

CARVER PLANNING BOARD  
MINUTES OF JANUARY 25, 2022

Present: Chairman Bruce Maki, Ellen Sordillo, Kevin Robinson, Cornelius Shea, John Gaskey, and Richard Dionne.

Meeting was called to order at 7:00 P.M.

Pledge of Allegiance was recited.

The proceedings will be videotaped and rebroadcast by Area 58 TV.

**Discussions:**

1. Layout of Montello Street (Portion) as a Town Way, which is going to be the new access road to the business park and it's the only part of the road the planning board is discussing tonight. John Woods, DPW Director addresses the board and says it makes sense for the board to accept this section of Montello Street now so plowing of the road will give workers access to working on project. Mr. Maki indicates the rest of Montello Street, from Route 58 to Plympton is already a public road. Mr. Shea asks if the town owns this section of the road and Mr. Woods responds the contractor owns this section now, but eventually it will be transferred to the town and become town land. This project is a MassWorks grant so no money will be needed from the town, and no bond was issued to the contractor. Mr. Shea notes usually when a road is accepted it comes with a bond for repairs such as potholes. Mr. Woods responds this is a question better answered by Elaine Weston. Mr. Woodman also states there will be a traffic light and separate lanes for turns. MassWorks did a traffic study together with an engineering company and concluded there would not be a problem with traffic.

Amy Kwessel, town counsel, indicates the town accepting a new roadway is a four step process. The planning board's acceptance of the roadway is then referred to the select board and if accepted, will refer it to a town meeting. The town meeting will hold a vote and if accepted as a public road, the select board on the back side deals with easements and files with the registry within 120 days.

Chairman Maki entertains a motion to approve the layout on Montello Street. Motion is made by Ellen Sordillo and seconded by Kevin Robinson. A roll call vote is called. Bruce Maki, Ellen Sordillo, Kevin Robinson, Cornelius Shea, vote aye. John Gaskey votes nay. Approved 4-1-0.

2. RDA on the Warrant Articles. Present tonight to discuss the matter is Savory Moore, Paul Kostas from RDA, as well as Stephen Cole, former town planner and currently a consultant to the RDA. They are here to discuss two items have to occur both before and at a town meeting. First is the Public Hearing. Mr. Moore points out there are seven Articles in regards to the green business park and proceeds to read the titles of the articles of the North Carver project. Chairman Maki states a public hearing must be advertised

and will talk to his staff in regards to scheduling a date for that and holding a public hearing. He also thinks it would be beneficial to have the RDA attending with the planning board at the public hearing to answer questions. According to Mr. Moore there will be two buildings at the site, a warehouse and distribution center. The zoning by-laws will determine who the tenant(s) will be.

**Public Hearings (con't).**

3. On the application of JCM Carver Acquisitions LLC requesting a Special Permit (for Fast Food or Drive-In Restaurant) and Site Plan Review pursuant to sections 2200 (Use Regulations), 2300 (Dimensional Requirements), 2330 (Multiple Principal Structures), 3100 (Site Plan Review), 4300 (Water Resource Protection), 5300 (Special Permit) and other pertinent sections of the Carver Zoning Bylaw, located at 287 Tremont Street (Assessor's Map 94, Lot 5-0-R) to demolish an existing 525 square foot building and construct a new 50 ft. by 25 ft. ice-cream shop building and a 90 ft. by 50 ft. storage garage, landscaping and parking. Property is located in the General Business (GB) District.

Chairman Maki indicates a site walk was done and the public hearing has been closed. There were some minor revisions done to the plan and he spoke to Andy Glines at Fuss & O'Neil who was satisfied with the revisions. The conditions have been reviewed by town counsel, Amy Kwessel. He reads the waivers requested from the requirements.

