



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

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

Meeting Minutes of December 1, 2020

@ 7:00 PM

CARVER TOWN HALL

MEETING ROOM #4

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

Also present: Alternate Member and Recording Secretary, Kelly DiCarli

Absent: Mark Poirier, Alternate Member

Meeting Opened: 7:03 P.M.

A. Minutes: Reviewed Minutes of November 17, 2020.

Member Mueller made a Motion to accept the Minutes of November 17, 2020 as written. Seconded by Vice-Chairperson Clarke. Voted and passed unanimously, 4-0.

B. Public Hearing (**continued**): Case No. 111-125: Petitioner: John and Susan Sontag. A Petition was filed seeking a Special Permit and Variance pursuant to Sections 2245(c), 2310, 2320 and 5221-5222 and 5300 et. seq. of the Carver Zoning By-law, for property located at 20 Bow Street in Carver, MA (Assessors Map 111 Lot 125), to construct a 26 X 36 garage that will be 10 feet from the street (proposed garage 936 square feet; maximum allowed is 700 square feet; front setback required is 50 feet) in a Residential-Agricultural District.

Chairman Gray began the Public Hearing by noting that a site visit was completed as scheduled on Saturday, November 7, 2020 at 9 A.M. In addition, Chairman Gray remarked that Alternate Member DiCarli would be sitting as the fifth voting member of the Zoning Board of Appeals on this Case, for if there were only a four (4) member Board, a unanimous decision would be needed in order to grant the relief requested. John and Susan Sontag (present) voiced no opposition.

Chairman Gray invited discussion by the Petitioners. No new information was reported.

Chairman Gray invited discussion by the Board Members.

Vice-Chairperson Clarke confirmed that no front set-back dimensional relief would be needed. She then inquired about the existing two (2) car garage and its usage and emphasized that there should be no intent by the Petitioners to convert either the current or proposed garage into living space. Mrs. Sontag commented that the existing garage would be used for storage and a personal gym. The doors of the existing garage which faces Frank Street would be removed so as to wall-off the structure.

Member Mello confirmed that the proposed construction will be one story with a 2nd floor loft and access to the loft would be from an interior staircase. There would be no heat but it would be wired

for electricity, and be plumbed for the delivery of outside water only. Member Mello mentioned the “odd” shape of the lot and compared the proposed construction similarly to the house across the street. She inquired if the Petitioners could shield the proposed garage and suggested fencing at least eight (8) feet beyond the northwest corner of the proposed garage for the purpose of screening it from Frank Street.

Vice-Chairperson Clarke addressed with the Petitioners the requested loft which would be considered a second floor. After a discussion as to whether to eliminate the second floor, it was decided Mr. Sontag would continue to keep the second floor loft as storage only.

Chairman Gray then summarized the plans of the Petitioners so as to ensure accuracy. To wit: The proposed garage would be angled to face Bow Street and would be constructed approximately 13.5 feet from doors to the existing garage which faces Frank Street. The rear of the proposed garage would face the backyard. The doors of the existing garage would be removed and that side of the existing garage would be walled off. No front set-back dimensional relief would be needed under the circumstances, based on the Plans submitted.

No opposition was received from any members of the public.

A Motion was made to close the Public Hearing Case No. 111-125 and duly seconded. Voted and passed unanimously, 5 – 0.

Vice-Chairperson Clarke made a Motion that the Board find that it could award a Special Permit, as the benefits of the proposed use outweigh the detrimental impacts on the Town and the neighborhood, in view of the particular characteristics of the site, and the proposal in relation to that site. Seconded by Member Mello, voted and passed unanimously, 5-0.

Member Mueller made a Motion to grant the Special Permit under the authority granted to the Board under the Carver Zoning By-law, Section, 5221 and 5300 et. seq., based upon the evidence received at the Public Hearings on this Case, and that this Permit would be subject to conditions. Seconded by Vice-Chairperson Clarke, voted and passed unanimously, 5-0.

A Motion was made to condition the grant of the Special Permit on the following:

- 1.) Subject to the Plans of record;
- 2.) Privacy fence to be constructed within 18 months of the date of the issuance of the occupancy permit for the proposed garage, said fence extending at least eight (8) feet past the northwest corner of the proposed garage;
- 3.) Privacy fence to be at least six (6) feet in height;
- 4.) Access to the 2nd floor of the proposed garage will only be through the interior of the proposed garage;
- 5.) The doors on the current garage will be removed within 18 months of the issuance of an occupancy permit for the proposed garage and that side of the current garage walled off;
- 6.) There will be no water or heat in the proposed garage;
- 7.) The proposed and current garages will not be used as living space.

Duly seconded. Voted and passed unanimously, 5 – 0.

- C. Public Hearing: Case 124-102-2: Petitioner: Matthew Mitko. A Petition was filed seeking a Special Permit pursuant to Sections 2245(c), 2310, 2320 and 5221 and 5300 et. seq. of the Carver Zoning By-law, for property located at 1 Russell Homes Way in Carver, MA (Assessors Map 124 Lot 102-2), to construct a 30 X 45 detached

garage with a 12 X 45 lean-to that will be 12 feet from the side property line (proposed garage 1890 square feet; maximum allowed is 700 square feet; side setback required is 30 feet) in a Residential-Agricultural District.

