend with Mr. Francis, the Building Commissioner, in an attempt to persuade him to agree that the Petitioner is a "Tradesman" within the meaning of the by-law. Reference was made to an opinion letter from Town Counsel that calls into question whether the Petitioner comes under the definition of "Tradesman" as that word should be interpreted under the bylaws. The fact that the Board is prohibited from granting "use variances" was also mentioned.

Mr. Serkey asked for a Continuance to early January. Ms. Clarke said she thought it was a reasonable request.

Ms. Mello relayed her concern that Mr. Francis be made aware of the opinion letter of Town Counsel.

Ms. Mello made a Motion to continue the Public Hearing to January 15, 2019, as requested by the Petitioner, seconded by Ms. Clarke, voted and passed 5-0-0.

Mr. Serkey will email a waiver of the time requirements to the Board.

PUBLIC HEARING (Continued from October 30, 2018): Case No. 49-53: Petitioner: David Taylor, 27 Leonard Street, Carver, MA 02330. The Petitioner is requesting a Variance pursuant to Sections 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.

Mr. Taylor was present.

Mr. Gray shared that the Board went on a site visit the morning of November 3, 2018.

Mr. Taylor said he was not able to finalize where the proposed garage was going to be located because of the presence of a large drainage easement on his property. He said he had spoken with John Woods at the DPW and that Mr. Woods had visited the property on November 5, 2018. It was represented that Mr. Woods would draft a letter via email that he had no concern about how close the proposed project was to the drainage easement.

Mr. Gray also asked the Petitioner to reach out to the Carver Conservation Agent, due to a possible set-back requirement from the drainage easement.

Mr. Taylor shared a drawing with Board members. Ms. Clarke asked how far the house was from the street. Mr. Taylor said it was 62', based on an old mortgage plot plan.

The Petitioner requested a continuance to the next Board meeting date of January 15, 2019.

Ms. Clarke explained to the Petitioner that he needed an engineered survey showing the distance of the proposed project from the street.

Mr. Mueller made a Motion to continue the Public Hearing to January 15, 2019 at the request of the Petitioner, seconded by Ms. Clarke, voted and passed 4-0-0.

PUBLIC HEARING (Continued from October 30, 2018): Case No. 8-26: Petitioners: Clark 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 26 F) 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.

Neither the Petitioner or his legal counsel were present.

Mr. Gray asked the Board if it would allow one more continuance.

Sharon Clarke made a Motion for the Board to contact Attorney Burke on behalf of his client to inform him that, due to their absence and no correspondence from them requesting a continuance, the Public Hearing would be continued to January 15, 2019, and that a response from him that he was requesting such a continuance needed to be received by the Board no later than December 1, 2018. The Motion was seconded by Ms. Mello, voted and passed 4-0-0.

PUBLIC HEARING: Case 59-1-102: Petitioner: Susan Blauss, 8 Atwood Street, Carver, MA 02330 requesting a Variance pursuant to Section 2300 - Dimensional Requirements of the Carver Zoning by Law - for property located at 8 Atwood Street in Carver, MA (Assessors Map 59, Lot 1-102) to construct a 16 X 26 in-ground pool in a Residential Agricultural District.

Ms. Blauss was present.

Ms. Clarke asked if septic was an issue. Mr. Borden, from the Carver Board of Health, was present and said there were no issues.

Board members reviewed the Plan to determine where the lot lines were located and to ascertain the reason that the Petitioner was told to appear before the Board.

The Board reviewed the Zoning By-Laws. The side and rear setbacks need to be 10 feet for a detached structure. Swimming pools are considered structures if "in ground." The Petitioner was found to have at least 12 feet and as much as 26 feet of setback in the rear, based on the shape of their lot.

Mr. Gray questioned if the Board had jurisdiction in this case and whether zoning relief was necessary.

Ms. Clarke made a Motion to close the Public Hearing, seconded by Mr. Mueller, voted and passed unanimously 5-0-0.

Ms. Clarke made a Motion that the Board find that, on the basis of the Plans submitted and made part of the record, no zoning relief is required, as Cornish Street is on the side of the subject property and Atwood Street is the front of the lot and no dimensional variances in this specific case are necessary. Ms. Mello seconded, voted and passed unanimously 5-0-0.

Mr. Gray requested that Ms. Clarke write a Decision regarding this matter.

CORRESPONDENCE:

None.

Mr. Mueller made a Motion to adjourn, seconded by Mr. Burr, and passed unanimously 5-0-0.

Respectfully submitted,

Marianne MacLeod