1. Applicant is to provide interior parking landscaping due to the short less than 180 feet end to end distance of the parking lot. Each row of parking is six spaces or less however the applicant will install a landscape island to the northeast of the retail store to further define separation from the retail and tradesman parking lots.
2. Applicant is to provide a 25 foot landscape perimeter buffer which is required for parking lots with 25 or more parking spaces. The 25 foot wide landscape buffer is provided for the majority of the parking lot but a 100 foot section of the abutting northern property line has a 10 foot landscape buffer consisting of lawn and trees. This portion of the parking lot only contains six spaces of the total 29 spaces proposed and abuts a currently undeveloped woodland area.
3. Applicant will provide a 10 foot wide landscape buffer along the building and sideline due to a substantial open sight development restrictions imposed to protect the well radius of 100 feet and storm water improvements furthermore side and rear adjacent properties contain extensive wetland resources areas, natural buffers and agriculture uses. No residential uses abutt the site.
4. The conditions shall be constructed as approved in the site plan and decision. Any other revisions will require approval from the planning board as

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modifications of this decision the applicant is responsible for the proper operation of maintenance of the site during construction. Sedimentation and soil erosion controls shall be installed, repaired and supplemented as needed. Pest control is required during construction and the roadway apron is to be swept clear of any dust, dirt and debris. The applicant shall adhere to the conditions outlined in the Carver fire department comment letter dated November 8, 2021.

5. Prior to issuance of a certificate of use and occupancy any outstanding balance of the review and inspection deposit account shall be paid as bill plan shall be submitted to the town's engineer and planning department in both electronic and hard copy form prior to the final inspection and in accordance with section 3180 compliance of the Carver zoning by-laws the town's engineer shall inspect the project to ensure it has been completed in compliance with the approved site plan and its conditions.
6. The applicant shall install a four foot high black vinyl fence with the bottom one foot of the fence will have critter fencing with large enough openings to allow for the passage of small wildlife. A no trespassing signage shall be affixed on the north and south property lines on the fence. No trespassing signage shall be posted at 50' intervals along the north side lines, affixed to post.
7. The two mature holly trees located in the center of the property shall be transplanted in shaded areas if the current location cannot be preserved. If the trees cannot be transplanted, two new holly trees will be planted on site in a shaded area.
8. The applicant shall submit a sign permit application for the planning board to issue a sign permit prior to ordering a singular free standing sign not to 10 feet in height or 10 square feet in area.
9. The proposed tradesmen's bay shall only be allowed to store household quantities of fuel or fluids necessary to the business.
10. Outdoor storage of trucks or overnight outdoor parking of any vehicle on site is prohibited. Truck parking is restricted to deliveries, unloading, loading operations and day time parking associated with tradesmen's use.
11. A seasonal vermin control program and contract shall be required for the site while the ice cream shop is open. Additionally, an annual maintenance contract shall be established and proof provided to the planning board and board of health.

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12. The storm water management system shall be maintained as prescribed in the longer term pollution prevention plan.
13. In the event of tenancy changes the owner shall notify inspectional services planning and the board of health with any such changes.
14. The water withdrawal right for the sight shall comply with the DEPs non transient community water supply issued under PWS id number 4052008. The water withdrawal rate shall not exceed 1000 gallons per day, with a pumping limit of 999 gallons per day.
15. In the event of tenancy changes, the owner shall notify inspectional services, planning and the BOH of any such changes.
16. Any appeal of this decision must be filed pursuant to MGL chapter 48, section 17 and shall be filed within 20 days of the filing of this decision with the Town Clerk.

Chairman Maki entertains a motion to approve the special permit and conditions. Motion is made by Ellen Sordillo and seconded by Kevin Robinson. A roll call vote is taken. Bruce Maki, John Gaskey, Ellen Sordillo, Kevin Robinson, and Cornelius Shea, all vote aye. Approved 5-0-0.

