



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

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

Meeting Minutes of Tuesday, May 04, 2021

@ 7:00 PM

CARVER TOWN HALL

MEETING ROOM #4

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: 7:03 P.M.

A. Minutes: Reviewed Minutes of April 06, 2021

Member Poirier made a Motion to accept the Minutes of April 06, 2021 as written. Seconded by Member Mueller. Voted and passed unanimously, 6-0

B. Public Hearing (**continued**): 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.

Chairman Gray confirmed a site visit was conducted as scheduled on Saturday April 17, 2021 at 9 A.M.

Chairman Gray summarized the Petitioners request for special permit which included: a 30 X 24 detached garage with a 10-foot apron concrete footing/pad, single story garage with an estimated eighteen - twenty feet (18-20) peak. The garage will be used for storage which would include electricity, heating, and an outside spicket, however no inside sanitation facility. The Petitioner unable to build the garage on rear side of property because of a horse paddock and septic tank is located near front of property.

Chairman Gray invited discussion by the Petitioner. No further comments, concerns, or issues were communicated.

Chairman Gray invited discussion by the Board Members regarding variance relief and the special permit. The variance relief in question would either be 20 square foot (not including the footing extension) or a 260 square foot (includes the footing extension floor of garage to incorporate as part of square footage) Chairman Gray noted the Board Members need to formulate a policy due to nothing in the Town of Carver bylaws incorporating this concern.

Member Mello remarked given the house is 88.5 feet from the road, the Petitioner will need a variance relief of twelve (12) feet toward the house, which pertains to the Carver Bylaw 2245B (Dimensional Regulation: Accessory Uses).

Member Mueller noted he would not consider the awning as extra square footage. He noted there are not walls, containment, and not considered living space.

Member Mello concurs with Member Mueller not to include the awning as part of square footage as it will not be enclosed.

Member DiCarli noted past situations that resembled this concern and ideally to keep consistency of Board Members decisions.

Member Mello noted the Zoning Board of Appeals has not had a garage with awning they considered a piece of the garage.

Vice-Chairperson Clarke noted per the application, the building department did not count the awning as part of garage square footage.

Member Poirier agrees with the Board Members not to count awning as the garage square footage

A Motion was made to close the Public Hearing and duly seconded. Voted and passed unanimously, 5 – 0

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 Member Mello, voted and passed unanimously, 5-0.

Member Mueller made a Motion to grant a variance owing to circumstances relating to the soil conditions, shape and/or topography of the structures or lot, but not affecting the district generally, a literal enforcement of the provisions of the Bylaw would involve substantial hardship to the petitioner. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw. Seconded by Member Poirier, voted and passed unanimously, 5-0.

Member Poirier made a Motion that the Board found that the total square footage of the proposed construction is 720 square feet, as the apron with awning would not be enclosed and would be open on three (3) sides. In making this determination, the Board was guided by the definition of "Gross Living Area," as it appears in Article VI of the Town of Carver Zoning By-laws. Seconded by Member Mueller, voted and passed unanimously, 5-0.

Member Poirier 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 Member Mueller, voted and passed unanimously, 5-0.

Member Mello made a Motion to grant a twelve (12) foot variance from the Town of Carver Zoning Bylaws, Section 2245 (b), front setback requirement, owing to the shape of the lot. Seconded by Member Poirier, voted and passed unanimously, 5-0

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

1. The apron with awning will not be enclosed and, should the Petitioner wish to do so at some indeterminate time in the future, it will be necessary for him to seek a modification of this Decision.
2. There will be no sanitary facility (i.e., bathroom) inside the garage.
3. Subject to the Plan of record.

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

- C. Request by the Carver Redevelopment Authority for six (6) month extension of time for Variance granted previously in Case 1-8 for property located at 0 North Main Street, Carver, MA, Assessor's Map 49-Lot 61, in the General Business District.

Vice-Chairperson Clarke will be recusing herself from tonight's vote.

Sharon Clarke; Representative and Chairperson of the Carver's Redevelopment Authority (RDA) is seeking a six (6) month extension of time for a variance previously granted. The variance was initially granted on September 23, 2019 to which the frontage variance was required to make the parcel marketable under current By-law. Under Chapter 40A, Section 10 of the Zoning Act, the granted variance must be initiated within one year of decision. The variance lapse on September 23, 2020. During COVID, Massachusetts relaxed these deadlines and has not officially-reinstated them.

Ms. Clarke noted the six (6) month extension is pivotal to facilitate the sale of this lot. Ms. Clarke noted there is a potential buyer (Jack Williams) for the lot and expected to close around June 30, 2021 for the cost \$150,000.00. Ms. Clarke noted the buyer has six (6) months to get a building permit.

Chairman Gray noted that variances can be extended for six (6) months due to statute of limitations. However, there is only a one (1) extension. Chairman Gray noted to grant condition of Purchasing and sales agreement receipt once signed by the RDA.

Member Mueller made a Motion to grant the variance six (6) month extension in case number Case 1-8 for property located at 0 North Main Street, Carver, MA, Assessor's Map 49-Lot 61 from date of receipt of purchasing and sales agreement by RDA. Seconded by Member Poirier, voted and passed unanimously, 5-0

- D. Correspondence:

Email from Jim Walsh; Director of the Planning Board concerning possible request for advisory opinion from The Board.

- E. Next Zoning Board of Appeals Meeting:

a. TBD

- F. Adjournment:

Member Poirier made a Motion to Adjourn. Seconded by Member Mello. Voted and passed unanimously, 6-0

Meeting adjourned at 8:10 P.M

Respectfully submitted,

Kelly DiCarli