



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

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

approved
5/4/21

Meeting Minutes of April 6, 2021

@ 7:00 PM

Via Zoom

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

Also present: Alternate Member and Recording Secretary, Kelly DiCarli

Meeting Opened: 7:01 P.M.

A. Minutes: Reviewed Minutes of March, 2, 2021

Member Poirier made a Motion to accept the Minutes of March, 2, 2021, as written. Seconded by Member Mueller. Voted and passed unanimously, 4-0-1.

Member Mello abstained.

B. Public Hearing: Case 61-6-3: Petitioner: Brian Hubert. A Petition was filed seeking a Special Permit pursuant to Sections 2245(c), 5221, and 5300 et. seq. of the Carver Zoning By-law, for property located at 49 Main Street in Carver, MA (Assessors Map 61 Lot 6-3), to construct a 30 X 24 detached garage with a 10-foot apron with awning (proposed garage is 720 square feet; maximum allowed is 700 square feet) in a Residential-Agricultural District.

Petitioner Brian Hubert and his wife, Elizabeth Hubert, testified that they are seeking to construct a 30 x 24 detached garage with a 10-foot apron with awning which will be used to store tractors and other equipment so as to protect them from the weather. This garage will not be used for residential space. The garage will have electricity, but no inside plumbing (spicket outside), no current plans for heating (however potential in the future), concrete flooring below the awning with no intention to enclose this space, and they also stated that the peak of the garage will appear to be lower than the height of the house which is said to sit on a hill.

The Petitioner noted there was no opposition from neighbors and no difference in driveway curb cut.

One corner of the proposed garage would be 63.1 feet from the street and the other corner 61.8 feet from the street. To be even with the front of the house, the proposed garage would need to be pushed back 26.7 feet. The Petitioner noted that the proposed garage could not be sited to the rear of his house, as a horse paddock was already there and access would need to be from the opposite side of his front property on which his septic is located. The Petitioner also explained that, despite the fact that his property consisted of 1.73 acres, it sits in front of a cranberry bog. If a garage were to be proposed to be constructed at the rear of his property, he would be concerned about possible wetland and buffer zone issues.

Member Mello observed that because the proposed garage would be sited in front of the house, the Petitioner might require zoning relief consisting of 26.7 feet which is the distance between the proposed garage and the front of the house.

Member Mueller inquired about any topographic issues with the property. The Petitioner noted the land slopes down but there are no significant changes in elevation. Water on the property follows the driveway and carries downward to the cranberry bogs at the rear.

Chairman Gray asked why the possible need for setback relief was left off the petition. He noted his concern that all zoning relief requests needed to be documented on the application so that accurate publication notices could be posted.

Vice-Chairperson Clarke drew the attention of the Board to By-law 2245 (b) and suggested that setback zoning relief may not be necessary, per the provisions of this particular sub-section.

Member Mello suggested a site visit, to which Chairman Gray agreed.

Chairman Gray discussed further the plan of the Petitioner for a concrete foundation below the awning. He inquired of the Board generally if this square footage needed to be included in the overall square footage of the proposed garage, as there would be a "hard" floor with footing, not just a dirt or stone floor. If so, he observed that the concrete flooring would constitute an additional 10 x 24 (240) square feet. Chairman Gray concluded in sum that the Petitioner would likely require a Special Permit allowing the proposed garage with apron/awning of 960 square feet (relief of 260 square feet) rather than the 720 square feet as appearing in the Application (relief of 20 feet).

Chairman Gray made a Motion to continue the Public Hearing: Case 61-6-3 to May 04, 2021 at 7 P.M., which Motion was duly seconded, voted and passed unanimously, 5 – 0.

Member Poirier made a Motion to conduct a site visit on April 17, 2021 at 9 A.M. Seconded by Member Mello. Voted and passed unanimously, 5 - 0.

C. Public Hearing (continued): Case 33-9-A-R: Petitioner: Brian Mahan. A Petition was filed seeking a Special Permit pursuant to Sections 2245(c), 5221, and 5300 et. seq. of the Carver Zoning By-law, for property located at 81 High Street in Carver, MA (Assessors Map 33 Lot 9-A-R), to construct a 40 X 60 square foot detached garage with a 10 X 60 square foot lean-to (proposed garage without lean-to is 2,400 square feet; maximum allowed is 700 square feet) in a Residential Agricultural District.