4. On the application of Richard DeBenedictis, P.E. requesting a Special Permit and Site Plan Review pursuant to sections 2230, 5300, and 3100 of the Carver Zoning Bylaw, located at 20 Shoestring Road (Assessor's Map 124 Lot 13-0-R) in Carver, MA. The project is the improvements to Jellystone Park which includes centralized wastewater treatment facility (WWTF) a new set of water supply wells and improved roadway access located in a Residential/Agricultural District.

Chairman Maki indicates the board members did a site walk at the property and looked at plans while there. In the discussion he found Shoestring Road is a public road which ends at the gate of the park. From there the road is private. Richard DeBenedictis addresses the board and indicates some minor changes have been made to the plan. They added some water shut-off gates and additional labels to the water distribution system. Mr. Maki notes there will be a check-in area and a hotdog stand. He goes through the package received where there are several pictures of what the water park, camping sites, modular log cabins (exterior and interior), and in general what the area will look like. A traffic study was conducted and Mr. Maki doesn't think traffic will be an issue. There is a garden house a couple hundred feet off the street but every time he drove by there wasn't any kind of backup of traffic.

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Mr. Shea asks if there are any easements in regards to the cranberry owners and 32 Shoestring Road. The response is all the easements were listed on the plan and noted as all private.

A member of the audience addresses the board with concerns regarding ownership of Shoestring Road. He asks if the road is indeed a public road, then is the town responsible for adding guardrails on each side of the road, where a dam used to be, because the road is sandwiched between two mounds and a lot of granite rocks. Mr. Maki responds the town is responsible for maintaining and plowing the road for several years. Mr. Shea brings up the distinction between approving phase 1 and phase 2. Mr. DeBenedictis responds they would like both phases approved at the same time although almost all the construction will be on phase 1. He explains while phase 1 is under construction the water lines are interactive with phase 2 so there will be some work on phase 2 to prepare for the bulk of the construction which will be done next year. The applicant has approval from the conservation commission as of 01/19/22 and they are waiting to pick up the other conditions, and the water park will be brought in once the architects have completed design.

Mr. Maki spoke to persons at the Federal Furnace Cranberry and they were concerned about access from the gate and the building out back which is used for cranberry storage. He wants to make sure the cranberry growers have access and the response is they will have access. Mr. DeBenedictis indicates they will draft a decision and send it to Amy Kwessel and Andy Glines for review and comment. Mr. Maki states this matter will be continued to the February 8, 2022 planning board meeting. Cornelius Shea makes a motion to extend the public hearing regarding Jellystone Park and it is seconded by Kevin Robinson. A roll call vote is taken. Bruce Maki, John Gaskey, Ellen Sordillo, Kevin Robinson, and Cornelius Shea, vote aye. Approved 5-0-0.

### **Public Hearing:**

5. On the application of Kerri Galbreath requesting a Special Permit pursuant to Sections 5300 and 2230 of the Carver Zoning by Law, located at 72 North Main Street in Carver, MA (Assessor's Map 18-12-2-R) to operate a Dog Daycare in a General Business District.

Chairman Maki reads a description of the project: There will be a 6 foot chain link fence from the loading dock, back approximately 125 feet beyond the wood line at the back of the building. The fencing will stop approximately 100 feet from the back of the property line. The fence will be covered by wide screens for aesthetic and privacy purposes as well having foam material inside the screening material for sound absorption and noise control. Synthetic turf will be used in the area immediately adjacent to the building. It's going to be disinfected and sanitized multiple times a day with a product that is pet and human safe. There will be a dumpster for all waste will be emptied weekly and the pickup could be adjusted to twice a week. The interior of the building will have movable

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partitions to adjust play areas for the dogs. There will be a boarding area in the rear of the building. Not more than one dog will be housed in a kennel. Dogs will be dropped off through the front entrance and will be leashed anytime they are in the parking lot. Hours will be from 6AM to 7PM Monday-Friday and 8AM to 5PM on Saturday and Sunday depending on clients. The building will have surveillance cameras and off-site accessibility and a professionally installed monitoring alarm. Mr. Shea indicates he would like to see a proposed plan with the fence.

