



approved
12/11/18

Town of Carver, Office of Planning and Community Development

Planning Board Meeting Minutes, November 13, 2018, Carver Town Hall, Meeting Room #4. This meeting was videotaped for cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; James Hoffman, Member; Jen Bogart, Member; William Sinclair, Member; Kevin Robinson, Member; Cara Dahill, Alternate Member

Also Present: Stephen Cole, Planning Director

Absent:

Bruce Maki, Chairman, opened the meeting at 7:01 PM, followed by the pledge of allegiance.

Sign Permit:

Drop Zone, Route 58 and South Meadow Road –

Mr. Cole – At the last meeting, the sign did not meet bylaws. The yellow paper in your packet depicts the new design and it meets all bylaws. If the Board approves, I will instruct the applicant to apply for the building permit. The background is not actually yellow; it was just copied on a yellow paper. It is only one sign and will be located at South Meadow and route 58. Ms. Bogart – That area already has quite a few signs; does this sign meet the needs of Carver? Mr. Maki – What other signs do we have there? Edaville sign is there as well. How does everyone else feel. Mr. Robinson – I am glad they are fixing their error; do we have anything that limits the number of signs? Mr. Cole – We have to accept that there is limited real estate there. This is the only request I have received for that area, in the last year. Mr. Maki – Will it be open all year long? Mr. Cole – I am not sure, but there are other companies that are seasonal. Ms. Bogart noted that the application is missing a lot of information. Mr. Sinclair – Let's move this to the next meeting and have him come in; he needs to better define this. This business is building and I feel economically it's good for our town. Mr. Maki – Yes, lets postpone to next meeting and have him come in.

KAMP Construction, 20 Gate Street -

Mr. Cole – I was going to request a continuance but the applicant is here. There are 3 business' listed. Mr. Rodriguez – it's 38 acres with 14 Acres of Cranberry Bogs. We will occupy a Morton building. We currently operate out of our home but will be moving the business over to this location. The office is in a residential Agricultural. The one office is for all three business'. It is very easy to miss the access as it is a dirt road onto the property; the sign would be beneficial. Mr. Cole – I would like a site visit before making my final recommendation. Mr. Cole will reach out to Mr. Rodriguez to schedule that.

Discussion and possible vote:

On the application of Renewable Energy Development Partner, LLC, requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 3580 and 5300 of the Carver Zoning by law, located at 13-A Gate Street and 0 Godfrey Circle, Carver, MA (Assessors Map 1-L-R & 1-0-R) to allow a large scale ground mounted "dual use" solar power generating project in a Residential/Agricultural District.

Mr. Cole – At the last meeting 4 members voted to close the Public Hearing and to continue with conditions. There are 7 conditions. The ones to note are:

- #3 - Prior to the issuance of the Building Permit, the applicant shall construct observation test pits and submit results to the Board.
- #6 - Prior to the issuance of an electrical permit, the applicant shall ensure compliance with National Electric Code requirements on access, fencing and security. A statement of compliance shall be submitted to the Board by the Electrical Inspector.
- #4 - Prior to the issuance of an Electrical Permit, the applicant shall provide the Board with a De-commissioning Bond \$101,500 to run with the life of the project.

All other conditions are fairly common for this type of project.

Mr. Maki – What about the berm? Mr. Cole – At the site visit it was determined that it was not a requirement.

Everyone is agreeable to the list provided. Mr. Cole will give this info to the clerk. Applicant can pick up formal copy in 21 Days.

Public Hearing:

- On the application of Priolo Plymouth Street Realty Trust, requesting a Special Permit and Site Plan Review pursuant to Sections 2230, 3900 and 5300 of the Carver Zoning by-Laws, located at 0 Plymouth Street, Carver, MA (Assessors Map 18, Lot 8) to allow a 32-unit townhouse development in a Residential Agricultural Area.

Mr. Sinclair – As I am a direct abutter, I will excuse myself at this time.

Mr. Cole – We've gone back and forth with TLC and Fuss and O'Neil. They are reviewing the latest as we speak. I expect this to be wrapped up for the Board to vote at the next meeting.

*Motion to continue the Public Hearing for 0 Plymouth Street to November 27, 2018 at 7:00 PM: Mr. Hoffman
Second: Ms. Bogart*

7:24 Mr. Sinclair returned to the meeting.

- On the application of David Mulcahy, 1929 Development, LLC of Kingston, requesting a Site Plan Review pursuant to Sections 2230 and 3100 of the Carver Zoning by Law, for property located at 157 North Main Street, on Assessors Map 24, Lot 4A, Carver, MA.

The applicant requests approval to construct an addition of a Craftsman/Tradesman building to an existing single family dwelling in the High Commercial Zone.

Mr. Surkey - We are requesting a continuance and will be filing for a special permit (Water resource protection). We are hoping for 12/11/18 for that hearing combined with this one. Mr. Martin will be evaluating under special permit and site plan approval. The use of this property by Mulcahy, Mr. Mulcahy is a Deer tick control tradesman and is a professional licensed by the commonwealth and uses his skill to improve and maintain that property. Mr. Mulcahy is licensed by the commonwealth and uses his skill in such manner. We've met with the building commissioner who understands our position. We met with him and Mr. Cole this morning. We were able to provide documentation from the trade that describes what Mr. Mulcahy does. He would feel more comfortable if the Board came to consensus that this is indeed a tradesman use.

Mr. Maki – We did meet with Town Counsel and they have determined the following.

Read by Mr. Maki.

