



Approved
4.6.22

CARVER CONSERVATION COMMISSION
MINUTES OF FEBRUARY 16, 2022 MEETING

Present: Chairman Savery Moore, Alan Germain, Jim Nauen, Dan Badger, Environmental Scientist/ Agent Brooke Monroe, and Recording Secretary Ashley Swartz.

Also Present: Amy Kessel, KP Law

Mr. Moore opened the meeting at 7:00P.M.

Discussion/Business:

Opening for a Commission Member

Mr. Moore made a comment about the open position.

Informal discussion – work at 187 Meadow Street

Flora and Steve – Flora wants to purchase the land to grow flowers for her flower arrangement business. She said the land would be useless to her unless

Option one is to farm the bog and grow flowers on the remaining land, the other option is to grow the flowers in the bog. She would need a structure for her to do her work that would have a sink, bathroom, and refrigeration. The land is currently agricultural and commercial. The structure would be set off the road because it wouldn't operate as a storefront. There are driveways that have access to the property and she was willing to be flexible on the driveway access. Mr. Moore explained that there are more restrictions on the wetland bogs and do not require a pump. Mr. Moore said he didn't see a problem with growing flowers on the bog. He suggested moving a piece of the bog to the side in order to maintain the same area. He said if the bog was replicated then they would ask the greenhouse be moved back from the set back. Mr. Moore said they would need a site visit.

Mr. Germain suggested she speak with the building inspector and building commissioner to figure out what was needed from their side. The next steps would be a notice of intent, then plans showing the replication and a delineation would need to be done. Brooke suggested they have Foresight work with her because he has already delineated the land.

Mr. Moore asked how electricity was going to get back to the shed. It was explained that there would be two poles then the rest would be underground. Mr. Germain suggested one pole on the street and then go underground from there – he said this could potentially save money. Mr. Germain said he didn't see a problem with the plans in regards to moving forward. He also noted that there is an existing power source underground because of the two houses behind the property.

Beginning March 9, 2022

The conflict no longer exists – March will be the 9th and 12th but they will go back to the 1st and 3rd Wednesday of the month.

MINUTES: To be read and approved for January 19 and February 2, 2022

Motion to approve the minutes for February 2, 2022 made by Mr. Germain, seconded by Mr. Nauen, approved 4-0-0. Abstained by Mr. Badger because he wasn't present the day of the meeting.

NEW HEARINGS

0 Plymouth Street

Mr. Moore began by saying based on information available this provision does not apply to the maintenance of the cranberry bog.

Meg Sheehan and Linda Jenkins who spoke to a provision and said there was a five-pronged test that can be conducted. The argument of the Conservation Commission was that this property was exempt from the wetlands' protection act. She also argued that a site visit needed to be done and there cannot be a unilaterally decided that no public hearing would be allowed. Mr. Moore said a site visit was already conducted and if a property falls under the criteria and a vote cannot be made whether or not it is exempt – it is written out that way because it is the exemption (an exemption is an exemption and cannot be voted otherwise). The women also asked if anyone on the Commission is financially interested in the three properties. Mr. Badger pointed out that the language used online versus in the hearing are not consistent.

The applicant is arguing that documentation of exemption needs to be presented.

Amy Kessel – Town Counsel, KP Law

A determination has already been made that this is an exemption and the statute includes agricultural use.

The property owner is removing earth to create a deeper reservoir – which is allowable since it is for agricultural use.

There is an argument regarding how to prove the exemption and where the plans for this project are. Mr. Nauen said Earth Removal makes the negative determination and Meg argued that they don't have the authority to do so. Amy clarified that there is no request for determination because it was already considered an exemption – therefore no RDA needed to be filed.

Mr. Moore made a motion to determine the subject matter is moot.

Mr. Germain made a motion to close the hearing on 0 Plymouth Street, seconded by Mr. Nauen.

Approved 4-1-0.

Mr. Badger said he only voted against because he is unsure how any of this got in front of the Commission.

4 Jabez Bridge Road

RDA

Meg Sheehan and Linda Jenkins representing the applicants.

Mr. Germain first noted that a Negative Determination was already signed off on September 15, 2021. Meg said they reviewed the plans and there is a discrepancy of the two projects – she noted that a plan should have been filed with Conservation in order to get an exemption. She

pointed out all the ways this didn't meet the five-pronged test exemptions. She stated that the negative determination should have conditions.

Mr. Germain moved to close the hearing, seconded by Mr. Nauen, approved unanimously 5-0-0. Meg asked if any documentation would be issued for the negative determination. Amy said that because the negative determination was already made and they are filing for the same property nothing can be done.

0 Rear Ward Street

RDA

Meg Sheehan and Linda Jenkins representing the applicants.

