



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

Phone: (508) 866-3450 Fax: (508) 866-3430

Meeting Minutes of June 24, 2020

@ 7:00 PM

Carver Middle/High School Auditorium

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

Also present: Jim Walsh, Planning Board Director; Robert C. Francis, The Town of Carver Building Commissioner; and Recording Secretary, Kelly DiCarli

Absent: Mark Poirier, Alternate

Meeting Opened: 7:00 P.M.

A. Minutes: Reviewed February 25, 2020 Minutes

Member Germain made a Motion to accept the Minutes. Seconded by Member Mello. Voted and passed unanimously, 5-0

B. **Public Hearing: Case No. 56-289: Petitioner:** Great Meadow Realty Trust LLC, requesting a Variance pursuant to Section 2300 of the Carver Zoning by Law, for property located at 62 Great Meadow Drive in Carver, MA (Assessors Map 56 Lot 289-0). The Dimensional Relief is for lot frontage and lot size in a Residential Agricultural District.

Mathew Walsh (present); friend and Attorney in Real-estate Law representing Petitioners Great Meadow Realty Trust LLC noted the petitioners purchased this property from an auction. At time of auction the property is a buildable lot however was lacking 1.05 feet of frontage (though was told the lot was "grandfathered in"). Chairman Grey inquired why the lot was "grandfathered in" Mr. Walsh explained the lot was not the original subdivision. The lot purchased at auction was a sub-division from another lot.

Wade Savard (present), Petitioner of Great Meadow Realty Trust LLC noted he completed a supplemental treatment for sewage to increase the bedroom size from tow (2) to three (3) room within the same footprint which was submitted to the town building permit department. Mr. Savard noted Robert C. Francis, Town of Carver Building Commissioner approved the permit agreeing the lot was "grandfathered in" and because of this representation, Mr. Savard began to building on the lot.

Vice-Chairperson Clarke clarified the history of the lot and its sub-division.

Mr. Savard continued to note they did not realize the lots frontage and variance issue until Eastern Savings Bank commented on the possibility this lot not being buildable. Mr. Savard noted he and partner Michael Jared Norton has been paying on loan for the past two (2) months.

Jim Walsh, Planning Board Director described his involvement in the case.

Robert C. Francis noted after he was contacted by one of the Bankers attorneys regarding the lot and further researched the property to discover an error was made. Robert C. Francis noted the lot appeared to look like part of the Great Meadow Development and into further investigation appeared to be a pre-existing non-conforming lot.

Mr. Savard noted when he and his partner discovered of a potential issue with the lot, they stopped building and when forth to the Zoning Board of Appeal to grant the variance and frontage requirements.

Chairman Gray then opened the meeting for public comment.

Paul Duchaney (present), 61 Great Meadow Drive, abutter of 62 Great Meadow Drive spoke in favor of the lot being built. Mr. Duhaney stated he "would like to have homes build in this lot" as this lot was a previous "dumping ground".

Dave Meng (present) potential home buyer of 62 Great Meadow Drive, spoke about the positive aspect's property as well, and since the lot was sub-divided it's not a square but "fans out".

Stephen G. Gray noted that M.G.L. c 40A requires that, in order for any variance to be granted by the Board, it must make a finding that there is something distinctive or unusual about the subject property, i.e. shape, soil, or topography, that would allow the Board to "break the by-Law," as a literal enforcement would cause substantial hardship to a petitioner

Michael Jared Norton, Petitioner for Great Meadow Realty Trust LLC agrees there is no issues with topography or soil, however it's a shape concern. The shape of the lot does not "square off".

A Motion was made to close the Public Hearing: Case No. 56-289 and duly seconded. Voted and passed unanimously, 5 — 0.

A motion was made, duly seconded and voted unanimously to approve the request for relief under the authority granted to the Board pursuant to Carver Zoning by-law 5222.

Member Germain made a motion under M.G.L. c 40A section 10 granted from the Carver Zoning By-law, Sections 2300 and 2320 for the frontage set back two (2) feet and lot size of feet due to the 36,120 feet of the lot due to the shape of lot. Seconded by Member Mello. Voted and passed unanimously, 5-0

Vice-Chairperson Clarke noted any persons aggrieved by this decision may appeal to the court of competent, jurisdiction pursuant of the M.G. L. c 40A, Section 17, within twenty (20) days of the date of this decision is filed in the Office of the Town Clerk

- C. **Public Hearing: Case No. 1-15-0R (Continued)** : Petitioner: Robert Andrews III, requesting a Special Permit pursuant to Sections 2320 of the Carver Zoning By-law, for property located at 4 Andrews Point Road in Carver, MA (Assessors Map 1-Lot 150R), to raze existing porch and build new addition on existing footprint being 25.4 feet from side yard (30 feet is required) in a Residential Agricultural District.