Kerri Galbreath and Leanne Schultz state they have certifications and CPR certification for pets. Their goals it to offer this service because there is a great need for it, as there are a lot of Covid puppies. They want the dogs to be able to play on equipment such as climb, slides, tunnels and toys, which can be used inside and outside. There will not be more than 15-20 dogs outside of the building at a time. Their ideal number of dogs is 12 dogs per person. At any given time there will not be more than 75 dogs. Overnight they will have 20-25 dogs. There will be an overnight staff to take care of the dogs.

Chairman Maki notes under the regulations of a commercial kennel shall mean a single premise of 11 or more dogs 3 months or older are maintained for any purpose or where 4 more litters per year are raised and where the boarding or grooming of dogs is performed as a business. He asks if Pups LLC provides dog day care and boarding as well as training and bath services. Ms. Galbreath states it is not exactly grooming, but rather an exit bath to make sure the dog is cleaned before it goes home.

Mr. Maki indicates this is for a lot of dogs. In a similar facility came before the board for approval, and it was determined by the Town of Carver there would be one handler for every 15 dogs in the interior space, which was 25 sq. feet per dog. According to the applicants there will be 2,400 sq. ft. of interior space, and according to the town's previous calculations on another facility, would be enough space for 96 dogs. The entire building when available will be 9,000 sq. feet. The board discusses the number of sq. feet per dog and handler. Mr. Maki notes the town's by-laws don't have regulations for this many dogs. The applicant offers to bring in clients who can attest the dogs are not loud because of the way they are trained and treated. Attorney Kwessel confirms the by-laws don't indicate how many dogs per sq. feet but they do say one can have 11 or more dogs 3 months or older. She maintains this will come down to a discretionary decision by the planning board. Mr. Maki would like to have a plot plan and schedule a site walk. He requests from the applicants an amount of dogs they could work with to allow their business to be successful.

Judy Richards from 5 Lillian Way, a neighbor, addresses the board. Her backyard borders the property for the project and she is concerned about the noise factor. John Goodman, another resident of Carver speaks to the board expressing his experience with working with the applicants at their former place of employment with dogs. He states one could be in the front office and hear no barking.

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Mr. Maki asks the applicants how they handle the dogs at night. They plan on having someone in the building overnight. The applicant responds indicating the dogs will be in kennels at night and looked after all night and she has a 24/7 camera on her phone and will be checking it constantly. A site walk is scheduled for Tuesday, February 1, 2022 at 12:00PM. In the meantime he will talk to the building inspector and the board of health regarding the proposed project. The applicants will also have a sketch available for the board of the proposed project and grounds, as well as the fence.

Chairman Maki entertains a motion to continue this matter to the planning board meeting on February 8, 2022 at 7:00PM. Cornelius Shea makes a motion to continue the public hearing regarding the doggy daycare until February 8, 2022 at 7:00PM and it is seconded by Ellen Sordillo. A roll call vote is taken. Bruce Maki, John Gaskey, Ellen Sordillo, Kevin Robinson, and Cornelius Shea, vote aye. Approved 5-0-0.

6. On the application of Colin Harris requesting a Special Permit pursuant to Sections 2230 and 5300 of the Carver Zoning by Law, located at 38 Purchase Street in Carver, MA (Assessor's Map 59 Lot 1-27) to re-designate the home from a Single Family with in-law apartment to a 2-Family Home.

Mr. Maki indicates there is a plot plan in the package provided by the owner showing the house on the property. According to the applicant there will be no new construction.

Colin Harris, together with Michelle Manley who both live at 38 Purchase Street, address the board. They state there is an in-law apartment attached to their house. Michelle's elderly parents had been living in the in-law apartment but passed away over the past few years and they would like to turn the in-law apartment into a just an apartment, because they need the extra income in order to stay in the house. Their 3 children are all special needs and it's important for them to stay in Carver for their continued education. Michelle's parents owned the home and the house, which is now in probate, also involves Michelle's sister who agrees to sell her share of the house to them.

