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4/25/17

## Town of Carver, Office of Planning and Community Development

Planning Board Meeting Minutes, March 28, 2017, Carver Town Hall, Meeting Room #1. This meeting was videotaped for cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; James Hoffman; Kevin Robinson; William Sinclair

Also present: Marlene McCollem, Director of Planning, Environment and Permitting; Sam Hemenway, Fuss and O'Neil

Absent: Chad Cavicchi

Bruce Maki, Chairman, opened the meeting at 7:00 PM, followed by the pledge of allegiance.

### *Public Hearings:*

### Zoning Articles for April Town Meeting warrant:

Ms. McCollem – You can read public hearing notice. This was published on 2/24/17 and 3/3/17 in the Carver Reporter. Ms. McCollem - You have the articles you can review and ask for public comments.

### **Part A - Adoption Article Temporary Moratorium On Non-Medical or Recreational Marijuana Establishments:**

The purpose of this article is to see if the Town will vote to amend the Town of Carver Zoning Bylaw to add to Article IV, Special Regulations, the new section entitled "Temporary Moratorium on Non-Medical or Recreational Marijuana Establishments".

Ms. McCollem – Mr. Maki, you could read the information summary. Mr. Maki proceeded to read the summary. Ms. McCollem The planning boards job is to make a recommendation to town meeting. Mr. Sinclair – I think the moratorium is needed as the state needs to better define. Mr. Robinson – I feel the same way. Mr. Maki – I will open this up to the public. Any questions or comments - None

*Motion to support temporary moratorium on non-medical or recreational marijuana establishments: Mr.*

*Sinclair*

*Second: Mr. Robinson*

*Approved: Unanimous (4-0, 1 Absent)*

#### **Part B: Amend Zoning Map Sportsman Club:**

To see if the town will vote to amend the Town of Carver Zoning Map, by changing the zoning classification of an area of land consisting of approximately 170,000 square feet +/-, which land is part of the Town of Carver's Assessors Parcels 75-1 (Carver Sportsman's Club Inc. - approximately 274 acres lot) and comprising that area as is further defined to include a frontage of 522.41 by a depth of 525 feet that is parallel to frontage on Main Street, from Residential/Agricultural District to Village District, as shown on the plan and amended map on file at the office of the Town Clerk.

Mr. Maki proceeded to read the informational summary for Part B

Mr. Maki - This was a win/win for everyone. This is a zoning change. Does anyone have any questions or comments? Mr. Sinclair – I agree this is a win/win for the community and I support this. Mr. Robinson – I also support this. Mr. Maki – Does anyone from the public have any questions or comments? None

*Motion to approve amendment of zoning map, Sportsman Club: Mr. Robinson*

*Second: Mr. Sinclair*

*Approved: Unanimous (4-0, 1 Absent)*

#### **Article 13: Zoning Article sponsored by the Planning Board:**

Part A, Amend the zoning map – To see if the town will vote to amend the Town of Carver Zoning Map, by changing the zoning classification of two parcels of land consisting of approximately 94,098 square feet +/-, which land is shown as the Town of Carver's Assessors Parcels 23-3-1, 23-3-3 and 23-3-B, from

Green Business Park to the Residential/Agricultural District, as shown on the plan and amended map on file at the office of the Town Clerk.