Mr. Moore stated again that this work is exempt and the application is moot. Ms. Sheehan stated that the reservoir on this property is new and not existing. She continued by adding that there were items that didn't meet the five-pronged test. The argument continued about the RDA filing and the

Amy clarified that it is not the Commission's job to conduct delineations and they are not allowed to give permission to someone's private property. Mr. Moore read the statute as to why this was exempt. Mr. Germain made a motion to render the application not properly before the Commission because it was moot, seconded by Mr. Nauen. Approved unanimously 5-0-0. Before closing the hearing, Mr. Moore allowed the public to speak. A resident asked why the Commission didn't seem to care about preserving the natural habitat. Mr. Germain and Mr. Moore explained that they do care and the issue currently is they have state statutes and laws they have to follow. Mr. Moore said they are following the regulations set forth by the state. Mr. Badger also commented that they care – and mentioned some of the types of the projects they are involved with. He noted they are in a "finite lane" and there are certain things they have to follow when casting a vote. Dorothy said she doesn't believe the Commission hadn't done the legwork and research. Mr. Moore said the determination was made Rebecca Lipton. Mr. Germain made a motion to close the hearing, seconded by Mr. Nauen, approved unanimously 5-0-0.

316 Tremont Street

NOI DEP SE#126-635

Stuart representing the applicant. The fire department is allowing 18 feet between the buildings and – there is no disturbance in the 65-foot buffer. The applicant couldn't move equipment into the other building but they did move the building out of the buffer. The equipment is bolted to the floor so they would spend a lot of money and have to close for a significant amount of time. They are also coming back with a swail along the fence line and will plant seed so grass grow. The adjusted fire lane allowed them to shift the building.

Mr. Germain said he would like to see a couple of posts/markers. Mr. Badger said he appreciated the adjustments and he said he didn't realize how important the 65 buffer was until this project. Mr. Moore added the necessity to have the showroom stay put and have it attached to the warehouse.

Motion to close the hearing made by Mr. Germain, seconded by Mr. Badger, approved unanimously 5-0-0. Motion to approve the plans, as revised 2/10/22 made by Mr. Germain, seconded by Mr. Nauen, approved unanimously 5-0-0.

Motion to approve the variance for the swail work, made by Mr. Germain, seconded by Mr. Nauen, approved unanimously, 5-0-0. It was noted that there should be wetlands posts in the swail.

CONTINUED HEARINGS

Lot 1 South Main Street

NOI DEPSE #126-632

Notice is hereby given, in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection Bylaw, that a public hearing will be held at 7:00 p.m. on Wednesday, February 2, 2022 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent (NOI); submitted by the Applicant, Steve Murphy; for the proposed construction of a single family dwelling with associated well, septic system, grading and utilities within the 65-foot and 100-foot buffer to a bordering vegetated wetland. A portion of the proposed work; within the 65-foot buffer; will require a variance under the Carver Wetlands Protection Bylaw. The project is located at Lot 1 South Main Street, Carver, MA, Map 87, Parcel 2-13B. All interested parties are invited to attend. Scheduled for March 9, 2022

Lot 3 South Main Street NOI DEPSE #126-633

Notice is hereby given, in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection Bylaw, that a public hearing will be held at 7:30 p.m. on Wednesday, February 2, 2022 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent (NOI); submitted by the Applicant, Steve Murphy; for the proposed construction of a single family dwelling with associated well, septic system, grading and utilities within the 65-foot and 100-foot buffer to a bordering vegetated wetland. A portion of the proposed work; within the 65-foot buffer; will require a variance under the Carver Wetlands Protection Bylaw. The project is located at Lot 3 South Main Street, Carver, MA, Map 87, Parcel 2-13C. All interested parties are invited to attend. Scheduled for March 9, 2022

Lot 4 South Main Street NOI DEPSE#126-634

Notice is hereby given, in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection Bylaw, that a public hearing will be held at 7:15 p.m. on Wednesday, February 2, 2022 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent (NOI); submitted by the Applicant, Steve Murphy; for the proposed construction of a single family dwelling with associated well, septic system, grading and utilities within the 65-foot and 100-foot buffer to a bordering vegetated wetland. A portion of the proposed work; within the 65-foot buffer; will require a variance under the Carver Wetlands Protection Bylaw. The project is located at Lot 4 South Main Street, Carver, MA, Map 87, Parcel 2-13D. All interested parties are invited to attend. Scheduled for March 9, 2022

All interested parties are invited to attend. Scheduled for March 9, 2022

5 Johns Pond Road NOI DEP #126-630

Notice is hereby given, in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Carver Wetlands Protection Bylaw, that a public hearing will be held at 7:00 p.m. on Wednesday, October 20, 2021 in Meeting Room 1 at the Carver Town Hall to hear the Notice of Intent; submitted on behalf of Tony Lombardo; for after-the-fact repair/construction of a retaining wall, with stairs and a patio and the disposal of trees stumps and brush. The proposed work was conducted within the 65-and 100-foot buffer zone to; and on the bank associated with; John's Pond. A variance from the Carver Wetlands Protection Bylaw, Section 9.2.1.3 (3), is required for the activities within the 65-foot buffer protected under the

Bylaw. The project is located at 5 John's Pond Road, Carver, MA; Map 12, Lot 4-4. All interested parties are invited to attend. Scheduled for March 9, 2022

Motion to adjourn Mr. Germain. Seconded by Mr. Nauen. Unanimously approved 5-0-0.

Adjourned 9:19 PM.

Minutes submitted by Ashley Swartz.

16-Feb-22

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