Mr. Maki spoke with the building inspector and it was concluded a two family house is permitted in this area with a special permit. The building inspector also recommended the following conditions for the special permit.

- No additions to increase the sq. footage of living space;
- All utilities share one meter; (however there are already two meters installed), so each occupant would be responsible for their own utilities);
- Two means of egress are required to the outside per the state building code (there are already two egresses in place in each apartment, the house and the apartment – total of 4);
- Two spaces for off street parking (already provided).

Attorney Amy Kwessel states this change to an apartment will have to go by the special permit requirements and whether this change would be detrimental to the neighborhood.

The owners will be responsible for the septic and sewer. Mr. Gaskey would like to see a certified affidavit from the executors, Ms. Manley and her sister, to make sure her sister knows what is happening and she is agreeable to it. Attorney Kwessel will draft a decision. Mr. Maki would like to continue the matter to the February 8, 2022 meeting at which time they will go over the decision with the applicants and a vote can be taken. Mr. Shea indicates Ms. Manley and her sister will have to fill out the application, and not Mr. Harris. They will have to have evidence they are executors of the estate. Mr. Shea makes the motion to continue Michelle Manley's hearing on 38 Purchase Street to February 8, 2022 and it is seconded by Kevin Robinson. A roll call vote is taken. Bruce Maki, John Gaskey, Ellen Sordillo, Kevin Robinson, and Cornelius Shea, vote aye. Approved 5-0-0.

**Other Business:**

7. Request for extension for Site Plan Review and Special Permit –204 Plymouth Street Solar (Map 48 Lots 2, 6 & 7). Sarah Stearns with Beal & Thomas represents the applicants and addresses the board. The extension is needed because the Ever Source group studies will be studying the area which will continue beyond the expiration date of the site plan component. The developer is in constant contact with Ever Source and it seems it won't be until the fall their study would be released. The special permit for this component would lapse a few months before the report is to be made available so they would like to extend it for that reason. Mr. Robinson makes the motion to approve site plan review for 204 Plymouth Street and it is seconded by Ellen Sordillo. A roll call vote is taken. Bruce Maki, John Gaskey, Ellen Sordillo, Kevin Robinson vote aye. Cornelius Shea votes nay. Approved 4-1-0.
8. Request for extension for Site Plan Review and Special Permit – 40 Fuller Street (Map 50 Lots 8 and 10A) Solar. The applicant is requesting the same extension for the same reason as noted in item No. 7 of these minutes. Mr. Shea makes the motion to approve site plan review for 40 Fuller Street and it is seconded by Ellen Sordillo. A roll call vote is taken. Bruce Maki, Cornelius Shea, John Gaskey, and Ellen Sordillo, vote aye. Kevin Robinson abstains. Approved 4-0-1.
9. 324-340 Tremont Street –Removal of CCA Timber Poles (Map 127 Lots 10, 12, and 21). Since approval of the planning board 3-0-2, they have received open meeting law complaints. They do have a decision on this. One open meeting law has been addressed by Gregg Corbo of KP Law leaving two complaints have not been addressed yet. With regards to the open meeting law complaint by Mr. Shea there was an allegation a site plan was not being modified with Section 11 but according to Attorney Kwessel this is outside the purview of open meeting law and is regulated by Chapter 48 Section 11. A letter is being sent to the Attorney General that the allegations do not rise to the level of open meeting law complaints. Attorney Kwessel reviewed the tape of the meeting and the



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applicant requested a site plan minor modification and not modification of a special permit. It appears to her the applicant properly applied for a modification of the site plan and site plan approval. The board might consider issuing two separate permits and separate decisions for each project to lesson confusion. The applicant is asking for changes to the site plan and not to special permit and would only need a 3-2-0 to pass. Chairman Maki passes around the decision to be signed by the board members.

