



TOWN OF CARVER

ZONING BOARD OF APPEALS

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ZONING BOARD OF APPEALS MINUTES JANUARY 13, 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, January 13, 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.

ABSENT: Walter Collins

ALSO PRESENT: David Piper, Jr; Stephen Kotowsky, Webby Engineering; Michele Doll, Clerk; members of the public

Mr. Robert Belbin announced he was videotaping this meeting.

Chairman Stephen Gray opened the meeting at 7:00pm and wished all a Happy New Year. Noted for the record that Mr. Belbin would be videotaping this meeting.

NEW BUSINESS

A. PUBLIC HEARING, 7:00pm Case No. 15-966: Petitioner: David Piper, Jr. of PPM LLC, 41 Cranberry Road, Carver, Massachusetts. The petitioner is seeking a variance to subdivide property at 6 Crescent Street, Map 118, Lot 2A, into two (2) lots, one being a retreat lot with 29.76 feet of frontage lacking the required frontage of 40 feet. DISCUSSION AND POSSIBLE VOTE.

Webby Engineering was hired to survey and establish perimeter of Lot 2A, Assessors Map 118. Mr. Stephen Kotowsky presented a visual diagram of lot plan for viewing by Board members and the public. Kotowsky noted that the Town Planning Board approved and recorded a subdivision of the property into (2) two lots in 1973.

Existing home is in poor condition and Piper intends to raze it. Piper noted that a duplex was initially intended, but cannot be done due to septic and environmental impact. Proposed plan is to build (2) two single family homes with an access to retreat lot.

Maynard asked if the intent was to keep the existing footprint for a single family home, after razing the existing structure.

Piper answered No. Existing lot plan does not meet 150 feet frontage and 30 feet width zoning regulations.

Maynard asked if consideration was given to reposition the house or an inquiry made with neighbors for available excess land.

Kotowsky noted that the Penti lot has some land to spare with 190 feet of frontage, but they have not been able to communicate with owner.

Clarke asked for verification on southerly boundary line.

Kotowsky confirmed that property line goes by the brook.

Clarke asked for verification that a portion of the original property was previously sold to an abutter.

Piper confirmed.

Clarke noted that a variance cannot be granted against a self-imposed hardship

Kotowsky stated that Zoning adopted the plan in 1963, endorsed in good faith in 1973. Deed on combined properties has been in Realty Trust. Lots are marked A & B on plan.

Clarke asked if the lots have always been under common ownership.

Kotowsky answered Yes.

Clarke expressed that the new plan would create a self-imposed hardship.

Kotowsky inquired about going back to original plan of existing subdivision.

Clarke asked if petitioner has spoken with current Building Commissioner.

Kotowsky answered No, stating that previous Building Commissioner advised lot plans did not comply. Deed consists of single description of two parcels.

Piper stated his intention is to conform to zoning laws.

Clarke acknowledged plans were approved because they conformed at the time.

Maynard asked what type of house existed and what would be built

Piper advised house is a 5 bedroom and both future houses would be Colonials

Clarke asked if existing home was occupied now, or when purchased.

Piper answered that house is not currently occupied, but was occupied when purchased.

Clarke asked if home was inhabitable.

Piper answered, not in his opinion.

Clarke suggested petitioner approach new Building Commissioner. Clarke would like to know if McNeil has reviewed the matter at all.

Gray agreed the petition created a self-imposed hardship.

Gray opened discussions for public comments.

Margaret Willis, 156 Main Street, is concerned about water table. Area has a lot of wetlands and she feels the trees help to keep water in check.

Gray advised Willis that a variance is not necessary for Piper to be able to cut trees to adjust landscaping. Gray asked Kotowsky to address concerns.

Kotowsky noted that the Town has a very responsible Conservation Committee and all work would be reviewed by Public Meeting with the Board of Health. Planning would need to endorse a plan. Perc testing would be required. There are a lot of checks and balances for new construction.

Jason Pecorelli, 4 Crescent Street, is concerned that proposed driveway to retreat lot would run along the entire length of his yard, creating privacy issues and a safety concern with his children who play in the yard. Also feels his property would lose its rural feel as he does not have a lot of width available.

Kevin Tracy, 139 Plymouth Street, referenced Form A minimum frontage and minimum buildable area. Front lot does not look well shaped. Sees (2) non-conforming lots.

Clarke advised there are no regulations on shape.

Robert Belbin, Gate Street, asked about direction houses would face.

Piper advised has not been established yet. Piper feels that he will be put in a financial hardship if he does not get what he purchased; 2 lots.

Clarke stated that the property reverts to current zoning laws with any and all changes to the recorded plan.

Gray noted Webby (representative) signature on application. Stated 2 (two) variances are being requested, one for frontage and one for width. Cannot overcome self-imposed hardship. Suggested petitioner consider going to new Building Inspector to discuss getting Form A plan grandfathered in. Gray suggested Piper and Kotowsky step out for discussion, as decision may not go their way tonight but can be revisited if necessary.

Gray suspended Case No. 15-966 and allowed petitioner to step out and discuss options with engineer.

B. MINUTES – September 10, 2014- Discussion and vote

MOTION: by Mueller to accept minutes of September 10, 2014.

DISCUSSION: Nauen questioned if acceptance of minutes as written would validate existence of vernal pool. Gray stated that referenced statement would be considered an opinion, not fact.

Gray noted one grammatical error and requested additional information be added to last paragraph of page 1.

SECOND: by Eric Mueller with corrections.

APPROVED UNANIMOUSLY

C. REMOTE PARTICIPATION – Discussion and vote

Chairman Gray commended Carver resident Johanna Leighton for spearheading the initiative for Board of Selectmen to adopt a policy on Remote Participation. As a member of the Governance Committee, he and others reviewed the MA state regulations set forth by the Attorney General's office and voted unanimously to support a recommendation to the Board of Selectmen. The Selectmen adopted 29:10 unanimously and have already used it. Now each Board/ Committee has the right to accept or reject its use.

MOTION: by Clarke to adopt 29.10: Remote Participation Policy

DISCUSSION: Mello feels there could be implications for use by ZBA, as there are often visual plans which would need to be reviewed.

Gray advised acceptance would set policy, but its use would be considered case by case.

SECOND: by Nauen

APPROVED UNANIMOUSLY

Gray acknowledged Piper and Kotowsky's return to meeting room and asked for their decision. Piper advised that he would like to make an appointment to review with the current Building Commissioner and requested a continuance.

Gray invited any further public comments.

Jason Pecorelli, 4 Crescent Street, asked if he would receive another letter regarding continuance.

Clarke advised that certified letters are sent only for Case openings. It is the public's responsibility to stay informed.

MOTION: by Nauen to continue Case 15-966 to February 11, 2015 at 7:00pm

SECOND: by Mello

APPROVED UNANIMOUSLY

D. ADJOURNMENT

MOTION: by Nauen to adjourn

SECOND: by Maynard

APPROVED UNANIMOUSLY

The Carver Zoning Board of Appeals meeting was adjourned at 7:56pm on January 13, 2015.

Table of Documents

Exhibit 1 Meeting Agenda

Exhibit 2 ZBA Application of Dan Piper, Jr

Exhibit 3 29.10: Remote Participation Policy

Exhibit 4 Meeting Minutes September 10, 2014