As part of the Urban renewal process it was determined that these parcels would not be acquired and it is recommended. Mr. Sinclair – In the amendment it notes that there are two parcels and then mentions a third. The legal council says that parcel 23-3-B rezoning would be considered spot zoning. Per my conversation with the Town Administrator, it was stated that this was an error and that parcel should not be included in this amendment. Just for clarification, this is the Tuscher residence. Again, according to legal, this would be spot zoning. Mr. Maki – So this piece is not on the warrant? Mr. Sinclair – That is correct, according to the Town Administrator. We had a long discussion during the Urban Renewal process and the Tuschers asked us to consider rezoning, however the legal opinion is that it would be considered spot zoning. Mr. Maki – I spoke with the Town Administrator regarding this property, as well. He said that due to legal opinion he can not include it on the warrant. In knowing that this parcel will be stricken when it goes to the town meeting, I would have to vote to amend the zoning map, excluding that parcel. Mr. Hoffman – Originally this was supposed to change zoning for 2 properties? Ms. McCollem – Originally it was two but then the Tuscher property was added, making 3 properties in total. Mr. Sinclair – You could interpret it both ways. The legal opinion, received on 2/16/17, dated 2/7/17 was given to us and I reread it before I got here tonight. Mr. Maki – With that we have to think in terms of two parcels of land 23-3-3 and 23-3-1. Mr. Hoffman – The third property that is being omitted is residential? Mr. Sinclair – Yes.

Mrs. Tuscher – What does spot zoning mean? Mr. Sinclair – read the findings to the board and attendees. The proposal should be analyzed by characteristics, size, use, etc. Although, the sizing is not the principle determination. Ms. Tuscher – What about our taxes? We pay residential taxes? What will we be taxed at? Mr. Sinclair – I don't really know. Mrs. Tuscher – We will stay green business? Yes. Mrs. Tuscher - Spot means what? Mr. Maki – To change that one lot would be considered spot zoning.

Mr. Maki – Any questions or comments from the public? -

Alan Dunham – Rickard St. I believe the reason the Tuschers wouldn't be allowed to rezone is that they are completely surrounded by green business. The other two are not. If they bordered something other than green business it may be different. Mr. Tuscher – What will our tax rate be? Can our property ever be taken? Mr. Sinclair - As far as the CRA, you were moved to not to be acquired. As far as spot zoning, I am not an attorney, I don't think that will have any bearing on whether someone will take your property. Ms. McCollem - You are at the public hearing and if need more clarification, then you can

continue this portion of the hearing. Mr. Robinson – I am not comfortable with it as is. Mr. Hoffman – My question would be, what is the difference between the three properties? Mr. Sinclair – The other properties abut residential property in Plympton but the Tuschers only abuts green business. Mr. Maki – We can not definitively state that this property will never be taken. Now, the warrant will go forth with only 2 lots being rezoned. Mr. Sinclair – Mr. and Mrs. Tuscher, do you still want to pursue the change? Mr. Tuscher - We were told it would be on the warrant. I don't want to pay a commercial rate? Mr. Sinclair – It should remain as it is. Is it your desire to have it changed? Mr. Tuscher – Yes, I would prefer it be changed. Mr. Sinclair – If it doesn't make this town meeting, then we should pursue it after. We need better clarification for the residents. I don't think any of us has a good understanding on spot zoning. Mr. Hoffman – We originally agreed on the three properties? Yes. Mr. Sinclair – I would want to pursue it for clarification and a future warrant article. Mr. Hoffman – Do we have time to get clarification? Ms. McCollem - You can continue to next meeting or to the Town Meeting. I believe right now; your next meeting is scheduled for April 4. You can continue on that date. Mr. Maki – I have been invited to the Board of Selectmen's meeting as well as Will. Ms. McCollem - We could set it for any day you want. Mr. Maki – We could keep it on the warrant if we just keep the two and do Tuschers later. Mr. Sinclair – the Board of Selectmen has this information from K&P and the warrant will be posted this Thursday. The Tuscher property won't be on the warrant but we can keep this portion open and continue to town meeting and meet just before the meeting. Mr. Maki – But it won't be on the warrant? Mr. Sinclair – Not sure how that works. Mr. Hoffman – We'd make an amendment on town meeting floor. Mr. Maki – We could schedule next meeting for Monday April 3<sup>rd</sup> and see if we can get town council at the meeting. There's clearly a misprint here and we need clarification. Mr. Robinson – We could have the meeting on the 3<sup>rd</sup>. Mr. Sinclair – The CRA meeting is at 5:00 on the 3<sup>rd</sup> so that would be fine. Mr. Robinson – We don't want to second guess this, we need clarification. Mr. Sinclair - We advertised for it so it puts this board in a bad position. Mr. Maki – We need clarification on if their lot will be rezoned, and if not, what does it mean to their future?