10. 62 Rochester Road (Map 92 Lots 14, 15, 16, 17, 20, and 22) –Removal of CCA Timber Poles. The applicant is asking for changes to site plan and not to special permit and would only need a 3-2-0 to pass. Chairman Maki passes around the decision to be signed by the board members (see No. 10 of these minutes for background on this matter).

11. Motion to authorize Town Counsel to draft a response to the Open Meeting Law Complaint on behalf of the Planning Board. Chairman Maki entertains a motion to draft a response to the Open Meeting Law Complaint on behalf of the Planning Board. This particular complaint was filed by Cornelius Shea. Kevin Robinson makes a motion for further discussion regarding a draft to the Open Meeting Law Complaint and it is seconded by Ellen Sordillo. A roll call vote is taken. Bruce Maki, Ellen Sordillo, and Kevin Robinson vote aye. Cornelius Shea and John Gaskey vote nay. Approved 3-2-0.

Topics not reasonably anticipated by the Chairman 48 hours in advance of meeting

### **Other Business**

- A complaint was filed by John Gaskey 01/25/2022 with the town clerk. Mr. Maki entertains a motion to authorize the town's counsel to draft a response to the open meeting law complaint on behalf of the planning board. Mr. Gaskey asks if any members have read the violation. All the members have a copy, but Mr. Maki notes this should be handled by KP Law. Attorney Kwessel proposes this vote should be taken up at the meeting on February 8, 2022.

### **Executive Session:**

Chairman Maki entertains a motion to go into Executive session under "Executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation known as Ironwood Renewables, LLC, Town of Carver Planning Board and its Members, Massachusetts Land Court, Civil Action No. 21 Misc. 000488, votes may be taken."

"Executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation known as Ironwood Renewables, LLC." Town of Carver Planning Board and its Members, Massachusetts Land Court, Civil Action No. 21 Misc. 000488, votes may be taken." Ellen Sordillo makes a motion to continue on to an executive session, and it's seconded by Cornelius Shea. A roll call vote is taken. Bruce Maki, Ellen Sordillo, Kevin Robinson, Cornelius Shea and John Gaskey vote aye. Unanimously approved 5-0-0.

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### Documents for 1/25/22 Planning Board meeting

- Montello St Layout CONSTRUCTION PLANS Carver Final Design Plans
- Print out of Zoning Articles (20 pages) including Seven RDA Sponsored Articles and Montello Street Acceptance
- Special Permit and Site Plan Review Decision JCM Carver Acquisitions LLC 287 Tremont Street
- Site Layout Plan for Jellystone Park at 20 Shoestring Road, Carver, MA Prepared for NGR Cape Cod, LLC prepared by Webby Engineer Associates Inc., Civil Engineers and Land Surveyors, dated November 19, 2021, revised January 4, January 21, 2022.
- Public Hearing notice and application of Kerri Galbreath requesting a Special Permit for Dog Daycare 72 North Main Street: Detailed Description of Operations
- Special Permit Application Decision Colin Harris 38 Purchase Street to re-designate the home from a Single Family with in-law apartment to a 2-Family Home. Plot Plan 38 Purchase St prepared by Land Planning Inc dated 6/15/00
- Request for extension for Site Plan Review and Special Permit – 204 Plymouth Street Solar
- Request for extension for Site Plan Review and Special Permit – 40 Fuller Street Solar
- Modification Site Plan Review Decision Pine Gate Renewables LLC 324 and 340 Tremont St.
- Modification Site Plan Review Decision Pine Gate Renewables LLC 62 Rochester Road
- Open Meeting Law Complaint by Cornelius Shea
- Open Meeting Law Complaint by John Gaskey
- Draft Planning Board Minutes 12/14/21
- Draft Planning Board Minutes 12/28/21
- Motion to go into Executive Session re Litigation Ironwood Renewables, LLC v Town of Carver Planning Board and its Members and not return to Open session