Chairman Gray initiated the discussion by asking the Petitioner if he had any new information pertaining to his project that he wanted to discuss with the Board Members (following the site visit of March 20, 2021).

The Petitioner noted that, due to increased materials cost, he was "forced to down-size" the proposed garage to 36 x 48 (originally 40 x 60). The proposed garage may now be a steel structure instead of the "pole type" discussed originally and may have only one (1) bay door instead of the two (2) as planned previously. It will still include a "lean-to" which will now be 10 x 48 and will have a gravel/stone floor. The interior space of the proposed garage will be approximately 1728 square feet.

Chairman Gray clarified that the Petitioner was seeking a Special Permit due to the fact that the proposed garage was now 1728 square feet (maximum allowed is 700 square feet, per By-law 2245 (c), thereby requiring permitting of an additional 1028 square feet.

The Petitioner reiterated that the proposed garage will include heat and electricity inside but no plumbing. He would still need to do some tree clearing on account of where his proposed garage will be sited but that his property would remain heavily treed and also along the side boundaries.

The Petitioner testified that he had reached out to Kevin Fogue, the Town of Carver Health Agent, and was told allegedly that the site of the proposed garage would not be a problem in view of the location of the well on the property.

Chairman Gray inquired of the Petitioner if he still needed a structure this large, even though it had been downsized somewhat. The Petitioner indicated in the affirmative, as he needed the space for work equipment, machinery, his van, and the vehicle of his wife. He stated that the proposed garage will not be used for business or commercial enterprise purposes that would be run from the garage.

Vice-Chairperson Clarke suggested to condition any grant of a Special Permit on the fact that the proposed garage not be used for commercial purposes run out of the garage.

Board Members who had attended the site visit mentioned that they had observed that the proposed garage would be difficult to observe from the street, due to the topography of the lot.

A Motion was made to close the Public Hearing and duly seconded. Voted and passed unanimously, 4-0-1. Member Mello abstained. Member Mueller had left the meeting at this point due to a prior commitment.

Member Poirier 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 Vice-Chairperson Clarke, voted and passed unanimously, 4-0-1. Member Mello abstained.

Vice-Chairperson Clarke 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 the Permit would be subject to certain conditions. Seconded by Vice-Chairperson Clarke, voted and passed unanimously, 4-0-1. Member Mello abstained.

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

It is understood that the proposed single-story garage is not to exceed 36 x 48 square feet, together with a 10 x 48 square foot lean-to (the floor of which will be dirt or stone and, therefore, will not be counted in the square foot calculation).

Also:

- 1.) The proposed garage will not be used for commercial or business enterprises;
- 2.) The proposed garage is not to be used for residential purposes/living space;
- 3.) The proposed garage will have a peak not to exceed 22 feet;
- 4.) The proposed garage will have no inside plumbing;
- 5.) The proposed lean-to is not to be enclosed.

Duly seconded. Voted and passed unanimously, 4-0-1. Member Mello abstained.

Vice-Chairperson Clarke summarized that the Decision of the Board is filed in the Office of the Town Clerk. Any person aggrieved by the Decision may appeal to a court of competent jurisdiction pursuant to M.G.L. c 40A, within 20 days of the date that the Decision is filed in the office of the Town Clerk. At the end of the 20 days, if no one has appealed, the Petitioner may pick up a certified copy of the Board's Decision at the Town Clerk's office and would need to record a copy of the Decision of the Board at the Plymouth County Registry of Deeds. Once the Decision is on record, the Building Department can issue the Building Permit.

D. Correspondence:

Chairman Gray noted a typo in a past Zoning Board of Appeal decision case (by reference: Case #: 111-125, 20 Bow Street). He mentioned this typo has since been corrected but because it was a Town responsibility, it will pay for a new recording fee at the Plymouth County Registry of Deeds.

Chairman Gray noted Town elections will be held on April 24, 2021 and encouraged the public and Board Members to vote.

It was also mentioned that the next Town meeting will be held on April 13, 2021 at which time the Town Warrant Articles will be discussed.

E. Next Zoning Board of Appeals Meeting:

Tuesday, May 04, 2021, at 7 P.M.

F. Adjournment:

Chairman Gray made a Motion to Adjourn. Seconded by Vice-Chairperson Clarke. Voted and passed unanimously, 5-0

Meeting adjourned at 856 P.M

Respectfully submitted,

Kelly DiCarli