



# TOWN OF CARVER

## ZONING BOARD OF APPEALS

108 Main Street  
Carver, MA 02330

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

### MEETING MINUTES MAY 12, 2015

**Posted in Accordance with the Provisions of M.G.L. Chapter 30A, Section 20B.**

The Carver Zoning Board of Appeals held a meeting on Tuesday, May 12, 2015, at 7:00pm, in the Carver Town Hall, Meeting Room #4, 108 Main Street, Carver, Massachusetts.

**PRESENT:**

Stephen G. Gray, Chair; Sharon Clarke, Vice-Chair; Eric Mueller; James Nauen; Fran Mello.

**ABSENT:**

Steven Maynard

**ALSO PRESENT:**

Robert & Nicole Perry; Micki & William Quinn; Jason & Kerri Virden; Christine Walker; Daniel Forand; M. Doll-Clerk

Chairman Stephen Gray opened the meeting at 7:03pm.

**OLD BUSINESS – Discussion and possible vote**

- A. PUBLIC HEARING, Case No. 15-967 (continuance):** Petitioners: Robert D. Perry and Nicole M. Perry, 5 Snappit Road, Carver MA. The Petitioners are seeking a Variance from Sections 2260, 2262, and 2320 of the Carver Zoning By Laws to convert an existing barn into an accessory apartment at 5 Snappit Road, Carver MA; Map 34 Parcel 5. Relief is being requested to have a detached accessory apartment and to exceed the minimum square footage and to exceed the height restrictions for an accessory apartment.

Mrs. Perry requested a 30 day continuance to allow time for further review of options with his surveyor. Mr. Gray urged the Petitioners to contact the Building Commissioner, Mary McNeil, to include her in discussions, as Ms. McNeil will be making the decision on any changes that might require relief from the zoning bylaws.

No testimony or evidence was presented.

**MOTION:** by Mr. Nauen to continue Case 15-967 until June 9, 2015, without prejudice

**SECOND:** by Mr. Mueller

**APPROVED UNANIMOUSLY**

Chairman Gray announced remaining Cases to be taken out of order.

**NEW BUSINESS – Discussion and possible vote**

**A. PUBLIC HEARING, Case No. 15-970:** Petitioners: Jason and Kerri Virden, 77A Wenham Road, Carver MA. The Petitioners are seeking a Special Permit and Variance under Sections 2253 and 2245 of the Carver Zoning By Laws for a 20' x 24' detached two story accessory structure (garage) on block foundation with footing at 77A Wenham Road, Carver MA; Map 99 Parcel 9. Relief is being sought from the minimum 10 (ten) foot setback requirement for accessory structures.

The Petitioners, Jason Virden and Kerri Virden, presented testimony regarding the proposed structure, a garage. Mrs. Virden started by noting an increase in the variance needed per the survey and plan prepared by Maddigan Land Surveying of Middleborough, MA, dated April 21, 2015. They believed originally that they needed only one foot (1') of relief, but the survey plan shows three and one half feet (3.5') was needed. Ms. Clarke offered that such dimensional discrepancies are the reason a survey plan is required by the Board. It is an extra expense for the Petitioners, but errors that could have a great effect on outcomes are avoided.

Ms. Clarke questioned the Petitioners about the adjacent properties, septic, utilities and plans for a 2<sup>nd</sup> floor of the garage. The Virdens confirmed that the 2<sup>nd</sup> floor would be a loft area for storage with a pull down stairwell and solid floor. No plumbing or electrical is planned to be installed.

Ms. Mello asked for details concerning the previous variance granted in 2004 relative to the subject property (ZBA Case #794). Ms. Clarke concluded that the Building Commissioner would have notified the Board of any pertinent conditions relative to that case. Ms. Mello inquired if the 10' dimensional side yard setback requirement for accessory structures included overhang. The petitioners were advised that dimensional requirements were measured from the location of the footing.

Mr. Mueller asked if the peak of the garage would exceed that of the home; he was advised it would.

It was discussed that the home was built prior to zoning regulations and that, therefore, a Special Permit might not be necessary as the submitted plans did not increase a non-conformity. Nonetheless, Ms. Clarke suggested approving the request for a Special Permit so that the Petitioners would not encounter any issues going forward.

Mr. Gray reviewed the role of the ZBA with the Petitioners, to wit: to make decisions based on all applicable laws and local bylaws. In order to grant a variance, it is necessary for petitioners seeking variances to demonstrate to the Board that, owing to circumstances relating to soil conditions, shape, or topography of the land or structures, but not affecting the district generally, literal enforcement of the provisions of the pertinent bylaw would cause substantial hardship to them and that relief could be granted without substantial detriment to the public good and without derogating from the intent or purpose of the bylaw. In this case, he stated that the lot was encumbered by the placement of the utilities and septic and that this factor impacted soil conditions and appeared to justify the need for the variance from the side yard setback requirement of 10 feet for accessory structures.

Plans were submitted, prepared by Behm Design, Job #480-2A, entitled "Garage Plan," showing the proposed structure. Again, the Petitioners stated that the proposed structure was sited with consideration of the limiting factors of utility and septic placement on the subject lot.

There were no other people present to speak in favor or against the petition.

A motion was duly made and seconded to close the hearing. The hearing was closed.

