



TOWN OF CARVER

ZONING BOARD OF APPEALS

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MEETING MINUTES JUNE 16, 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, June 16, 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; Steven Maynard; Fran Mello; Eric Mueller; James Nauen

ALSO PRESENT: Robert Perry; Micki & William Quinn; Madeleine Pompei-Clerk

Chairman Stephen Gray opened the meeting at 7:00pm.

OLD BUSINESS – Discussion and possible vote

- A. PUBLIC HEARING, Case No. 15-967 (continuance):** Petitioner: Robert D. Perry and Nicole M. Perry, 5 Snappit Road, Carver MA. The petitioner is 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.

Mr. Gray remarked this is the third time on the agenda for this case. The original request from April has changed and there are legal requirements regarding publishing and posting that will not be met due to the changes requested. Ms. Clarke remarked the original notice posted and published was very specific, the changes are going to require a new application. Mr. Perry voiced his complaint that he had spoken with the Building Inspector and with the Board of Health and was informed no new application was necessary. Mr. Gray apologized to Mr. Perry for the inconvenience and suggested he speak with the Building Inspector at 8:00am Wed. 6/16.

MOTION: by Ms. Clarke to close the Public Hearing for Case No. 15-967

SECOND: by Mr. Nauen

APPROVED UNANIMOUSLY

MOTION: by Mr. Mueller to withdraw Case No. 15-967

SECOND: by Mr. Nauen

APPROVED UNANIMOUSLY

B. PUBLIC HEARING, Case No. 15-969 (continuance): Petitioner: Micki and William Quinn, 36 Bakers Pond Road, Orleans MA. The petitioner is 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 acres.

Mr. Gray thanked both Micki Quinn and William Quinn for participating in the site walk which took place on May 30, 2015; it was a useful exercise.

Mr. Gray also stated that some remarks were made during the public comment period of the last meeting where people claimed that the Zoning Board of Appeals had no jurisdiction over this case due to the local Right to Farm Bylaw. Mr. Gray reviewed the state law which would trump any local bylaw. His findings: the Carver Zoning Board of Appeals is well within its rights to proceed on the merits of the case, as certain fact-finding still needs to be undertaken by the Board, per MGL c 40A, Section 3.

Although the Town of Carver encourages farming, two issues must first be addressed before exemption from local bylaws can be determined.

Pursuant to the fact-finding required by G.L. c. 40A, Section 3, Mr. Gray first asked Ms. Quinn if this property was to be used for the primary purpose of agriculture. Ms. Quinn replied in the affirmative. Riding lessons are to be given on site. Customers can own or lease the animals. Lessons are to be given in the care of horses from top to bottom. The primary use for the property is for a riding school. There is a little house on the property. She will live there. Mr. Maynard asked how much income would be generated. Ms. Quinn could not give an exact figure but stated one horse stall is \$500 per month to rent. She will have two stalls to start and is sure they will fill quickly. Based on this information, Mr. Gray stated there was also a likelihood this case could satisfy the second condition set forth in MGL c 40A, Section 3, that is, for parcels of two acres but less than 5 acres, the petitioner must likely generate income of at least \$1,000.00 per acre from the "sale of products" based on gross sales dollars. Based on the evidence, he stated that it appeared that the barn alone would generate \$12,000 per year. Adding lessons may bring in an additional \$8-\$16,000. Ms. Quinn stated lessons on the Cape are \$65 per hour. Her lessons would be less expensive in Carver but the expected grain cost would be less as well.

Mr. Gray asked Ms. Quinn if she had a military commitment. Ms. Quinn replied she had served six years plus a year in the National Guard. Someone in Town Hall had raised this issue and may have misunderstood her current status. Ms. Mello asked how many years Ms. Quinn had been earning a living teaching riding. Ms. Quinn replied she has been managing stables for 10-11 years, since she left the military. Mr. Gray asked about her income last year. Ms. Quinn replied around \$20,000.00.

The meeting was then opened for public comment. Robert Belbin, 26 Gate Street, asked if the horse area was larger than the house. Ms. Quinn replied the barn is about 1.5 times the size of the house on the property. There were no other public comments.

Mr. Gray stated it appeared to him this property was exempt under G.L. c 40A, Section 3. Ms. Clarke remarked the business would be a perfect use of the space; Mr. Nauen commented it would be a good addition to the community. There was some question about what to do since relief was unnecessary in this case. Mr. Mueller stated the Board should issue a decision but no approval was necessary.

MOTION: by Mr. Nauen to close the Public Hearing

SECOND: by Mr. Mueller

APPROVED UNANIMOUSLY

MOTION: by Ms. Clarke that the Board finds, due to the particular facts presented in this specific case, a decision letter should be issued stating that the subject property is exempt pursuant to the provisions of MGL c 40A, S3.

SECOND: by Mr. Nauen

APPROVED UNANIMOUSLY (Mr. Maynard not voting)

C. MINUTES – May 12, 2015 - Discussion and vote

MOTION: by Mr. Mueller to accept minutes of May 11, 2015, as written.

SECOND: by Ms. Clarke.

APPROVED UNANIMOUSLY

D. ADJOURNMENT

MOTION: by Mr. Nauen to adjourn

SECOND: by Ms. Mello

APPROVED UNANIMOUSLY

The Carver Zoning Board of Appeals meeting was adjourned at 8:05pm on June 12, 2015.

Table of Documents

Exhibit 1 Meeting Agenda

Exhibit 2 Email June 16, 2015, re: G.L. c. 40A pertaining
to Case 15-969

Exhibit 3 Meeting Minutes May 12, 2015

Exhibit 4 Sign-in Sheet