

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

Approved
8-8-2023

Chairman Cornelius Shea, Richard Dionne, John Gaskey, Kevin Robinson, Ellen Sordillo, Donald Williams and Thomas Bott, Town Planner.

Meeting was called to order at 7:03PM

Public Hearing Cont'd:

1. On the application of Beantown Home Services, Inc. requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 5300, 4341, and 2230.C of the Carver Zoning by Law, located at Lot #5, Ricketts Pond Business Park (Off Spring Street) in Carver, MA (Assessor's Map 32 Lot 1-5) in the Spring Street Innovation Zoning District (SSID). The lot will be comprised of an approx. 6,621 s.f. light-industrial building with associated driveways, parking areas, closed-drainage system, septic system and utility connections.

Chairman Shea will accept a motion to continue the public hearing, at the applicant's request, regarding the application of Beantown Home Services, Inc. requesting a Special Permit and Site Plan Review to July 25, 2023 at 7:00PM. Said motion is made by Richard Dionne and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Unanimously approved 5-0-0.

Public Hearing:

2. Remand "Public Hearing held in accordance with Order Approving Joint Motion for Remand and Judgment of Remand dated May 8, 2023, Land Court Civil Action No. 22MISC000563." On the application of Bridgestone Development, Inc. requesting a Special Permit pursuant to Sections 5300 and 2230.C, 2230, 4341 of the Carver Zoning by Law, located at Lot #3, Ricketts Pond Business Park (Off Spring Street) in Carver, MA(Assessor's Map 32 Lot 1-3) in the Spring Street Innovation Zoning District (SSID). The project will consist of the construction of two light-industrial buildings. The lot will be comprised of two approx. 7,452 s.f. light-industrial buildings with associated driveways, parking areas, closed-drainage system, septic system and utility connections.

Bob Ferguson is present to represent the applicant. He is joined by Mike Fucini of Bridgestone Development, Inc. and Erik Schoumaker of McKenzie Engineering Group. Mr. Schoumaker summarizes the revised plans indicating a six foot high vinyl fence was added to the rear end of the pavement adding screening for abutters and he goes into the specific details of the fence and benefits it adds. The cement concrete dumpster pads were consolidated and moved to the north side of Lot 3 and is now outside the 100 foot buffer zone bordering the wetlands, the wall pack lighting to the rear of each building was revised to be motion activated, the proposed propane tanks will be double walled and moved outside

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

the 100 foot buffer zone and wetlands, and the proposed potable well and associated water services are now located outside the 100 foot buffer zone and the maintenance path was relocated to the north of the site. The landscaping revisions are described in detail. Chairman Shea would like to see more landscaping to screen the parking lot and different options are discussed and he also wants a bike rack added.

Richard Dionne asks if they can install a test well and the response is they will work on that with Andy Glines of Fuss & O'Neal, Consulting Engineer for the Town. Mr. Bott indicates he will ask Mr. Glines to submit his recommendations by July 25, 2023.

Chairman Shea will accept a motion to continue the public hearing on the application of Bridgestone Development, Inc. requesting a Special Permit for Lot 3 to July 25, 2023 at 7:00PM. Said motion is made by Kevin Robinson and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Unanimously approved 5-0-0.

Other business:

3. Definitive Subdivision Rescission Plan – Route 44 Development, LLC. c/o Charter, 3-4 Park Avenue, A public hearing notice on the application of George A. McLaughlin, III requesting a Definitive Subdivision Approval pursuant to the Carver Subdivision Control By-Law. The property is located on Montello Street, Green Business Parkway on Assessor's Map 20, Lots 20-2, Lot 20-14, and Map 22, Lots 22-3, Lots 22-3A, 22-3B, 22-3C, 22-4, 22-5A, 22-10-1, 22-11 in Carver, MA in Zoning District Highway Commercial (HC) and Green Business Park (GBP).

Attorney Susan Murphy of Dane Torpy is present to represent the applicant indicating there was a question at the last meeting as to whether the public notice was sent out properly. She defers to Mr. Bott who states public notices did go out and they received confirmations back. He believes there was one specific person who noted they didn't receive a public notice, but a return confirmation was in fact located.