Matthew Mitko is seeking to build a one (1) story detached garage to be used for storage (i.e. camper, car, tractor, bobcat, equipment). The proposed garage would be wired for electricity and would have a radiant floor. He may also place a wood fired furnace that he would tie into his house. The garage would not be plumbed for water, and will not be used as living space. The area of the lot where the proposed garage is to be built is already cleared. Matthew Mitko stated that the proposed garage with lean-to would be located twelve (12) feet from the property of the abutting neighbor.

Chairman Gray inquired of the peak of the roof and whether there were any plans/drawings of the proposed garage. The Petitioner was unsure of the height of the peak of the roof and acknowledged that he had not brought with him any plans or drawings. Chairman Gray remarked that the size of the proposed garage was larger than some houses in the Town.

Member Mello asked the Petitioner about the 12 X 45 lean-to that would be located 12 feet from the side property line. The Petitioner noted that this was only an option and that it would serve as an over-hanging "roof" to store bikes, lawnmowers, etc. and that this "roof" would consist of the same material as the roof of the proposed garage.

It was determined by the Board that side setback dimensional relief was not necessary under the circumstances of this case.

The Petitioner confirmed that he was not certain he really needed a structure as large as the proposed garage with lean-to and was not sure if an existing shed would have to be removed or relocated if the proposed garage with lean-to were approved.

Chairman Gray again observed that the Petitioner had no plan or drawings, prompted him to continue the Public Hearing so the Petitioner could obtain these for the Board to review.

Vice-Chairperson Clarke asked for a site visit with the proposed footage staked out and she remarked again about the size of the proposed garage.

Member Mello made a Motion to conduct a site visit on December 12, 2020 at 9 A.M. Seconded by Vice-Chairperson Clarke. Voted and passed unanimously, 5-0.

Vice-Chairperson Clarke made a Motion to continue the Public Hearing: Case 124-102-2 to Thursday, December 17, 2020 at 7 P.M. Seconded by Member Mueller. Voted and passed unanimously, 5-0.

- D. Public Hearing: Case 75-10: Petitioner: Lawrence L. Hale for property owned by Scott and Melanie Sample. A Petition was filed seeking a Special Permit pursuant to Sections 2242, 5221 and 5300 et. seq. of the Carver Zoning By-law, for property located at 157 Main Street in Carver, MA (Assessors Map 75-Lot 10), to operate a Home Occupation (Law Office and Real Estate Office) in a Residential Agricultural District.

Chairman Gray began the Public Hearing by noting for the record that, to his knowledge, he and the Petitioner are the only active full-time attorneys in the Town of Carver and are personally acquainted and have a professional relationship. Chairman Gray voiced no actual conflict of interest, but to avoid any apparent conflict of interest he recused himself from sitting on this Case out of an abundance of caution. Vice-Chairperson Clarke then conducted the Public Hearing as to this Case.

Vice-Chairperson Clarke initiated the Public Hearing by noting there was only a four (4) Member Board present and that a unanimous decision from the Board would be needed in order to grant the relief requested. The Petitioner voiced no opposition and agreed to continue with the Public Hearing.

The Petitioner is seeking to purchase a house, currently under agreement, and to operate therein a Home Occupation (Law Office and Real Estate Office) in a Residential Agricultural District. The Petitioner noted that only he and his wife would be employed in these businesses. He would have clients in a waiting room or area only very infrequently. He stated that there was an abundance of off-street parking for clients as well as for him and his wife. There would be no inconvenience to the community. He would have a non-lit sign potentially for both businesses. The hours of operation would be from Monday through Saturday, 9 A.M. – 5:30 P.M. The area where these Home Occupations would be conducted would have heat and air conditioning. The Petitioner noted the closing date for him to take title to the subject property is on or before January 29, 2021.

No opposition was received or voiced from any members of the public.

A Motion was made to close the Public Hearing Case 75-10 and duly seconded. Voted and passed unanimously, 4 – 0.

Member Mello made a Motion for the Board to find that it could award a Special Permit as the benefits of the proposed use outweighed the 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 Member Mueller. Voted and passed unanimously, 4-0.

A Motion was made, duly seconded, and voted unanimously to grant a Special Permit under the Carver Zoning By-law, Sections 2242, 5221, and 5300 et. seq. based upon the evidence received at the Public Hearing this date.

A Motion was made to condition the grant of the Special Permit on the following:

- 1.) A sign not greater than 3 square feet, unless otherwise authorized;
- 2.) Hours of operation to be Monday through Saturday from 9 A.M to 5:30 P.M.

Duly seconded. Voted and passed unanimously, 4 – 0.

E. Correspondence:
None

F. Next Zoning Board of Appeals Meeting:
a. Thursday, December 17, 2020 at 7 P.M.

G. Adjournment:

Alternate Member DiCarli made a Motion to Adjourn. Seconded by Vice-Chairperson Clarke. Voted and passed unanimously, 5-0

Meeting adjourned at 8:17 P.M

Respectfully submitted,

Kelly DiCarli