

Approved: September 22, 2016

**Carver Zoning Board of Appeals
Meeting Minutes for August 8, 2016**

Members Present: Sharon Clarke, Vice-Chair; James Nauen; Eric Mueller; Steven Maynard; Frances Mello

Also present: Marlene McCollem, Planning Director.

At 6 P.M., Vice-Chairman Sharon Clarke the August 8, 2016 meeting of the Carver Zoning Board of Appeals.

Discussion: *Proposed Settlement Agreement for 18 Shaw Road and the complaint filed in Danny R. Warren Trustee of the Warren Enterprise Realty Trust v. Town of Carver Zoning Board of Appeals.*

Vice-Chairman Clarke advised the public that the discussion would be limited to the Board members and that there would not be public comments taken on the draft agreement.

The Board briefly reiterated that this is a case where a building permit was appealed, and the Board voted to uphold the Building Commissioner's decision. The Board's decision was then appealed. All members agreed that they are familiar with the history.

The draft Settlement Agreement was discussed. It was noted that the final form is not yet available, so the Board cannot sign it tonight. However, if it is acceptable, they have the option of authorizing the Vice-Chair to sign on their behalf, if and when the private parties also agree.

The Agreement controls the cutting of trees.

The Board discussed in detail how the Agreement can be recorded to run with the land. Members questioned if it can be recorded? Questions were raised and discussed on whether or not the Agreement would have any impact on the value of the property. Questions of enforcement were raised and discussed. The Members discussed whether or not the Agreement will be binding on future owners, and how it may be viewed by prospective purchasers.

The Carver ZBA is named as a party in the appeal, and must be a party to the Agreement.

It was noted that the Agreement references an Exhibit "B" that has not been provided. The Board requested that it be included with any final agreement.

Exhibit "A" was discussed, it shows the trees that are not to be removed. It appears to meet all of the required setbacks for a septic system under the Board of Health regulations.

The Board discussed how the terms may be enforced in the future and agreed that there should not be a burden placed on the property if the building permit is valid.

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The Board requested that the Planning Director ask Town Counsel for confirmation that the Agreement will be recorded and cross referenced to the deeds of both properties; that Exhibit "B" be provided, that there be an understanding that the Town and both private parties are able to enforce the terms of the Agreement.

On a motion by Mr. Maynard, seconded by Ms. Mello, in the event that the Agreement is acceptable to the private parties, Vice-Chairman Clarke is authorized to sign on behalf of the Board, provided there is no substantive change to the draft.

Voted 5-0.

On a motion of Mr. Mueller, seconded by Mr. Nauen, the meeting adjourned at 6:45 PM.

Attachments:

1. Agenda for the ZBA meeting of August 8, 2016



TOWN OF CARVER

Zoning Board of Appeals

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PUBLIC MEETING NOTICE

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, SECTION 20B

CARVER ZONING BOARD OF APPEALS

August 8, 2016

6:00 PM

Carver Town Hall Room #4

AGENDA

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, SECTION 20B

A. Discussion—Proposed Settlement Agreement for 18 Shaw Road and the complaint filed in *Danny R. Warren, Trustee of the Warren Enterprises Realty Trust v. Town of Carver Zoning Board of Appeal*.

B. Adjournment