*All agreed to Continue to Monday, April 3 at 7:00 PM with request to Town Administrator for legal council to be present for this meeting for clarification.*

## **Part B: Amend Zoning Use Regulation Schedule to Add Medical Office**

To see if the Town will vote to amend the Town of Carver Zoning Bylaw, to amend Section 2230 Use Regulation Schedule to add the words "including medical office" so as to read:

Mr. Maki – Any questions or comments? None. Are there any questions or comments from the public? - None

*Motion to recommend medical office: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

#### **Part C: Amend Zoning Bylaw Definition of Kennel, Hobby**

To see if the town will vote to amend the Town of Carver Zoning Bylaw, to change the definition of "Kennel, Hobby," in Article VI. Definitions to add the words "except for a collection of six (6) to ten (10) dogs owned by a single individual, and permanently maintained on the premises as pets, all of which are spayed or neutered, shall not be considered a hobby kennel" so as to read:

Kennel, Hobby shall mean a single premise with a collection of six (6) to ten (10) dogs, three months or older, that are maintained for any purpose, and where fewer than four (4) litters per year are raised. Except for a collection of six (6) to ten (10) dogs owned by a single individual, and permanently maintained on the premises as pets, all of which are spayed or neutered, shall not be considered a hobby kennel.

Mr. Maki - Over 10 dogs still requires Kennel special permit. This has been discussed at past meetings and thought to be a good idea.

*Motion to endorse: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

#### **Part D: Amend Zoning Bylaw Relating to Freestanding Signs:**

To see if the Town will vote to amend the Town of Carver Zoning Bylaw, to amend Section 3522. Prohibited Signs to add the following:

j. Individual freestanding signs are not permitted for multiple-occupancy commercial buildings. All information relating to establishments within the building or complex must be contained within one directory sign permitted for the entire premises.

*Motion to endorse: Mr. Sinclair*

*Second: Mr. Robinson*

*Approved: Unanimous (4-0, 1 Absent)*

#### **ARTICLE 14: CARVER MASTER PLAN APPROVAL**

To see if the Town will vote to adopt the "Master Plan" dated January 25, 2017, prepared by SRPEDD, to guide the long-term planning efforts of the Town, a copy of said plan is on file at the office of the Town Clerk; or take any action relative thereto.

Mr. Maki – Any questions or comments? Mr. Sinclair – I just wanted to say that the Master Plan Committee did an excellent job on this

*Motion to endorse the Carver Master Plan Approval: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

*Motion to continue Zoning Article 13, Part A, until April 3 at 7:00 PM: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

***Jack Williams, Williams Brothers, Inc. of Marshfield – North of High Street (Assessors Map 30-10-S, 10-6 & 10-7):***

To develop a Conservation Subdivision and new road to serve 10 building lots. Request for a Special Permit pursuant to Sections 3800 and 5300 of the Zoning Bylaw and a Definitive Subdivision Plan.

*Filed with the Town Clerk: January 18, 2017*

*Deadline: 90 Days from close of hearing*

□

Ms. Konary, Stantec – I am here with Jack Williams. We were here a few weeks ago and have addressed some issues that were discussed at that time. I have provided a list of responses to the Board. Ms. Konary proceeded to read comments and responses from a letter dated March 23, 2107. All changes have been recorded in these current plans and we have submitted Mylar sheets, as well. Mr. Maki – Any questions? Mr. Robinson - We did go out to the site last week. Item 5 of the conditions; I would like to clarify that the conditions note that we can't supervise 24/7? Ms. McCollem – It is on the plan and that should be safe. If there is a complaint, the Board would decide how to fix the problem. Mr. Maki – As I was reading the draft, I noticed it didn't mention the waivers. Ms. McCollem - There weren't any changes to them and are exactly as requested and listed in the file.