Chairman Grey received an email from Steve Kotowski of Webby Engineering Associates, representing Petitioner, Robert Andrews II requesting the application to be withdrawn. Jim Walsh was unaware of the withdrawal request. A denial was never issued. Robert C. Francis was never aware of the project going to the Zoning Board of Appeals. The applicant came into the office requesting a

building permit the applicant was not changing the foot print; building within non-conforming structure- permit issued and started project (Zoning Board of Appeal not necessary).

Discussion amongst the Zoning Board of Appeal, Jim Walsh, and Robert C. Francis regarding clarification breakdown of this process

Vice-Chairperson Clarke made a motion to allow the request to be withdrawn for the Special Permit pursuant to Sections 2320 of the Carver Zoning By-law. Seconded by Member Germain. Voted and passed unanimously, 5-0

D. Discussion with Planner and Building Commissioner concerning review and procedures for Cases that are filed with the Planning Department and eventually appealed to the Zoning Board of Appeals.

1. The Zoning Board of Appeals discussed with Jim Walsh and Robert C. Francis regarding the following issues:
 - a. Examples of mis-communication between the two (2) departments
 - b. Examples of past cases that affected the Zoning Board of Appeals and Planning Board
 - c. Applicants being in front of the Zoning Board of Appeals and Planning Board simultaneously
 - d. Denials issues by the Planning Board office and since has been reversed
 - e. Positive changes to improve process (i.e. Denial letters)
 - f. Ways to address concern of communication and improve a translucent process:
 - i. Education provided to the Planning Board
 - ii. Cases that come forth to the Zoning Board of Appeals and Planning Board simultaneously the petitioner has to choose one (1) or the other.
 - iii. Improve communication to the petitioners if they need relief
 - iv. Suggested meeting between the Zoning Board of Appeals and Planning Board and work on initial application denial letter.
 - v. Identify designees from the Zoning Board of Appeals and Planning Board to improve streamline communication if clarification needs to occur.
 - vi. Jim Walsh working on e-permitting system to review stages of a project

Member Germain made a motion to create a procedural checklist when an application is received from the town hall.

Member Germain withdrew his original motion

Member Germain made a motion to create a flow chart to improve continuity between the Zoning Board of Appeals, Planning Board, Board of Health and Conservation Committee. The flow chart will be completed within 90 days. Seconded by Member Mueller. Voted and passed unanimously, 5-0.

Chairman Grey made a motion the Zoning Board of appeals and Planning Board will conduct a meeting to discuss appropriate application of By-laws within 30 days. Seconded by Member Germain. Voted and passed unanimously, 5-0.

Member Germain nominated Vice-Chairman Clarke as the Zoning Board of Appeal Representative.

Member Germain withdrew his original motion regarding the Zoning Board of Appeal nomination

Member Germain nominated Chairman Grey and Vice-Chairman Clarke as the Zoning Board of Appeal designee. Both nominees will meet within thirty (30) days with the Planning Board and Department to discuss representation of the by-laws. Seconded by Member Mello. Voted and passed unanimously, 5-0.

E. Correspondence (if any)

Chairman Grey received a correspondence regarding property located at 62 a Wenham Road, Carver regarding a cell phone tower. Per Chairman Grey many year ago the Zoning Board of Appeals approved a tower on this site. However, the originally owner of this property sold the land to new party and new party wants to pay the removal bond. Question if the Board wants it form a bond or form of credit. Vice-Chairperson Clarke inquired deferring this to the Carver Town Administrator and ask the Town Council. Jim Walsh spoke to the Finance Department and they deferred this to the Zoning Board of Appeals. Chairman Grey prompted Jim Walsh to reach out to the Carver Town Administrator and treasury office and discuss this next Zoning Board of Appeal meeting.

F. Next Zoning Board Meeting:

- a. Thursday August 6, 2020 at 7 P.M.

G: Adjournment: Member Germain made a Motion to adjourn. Seconded by Member Mueller. Voted and passed unanimously, 5-0

Meeting adjourned at 9:37 P.M

Respectfully submitted,
Kelly DiCarli