**MOTION:** by Ms. Clarke to approve the relief requested in Case 15-970

**SECOND:** by Mr. Nauen

**APPROVED UNANIMOUSLY**

**B. PUBLIC HEARING, Case No. 15-969:** Petitioners: Micki and William Quinn, 35 Bakers Pond Road, Orleans MA. The Petitioners are seeking a Special Permit pursuant to Section 2230 of the Carver Zoning By Laws for an agricultural use not exempted by MGL 40A, Section 3 at 53 Main Street, Carver MA; Map 61 Parcel 4. The Special Permit being requested is to allow an agricultural use not exempted by MGL 40A Section 3 on less than 5 (five) acres.

Mr. Quinn submitted, for the record, a letter from the Carver Board of Assessors, dated May 12, 2015, certifying that the original abutters list, dated April 7, 2015, has not changed. Mr. Quinn also noted that the scale of drawings, created by Civil Engineer Robert W. Crowell, is 30 to 1.

The Petitioners desire to erect a six (6) horse barn and riding facility. Ms. Quinn owns four (4) horses and plans to offer boarding to two (2) additional horses so as to help defray expenses. She will also offer lessons in riding and care of horses. The intended lot is only 2.49 acres, which does not appear to meet the 5 acre minimum requirement under the circumstances of this case.

Mr. Mueller asked if there were any structures on the property currently. There is a seven hundred (700) square foot log cabin and single car garage with no door. Ms. Mello inquired regarding intentions for the existing buildings. The Petitioners stated that the buildings would remain and that Ms. Quinn would renovate and live in the cabin.

The Plan consists of a 60' x 120' fenced-in area for lessons; a 60' x 30' barn consisting of six (6) stalls and a feed/tack room. The barn will have a handicap accessible restroom and six (6) 20' x 40' paddocks.

Ms. Clarke asked about plans for manure storage and removal. Mr. Quinn advised that there would be a 6' x 10' dump trailer housed on the property for this purpose and regularly scheduled removal.

Ms. Clarke asked about the hours of business, staffing and trails. Ms. Quinn works 2<sup>nd</sup> shift for the Barnstable House of Correction. Her schedule is 4 days on and 2 days off. She will have lessons on Saturday mornings and possibly one weekday afternoon. There will be no employees; there will be only individual student lessons. Boarders will be allowed to ride at will. Ms. Quinn intends to inquire of bog owners for permission to ride on trails.

Mr. Quinn noted that the property is densely wooded and will not be cleared. Trees will be cut selectively, as shaded areas are necessary for the comfort of the horses.

Ms. Clarke noted concerns as to local bike trails and the planned installation of sidewalks along Route 58. She wanted to schedule a site visit. Ms. Mello would want a site visit. Mr. Mueller was concerned about the vegetation and felt a site visit would help.

Mr. Gray asked about the driveway, traffic and available parking. He was told that the driveway is paved, that space would be set aside for parking, and that there would be trailers and other oversized vehicles; i.e. hay truck and one ton flatbed truck. Mr. Gray inquired about utilities. He was advised that there would be little exterior lighting. Plumbing would include that for the required handicapped restroom and a hydrant style water supply for the horses with no interior bathing area.

The audience was invited to make comments.

Daniel Forand, Brook Street, introduced and distributed a copy of MGL Chapter 40A, Section 3.

Per Mr. Forand, horses (or equiculture) are covered under the definition of agriculture per MGL Chapter 128. He also stated that zoning relief was not necessary, as MGL Chapter 40A, Section 3 indicates that the proposed use is allowed if the property is greater than 2 acres.

Ms. Clarke stated that this information would need to be properly vetted.

Elizabeth Hague of 1 Lee Way operates a horse farm off Purchase Street which houses 14 horses. She says there are no traffic issues. Ms. Clarke noted that Main Street is a County Highway with a higher volume of traffic than Purchase Street.

Mr. Forand asked if there was a way to streamline the process to accommodate the Petitioners time constraints. Mr. Gray advised the Petitioners to contact the Building Commissioner, Mary McNeil, to review the new information and if Ms. McNeil's opinion changes that the Petitioners required zoning relief, she would advise the Zoning Board of Appeals in writing.

Mr. Gray advised the Petitioners that they would be notified of any change and their Application fee would likely be returned, if relief was not needed due to new evidence.

Christine Walker, Jack Conway Real Estate, advised the Board that the property is vacant and the Board is welcome to visit at anytime.

A site visit was scheduled for Saturday, May 30<sup>th</sup> at 9:00am.

**MOTION:** by Ms. Clarke to continue Case 15-969 to June 9<sup>th</sup>, 2015 without prejudice

**SECOND:** by Mr. Mueller

**APPROVED UNANIMOUSLY**

**D. MINUTES – April 14, 2015 - Discussion and vote**

**MOTION:** by Mr. Nauen to accept minutes of April 14, 2015, as written.

**SECOND:** by Mr. Mueller.

**APPROVED UNANIMOUSLY**

**E. ADJOURNMENT**

**MOTION:** by Ms. Mello to adjourn

**SECOND:** by Ms. Clarke

**APPROVED UNANIMOUSLY**

**The Carver Zoning Board of Appeals meeting was adjourned at 8:21pm on May 12<sup>th</sup>, 2015.**

**Table of Documents**

- Exhibit 1 Meeting Agenda
- Exhibit 2 ZBA Application of Robert and Nicole Perry
- Exhibit 3 ZBA Application and Plans of Jason and Kerri Virden
- Exhibit 4 ZBA Decision Case #794
- Exhibit 5 ZBA Application and Plans of Micki Quinn
- Exhibit 6: M.G.L. Chapter 40A, Section 3
- Exhibit 6 Meeting Minutes of April 14, 2015
- Exhibit 7 Sign-in Sheet