Jeanne Winslow of 28 Heather's Path, Plympton, MA asks to see the list of abutters who received the public notice and wants to know the date of the letter was sent out. Mr. Bott responds the notice was mailed out June 12 - 16, 2023 and the hearing date was published in the newspaper on July 9, 2023 and July 16, 2023. Ms. Winslow wants to know if there is a letter that went to her for she states she never received notice. Mr. Bott looks through his paperwork and does not see a record of a notice going to 28 Heather's Path, but points out even if an abutter did not receive a notice that by being present at the public hearing

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

regarding this matter is according to the rules confirms the abutter has knowledge of the proposed project.

Attorney Murphy indicates Route 44 Development, Inc. owns 65 acres in Plympton that is not part of anything that's going to be before Carver Boards so it's possible that Ms. Winslow abuts the Route 44 Development, Inc. property and the 65 acres in Plympton that will not be developed. Mr. Shea indicates the 65 acres was considered non-buildable because it had no frontage. Mr. Bott gives an explanation of what a subdivision is regarding an Urban Renewal Plan. In this matter this is a rescission plan to remove the prior approved plan. John Gaskey asks why this matter is different from a prior matter a year ago that was very similar but yet it was not necessary to rescind any subdivision plan that had been there prior. Attorney Murphy addresses this indicating there was not a proposed development but the prior subdivision plan by the other entity which fell apart before Route 44 Development got to file their plan. She also indicates the Urban Renewal Plan has to happen no matter what development or company is involved.

Chairman Shea will accept a motion to close the public hearing on the application of Route 44 Development, LLC c/o Charter, 3-4 Park Avenue new road subdivision for Route 44 Development LLC Zoning Highway District in Commercial and Green Business Park. Said motion is made by John Gaskey and it's seconded by Richard Dionne. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Unanimously approved 5-0-0.

Chairman Shea will accept a motion to approve the definitive subdivision rescission plan for Route 44 Development, LLC subdivision new road subdivision zoning district highway commercial and Green Business Park. Said motion is made by Kevin Robinson and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey abstains, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Approved 4-0-1.

4. Preliminary Subdivision Plan – Route 44 Development, LLC. c/o Charter, 3-4 Park Avenue, (Assessor's Map 20, Lots 2R, 14R, 21R, Map 22 Lots 11R, 3AR, 3R, 3-1R, 3B, 4, 5A, 10, 10-1 and Map 24 Lots 1 and 2) New Road Subdivision – Route 44 Development, LLC. Zoning District Highway Commercial (HC) and Green Business Park (GBP).

Attorney Susan Murphy of Dane Torpy is present to represent the applicant indicating it is the applicant's position that everything required by law was submitted. She also states the information needed will be filed with the definitive plan. Chairman Shea indicates several required pieces of information according to subdivision by-laws was not included such as an

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

ANRAD, a current ANRAD delineation of the protected areas, and lack of upland wetland delineation on the lots. He states the application was incomplete and the Board needs certain information to make educated decisions. Attorney Murphy states there is case law in Massachusetts that is very clear what the requirements are and the town's regulations exceed what is required by law and the applicant is only required to submit what the state law says.

Mr. Bott indicates subdivision regulations are the province of the Planning Board at a public hearing advertised and not town meeting and the Board makes the rules for subdivisions. Chairman Shea counters the regulations were accepted by the MA Attorney General, but Mr. Bott counters zoning by-laws and subdivision regulations do not go to the Attorney General, nor do they go to the town meeting. Chairman Shea also points out that the applicant agreed to adhere to the state laws as well as the local laws and the project is in a water protection overlay district which weighs heavily on some of the information and it is not in alignment with the URP that the proponent signed on to and that it is a modification that requires notice of whether it is a minor, major or a modification at all from the Department of Community and Housing. The permits regarding all 301 acres of the URP property are through MEPA and changes such as putting in septic systems instead of waste water treatment plant, how close to protected riverfront or protected waterways are necessary information. Attorney Murphy states there is an ANRAD, although a little older, and the information in the ANRAD is on the plans. Chairman Shea indicates the 65 foot, 100 foot and the 200 foot riverfront protection areas were not on the map, the property is currently under development and changes have been made. Chairman Shea indicates the information the Board requests is to gather details regarding the individual lots as well as the entire project itself.