Mr. Maki – Any questions or comments from the public? Jack Williams developer - On the back side of the subdivision, there are a number of bounds on the backside of subdivision. Ms. Konary - There are a lot of direction changes the regs call for bounds for every direction change. Ms. McCollem - That was not part of your waiver request. It was only for right of way waiver and proposed culvert extension. This would be an additional waiver and is not part of this application. It is not written in the draft. Mr. Williams – We would put an iron pipe in there. Ms. McCollem - Regulations are very strict on this. Mr. Maki – Instead of setting 15 bounds you are proposing to set 3 with two additional for corners? Mr. Williams – Yes. Mr. Maki – I would like to see concrete bounds out there. Generally, 5 or 6 bounds would be sufficient. Ms. McCollem - You should always require bounds in layout of roadway. Because this is such an irregularly shaped lot, it is not a situation that your regulations are designed for. Mr. Maki - I would be all right as long as we set bounds at rear corners, and property corners on rear line for a total of 5 bounds. If you set bounds, it is more of an official monument. If you set a pipe, it can become an issue. Mr. Sinclair – I am good with that. Ms. McCollem - I can add that addition to the draft. You will need to come in and sign it. Your decision should be recorded with the plan. Mr. Sinclair – Can the developer change the plans to show these bounds? Mr. Williams – Yes, not a problem, Ms. Konary will submit those. Ms. Konary - What plans need to be recorded? Mr. Sinclair – Just mark the plans for us. Ms. McCollem - I think the Mylar's are sufficient for recording. Ms. McCollem – The registry will have the plans that are in front of you. Those plans do not show bounds. The plans will be revised to easterly and westerly most corners and intersecting property lines for a total of 5 bounds.

*Motion to close public hearing: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

*Motion to approve with changes to bounds: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

Special permit will be ready to pick up on April 3.

***Route 44 Development, LLC—3-4 Park Ave, off Montello Street (Assessors Map 20-2):***

Request for a Special Permit to allow site preparation activities to address historic environmental issues and import soils in anticipation of future development in the Green Business Park District, per the Carver Zoning Bylaw Sections 4300 and 5300. □

*Filed with the Town Clerk: January 17, 2017*

*Deadline: 90-days from close of hearing □*

Bruce Haskell – Engineer for Rt. 44 Development – I am with John Simpson who is representing the operator.

The same activities as noted before. This involves 127 of 300 acres and is to allow for prep for future development. Storm water basins will be addressed; debris pile clean up; finish processing of asphalt brick materials; wood waste landfill on site that is in the center of the site – we will need to get Mass DEP approval; a large wood pile on the southern perimeter of site which needs to be ground up and remediated.

**Phase 1**

Soils operation – DEP admin new consent order with the types of things being done and enforcement when it is not done right.

Reporting of various conditions. The requirements are stricter than what the Planning Board approved in 2015. Stantec approved and has been involved throughout with monthly inspections. These will continue and a Planning Board rep is always invited. They are reported to the DEP and the Town Administrator. The process – soil packages with detailed testing and background.



Things that are new/different:

- Approval of 710000 cubic yards. Previously 600000 cubic yards. New number are grady plans.
- Soil acceptance hours change to 7-5 (instead of 8-4)
- Maintain same truck limits (60/day)
- Maintain same site conditions on Montello street – pot holes, vegetation, intersection
- Truck route exit south on Montello street.
- \$50,000 bond will continue

Sam Hemenway, Fuss & O'Neil – I have read but need to review. I will provide a written response after.

