

TOWN CLERK
CARVER ZONING BOARD OF APPEALS

February 13, 2014

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The Carver Zoning Board of Appeals held a public hearing on Thursday, February 13, 2014, at 7:00 p.m. at the Carver Town Hall.

IN ATTENDANCE: Stephen Gray, Chairman; James F. Nauen; Steven Maynard; Walter Collins; Fran Mello

ABSENT: Sharon Clarke

ALSO PRESENT: Deborah Carlino, Clerk; members of the public

Case No. 13-963 Petitioner: Farowk Ahmed of 2 Boulton Street, Carver, Massachusetts, regarding property located at 249 Tremont Street, Carver, Massachusetts (Carver Gas). The applicant is seeking a Variance and/or Special Permit under Section 2253 -- used car dealership five car license. The Petitioner would like to expand the current non-conforming use (gas station) to allow used cars. The property is zoned Village District, in accordance with Town of Carver Assessors Map 8, Lot 9-0.

Ahmed Ahmed, the son of the Petitioner, Farowk Ahmed, advised the Board that they were looking to expand their current business, to wit: a gas station/convenience store to include selling up to five used cars. The parking of the five cars would be on the south side of the property. They are willing to locate the cars in the rear if requested. They are trying to remain competitive in a tough economy.

Mr. Collins asked about the number of parking spaces located on the site.

Mr. Ahmed noted that there were several parking spaces along the side, together with the required handicap parking space. No repairs are conducted on site. There will be no additional lighting on the property.

George Lauriat of 248 Tremont Street noted that he was not worried about the five cars but was concerned with the variance. He had a question about the village district requirements. He suggested that the Board actually walk the site. He had worries about traffic in the immediate area in view of the layout of the streets. Also, he was concerned that, if a special permit is allowed that it might set a precedent.

Roberta DeCoste stated that she believed any traffic concerns were a DPW issue. If it is a dangerous intersection then it is the responsibility of the Town to fix it. She stated that this is a great family business and they are very good neighbors. If anyone else wanted to come for a variance or special permit, then that would be a matter that would need to be addressed at that time by the Board.

Joe Barsano of 251 Tremont Street stated that he does not feel that the addition of five cars is an issue. Tremont Street is a 25 mph zone and there are no traffic issues in his opinion. The number of people that will be looking at these cars will not be a burden to the neighborhood. There is always traffic at this site and adding five cars should not become a problem.

Sharon Barsano of 251 Tremont Street feels that there is plenty of room for the parking of the cars at the site. The adding of five cars will only enhance the business viability of the property. She cannot think of a single argument against this petition.

Mr. Lauriat spoke about the traffic issue on Tremont Street and the number of nearby accidents that he has observed in this area. He would suggest an altered layout of certain property lines vis a vis Church Street.

Chairman Gray asked about the signage and commented that this would be through the Planning Board. He also remarked that each case is reviewed individually. In his opinion, the request for the used car license would not be substantially more detrimental than the existing non-conforming use to the neighborhood.

Richard Serkey, Esquire spoke on the questions raised by Member Collins about the nonconforming use in the Village District. Mr. Serkey stated that this is a pre-existing nonconforming use and can be allowed as it is grandfathered.

A motion was made and voted unanimously to close the public hearing.

- MOTION: by Mr. Maynard to approve the application for a special permit subject to the following:
1. That no more than five cars be for sale at one time. Parking of one car can be located on the south side of the existing building and the other four shall be parked in the rear of the property.
 2. There will be no repair work done on site.
 3. There will be no additional lighting installed at the site.
 4. Any requested signage shall be permitted by the Planning Board.
 5. In the event that the small shed located on site requires a Building Permit, the Petitioner shall seek same.

SECOND: by Mr. Nauen
UNANIMOUSLY VOTED

CONTINUED PETITION:

Case No. 13-962 Petitioner: Jamie Emerson of P.O. Box 598, Carver, Massachusetts, regarding property located at 85 Center Street, Carver, Massachusetts. The applicant is seeking a Variance and/or Special Permit under Section 2340 (rear lots) because contiguous properties were not held in common ownership as of May 4, 1998. The property is zoned Residential/Agricultural District, in accordance with Town of Carver Assessors Map 101, Lots 2B and 11.

Chairman Gray noted that a site visit was held on Saturday, February 8th and those in attendance were Gray, Collins, Mueller, Nauen, Clarke, Mello; Maynard viewed the site later that day. Also present at the site visit were Atty. Serkey and Mr. Emerson.

Atty. Serkey explained that this was not a self-imposed hardship situation because his client is combining land with other land that he already owns. His client needs a variance under Section 2344 of the Bylaw because the property was not in common ownership as of May 4, 1998. He acquired the tract of land and then entered into an agreement to purchase the rear lot (Parcel #3). Now his client is coming

before the ZBA to request rear lot relief so that a single family dwelling can be constructed on Parcel #2 with Parcel #3 as the rear lot.

Atty. Serkey asked the Board to consider the fact that the property is unique because, in his opinion, there is not a rear lot similar to this request anywhere else in the neighborhood. He also reminded the Board that the Planning Board had expressed a favorable opinion insofar as the requested variance was concerned. Finally, it was noted that the applicant had purchased many distressed properties in town and had cleaned them up.

Mr. Collins thanked the applicant for cleaning up the property. However, putting two houses on the two lots is cost negative if there are children.

Mr. Mueller stated that what was removed vs. what is there now is a definite positive.

Mr. Emerson stated that his purchase of Lot #1 and Parcel #2 would not make fiscal sense for him unless his request for a variance were granted so that he could build another single family dwelling. If the Board were not to grant the required variance this would cause him substantial financial hardship.

A motion was made and voted unanimously to close the public hearing.

MOTION: by Mr. Nauen to approve the application for a Variance under Section 2344, subject to the following:

1. That this variance is granted contingent upon the purchase of the rear lot (Parcel #3);
2. That natural fencing and/or shrubbery be planted or remain along the side and rear lot lines;
3. That the proposed new dwelling be limited to three bedrooms with the understanding that there will not be any increase in this number;
4. Subject to the plans of record as submitted into evidence.

SECOND: by Mr. Collins
UNANIMOUSLY VOTED

Respectfully submitted,
Deborah Carlino, Clerk