Jeanne Winslow of 28 Heather's Path, Plympton, MA speaks to the Board indicating in 2016 she believes there was to be a waste water treatment plant put in but wants to know what happens now that the plan has been rescinded. Chairman Shea states the subdivision which was rescinded tonight is from 1995 and prior. Mr. Bott states all that is being proposed tonight is a roadway that's going to create frontage for three lots and there is no building and no septic systems. What is being discussed is where the road will be and where the lots are going to be. Ms. Winslow states she is not opposed to the project she is just concerned about the condition of the water for herself and several abutters regarding the effect on the wells and wants testing to take place. Mr. Shea believes the URP requires mediation in regards to any contamination to be completed as part of the development before any the project can move forward. She asks about zoning regarding the height a building can be and the response is the prior preliminary plan is not subject to the recent changes in the law regarding height of the building because the plan is grandfathered in. Mr. Shea states the URP is in effect for twenty years from the date of its approval.

Chairman Shea states there is no way he can make an informed decision on this so he will

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

accept a motion to disapprove the preliminary subdivision plan for Route 44 Development, LLC. c/o Charter, 3-4 Park Avenue, (Assessor's Map 20, Lots 2R, 14R, 21R, Map 22 Lots 11R, 3AR, 3R, 3-1R, 3B, 4, 5A, 10, 10-1 and Map 24 Lots 1 and 2) New Road Subdivision as the application was incomplete and did not align with the requirements of the Urban Renewal Plan. He states the application did not give enough information for the Board to make an educated decision or provide any sort of meaningful feedback, in his opinion.

Said motion is made by Richard Dionne and it's seconded by Ellen Sordillo. Chairman Shea states it is important for the Board to understand urban renewal is not a land use regulation statute and reads his letter of concerns, a copy of which will be provided to the Board. It authorizes a town to acquire property and then dispose of it in accordance with the requirements. He continues by reading aloud Section 1203 regarding the requirements needed to proceed. He then reads aloud the requirements required.

Kevin Robinson asks Mr. Bott if town council made any suggestions on this matter and Mr. Shea and Mr. Bott respond that town council said if the application is incomplete and the Board does not feel it has the necessary information to make an informed decision based on the subdivision regulations then the Board should vote as they feel is appropriate.

John Gaskey indicates he finds it a bit disconcerting as how things have progressed regarding this preliminary subdivision plan and due to the combative nature presenters believes statements about working with the Planning Board down the road regarding a definitive subdivision plan seem disingenuous. He believes there is an expectation that any attempt to guide or request plan changes will be met with threats of litigation based on what they are seeing right now. He continues, historically in regards to this site there has been a lot of nefarious behavior and he believes this behavior will continue. He states that state laws are routinely confronted and challenged by local municipalities and when they are articulate and have supportive representation municipalities prevail and their local laws stand.

Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's nay, Ellen Sordillo vote's nay and Chairman Shea vote's aye. Vote is 3-2-0.

A. Planning Board Member Notes-Chairman: None.

B. Town Planner Notes: The next Planning Board meeting will be on July 25, 2023.
There is also a training scheduled for July 27, 2023.

C. Discussion:

CARVER PLANNING BOARD
MINUTES OF July 11, 2023

John Gaskey noticed there is legislation being filed by Senator Eldridge and Board Members should decide how they feel about it due to the fact that 95% of Carver is on private wells and this will affect us directly. The gist of the legislation is to have the DEP come up with relations to monitor private wells by homeowners like a meter and report chemical testing.

Mr. Gaskey also points out there is another Bill before the Senate which has gone through several rounds of voting and seems to be moving forward. The Bill is HD 4410 and it has to do with firearm ownership and believes if you own a gun, especially a classic firearm, you should look it up.

Chairman Shea indicates as a rule of thumb Board Members should be paying attention to everything that goes on at the State House.

D. Minutes – 6/13/2023:

Chairman Shea will accept a motion to approve the edited minutes of 6/13/2023. Said motion is made by Kevin Robinson and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Unanimously approved 5-0-0.

E. Adjournment:

Chairman Shea will accept a motion to adjourn. Said motion is made by Ellen Sordillo and it's seconded by Richard Dionne. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Kevin Robinson vote's aye, Ellen Sordillo vote's aye and Chairman Shea vote's aye. Unanimously approved 5-0-0.

Documents for 7/11/2023 PB Meeting

Revised plans for Bridgestone Development