Mr. Maki – any questions Marlene? None. Sam Hemenway, Fuss and O'Neil – The storm water conditions are not final but are suitable for type of work proposed. Mr. Maki – You've already brought 70,000 cubic yards? Yes, a little less. Mr. Maki – All soils were tested and went well? Yes, now we move on 710,000 cubic yards. Mr. Sinclair – We should do a site walk to check on progress. Mr. Hoffman – So you want to allow trucks at 7:00AM, Monday – Friday only. Yes. Mr. Sinclair – Were you able to maintain 60 trucks per day? We did not consistently get up to 60 per day. The operation is in spurts. Mr. Sinclair - I am concerned about school buses and pick ups at 7:00 AM. Mr. Robinson – With entering spring, there will be clean up of the debris you are tracking out onto the street? Yes, we haven't been having an issue but is part of the operation. We have a very long run on the property before we even get to the road. Mr. Maki – Work on the site will be occasionally until 7:00PM? Yes, but just special circumstances.

Mr. Maki – Any questions or comments from the public? – NONE

Mr. Sinclair – Let's schedule a site walk and continue to the next meeting April 25<sup>th</sup>. Can we do the site walk to check on progress, separation of content, what's been done up to this stage, grading, etc. on April 17 at 5:00 PM. This walk would be for Board members only. Ms. McCollem – That's fine as it's not a public hearing. You can go out as a Board and ask questions. Can we request a representative from Fuss and O'Neil? Ms. McCollem - Yes.

*Motion to continue Public Hearing to April 25, 2017 at 7:00PM: Mr. Sinclair*

*Second: Mr. Robinson*

*Approved: Unanimous (4-0, 1 Absent)*

## Discussion:

- Sign Permit: "Shane Gives Thanks" at 27 Marks Way, Carver Square

Krystal McColgan – Executive Director - Looking to provide signage for newly relocated food pantry that serves the towns of Carver and Plympton. Mr. Maki – This is for the Carver Square directory and another sign in the complex with direction. Mr. Robinson - where exactly are you located? Ms. McColgan - We are located right next to the bakery. Mr. Maki – No additional lights? Ms. McColgan - No.

*Motion to approve: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

- Sign Permit: "Vapeway" at 145 South Main Street

Susan Fitzgerald – The company designed the sign. The store is not yet open. We are right by the Little Red Smokehouse. Mr. Maki – This will be on an existing directory? No wiring? Ms. Fitzgerald That is correct. Can he do a window graphic? Mr. Sinclair – That would probably exceed footage. You would need to come back to us.

*Motion to approve as presented with building permit and no lighting: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

- Master Plan Update:

Ms. McCollem on the agenda but was taken care of on zoning hearing. As long as you felt comfortable to approve the plan, I think that's good. In anticipation of implementation, I did apply for

grant money which was approved and will help with modifications. Mr. Sinclair – Thank you for applying for that.

### Other Business

A. ***Planning Board Member Notes*** – Mr. Maki – Marlene is leaving us for a new job and I would like to thank her for the last two years that you have been here. We had a couple of big projects that you spent a lot of time on. We've learned a lot from you and we look at planning a little differently now. We hope you do well on your next job. Mr. Robinson – I've learned so much from you and wish you well. Mr. Sinclair – There was a big change when Mr. Hunter left. You brought your expertise and worked with us. I don't think we would have made it through a lot of this without you. I wish you well in your future. Mr. Hoffman – Thank you for helping me grow in this position. I am very sad to see you go. Also a reminder that the Kane Strong Golf tournament is May 6 at Bay Point Club. Contact Mr. Hoffman with any questions.

B. ***Minutes – February 28, 2017***

*Motion to approve minutes from February 28, 2017, as written: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*

C. ***Correspondence***: NONE

D. ***Next Meeting date***:

The next Planning Board meeting has been scheduled for April 3, 2017 at 7:00 PM

E. ***Adjournment***:

*A motion was made to adjourn the meeting at 8:54 PM: Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: Unanimous (4-0, 1 Absent)*