Town Counsel, KPLaw determined "The proposed use of the property is problematic in that it is proposing adding a non conforming use as a single family residential use is not allowed in the HC Zoning District. The proposal does not qualify as a Home Occupation. In my opinion, the narrative does not support the assertion that ohDeer qualifies a "Tradesman". It is the Boards decision whether the proposed use falls within the definition of "Tradesman"

Mr. Surkey – If you do not consider it to be a "Tradesman" the whole project is dead. To my knowledge, there has been no opposition. Characterization is important here. Mr. Mulcahy is prepared to accept all reasonable conditions made by this Board. We are prepared to file application for Special Permit and to come back on the 11th of December.

Mr. Maki – Anyone else have anything to add? Mr. Robinson – I feel that storage is a problem. This is a chemical that will be located where someone is living. Mr. Surkey – His lender requires residential listing. He's willing to limit to 5 years. Mr. Mulcahy – The product itself is an essential oil. Ms. Dahill – Could you provide a Material safety data sheet? Mr. Surkey provided that information to Ms. Dahill. Mr. Robinson –

You have to have this brought in; the idea is perfect with the exception of the storage. Mr. Mulcahy – We have discussed an in-ground tank in the past. That would be a 1500 gal tank. Mr. Robinson – That would have to be agreed upon by the BOH? Mr. Cole – Yes. Mr. Maki – The Building Inspector and consulting engineer told us that is wasn't a correct use of the property and now the town counsel is in agreement. Mr. Surkey – I don't believe Mr. Frances had the benefit of our analysis at the time of his decision. I can't see any difference between what Mr. Mulcahy does and any other tradesman. As far as chemicals, we will abide by whatever this Board and Fuss & O'Neil decide. I think that Mr. Frances just needs this additional information. Mr. Mulcahy is a tradesman, not a craftsman. If you're willing to keep an open mind, we are willing to keep moving forward. Ms. Bogart – When you are referring to tradesman, you mentioned Electrician, which is licensed. It is not necessary for Mr. Mulcahy to be licensed? Mr. Mulcahy – That's true. I am licensed and my manager is licensed. Ms. Bogart – If you are using that as an example, I question it as this does not have a licensing standard. Mr. Mulcahy – A painter is a tradesman but doesn't require a license. Mr. Sinclair – The question is really, before you apply for a special permit, you need to get past the Tradesman/Craftsman issue. Where did the list from Mr. Frances come from? Applicant referred to Wikipedia and Google. Mr. Maki – Who gave you your license? Mr. Mulcahy – The Mass Department of Agriculture. Mr. Sinclair – The K&P and Fuss & O'Neil decision. I rely on our Building Commissioner to give us guidance. This Board needs to determine if it falls under Tradesman or Craftsman. If his license is through the Department of Agriculture, does that make it farming or tradesman? Mr. Surkey – He doesn't grow but eradicates. Ms. Dahill – Did you apply for your pesticide license? Mr. Mulcahy – We don't need the license. We heard that the state will start requiring so I wanted to start now rather than wait. Ms. Cahill – Will you, in the future, limit to just these chemicals? Mr. Mulcahy – Yes, we are only looking to use these natural oils.

Mr. Sinclair – How do we make this decision? Mr. Robinson – I don't feel comfortable making the determination of whether he is a tradesman or not. Mr. Sinclair – The professionals that represent us, that we asked for clarification, all tell us no. Mr. Maki – We could suggest the department heads take a look at this for bylaw modification at the next town meeting, to better define tradesman. Mr. Surkey – That would kill the project. Mr. Hoffman – At first I didn't think if fell it into tradesman or craftsman. Now you bring up painter, what's the difference? I think the main issue is actually the chemical storage on a residential property. If we agree on "tradesman" definition, we still have that issue. Mr. Surkey – What if we can show that what is on the property is safe, at that point the classification becomes less important? Mr. Sinclair – Do we move to a Special Permit? Under the decision by K&P, to get a license from a state or federal agency would requires certain criteria. This gentleman has a license from the Mass Department of Agriculture. He provides a service to others and has a license to do so. Our bylaw 22.30 indicates "etc." gives us the ability to make that determination. I believe he meets the criteria. Any other criteria will be determined with the Special Permit. Ms. Dahill – When I asked the question about the license; he said he doesn't need it but he got the license anyway. Mr. Sinclair – I would rather he have it, than not have it. Ms. Dahill – Would this open the door to other chemicals? Mr. Sinclair – We can condition that. Mr. Maki – Does the Board feel that we should continue?

Mr. Hoffman – If we have someone else come along, without a license, would it be handled differently? Mr. Sinclair – I would say that because he is licensed by a state agency, that better defines him as a tradesman. If someone came in unlicensed, it may change my opinion. Mr. Hoffman – What we decide will set a precedence. Mr. Sinclair – We need to better define our bylaw. Mr. Cole - A site plan review and special permit can be done at the same time.

Motion to better define that the applicant, D. Mulcahy 157 North Main Street, under bylaw 22.30B, meets the requirements of Tradesman: Mr. Sinclair

Second: Mr. Robinson

Approved: 4-0-1 Ms. Bogart

Motion to continue the Public Hearing for 157 North Main Street to December 11, 2018 at 7:00 PM: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (5-0)

- On the application of Borrego Solar Systems, Inc. requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 3580 and 5300 of the Carver Zoning bylaw, located at 72 Center Street, Carver, MA (assessors map 70-1-5) to allow a ground mounted solar power generating facility of approximately 499 kW in a Residential/Agricultural District.

Representing Borrego Solar Systems – Josh Fargus and Brandon Smith

Mr. Smith distributed some documents.

Mr. Sinclair – This is a special permit for 499kw in RA? I have a memo addressed to Lynn Doyle, a draft decision, mentioned a 600 kW-DC. Mr. Brandon, yes it steps down to 499 kW-AC.

Mr. Fargus – We've conducted site visits. The issues are the view/screening with abutters. We have worked to address those issues. I have submitted an updated memo of agreement with abutters. The plan to formalize that will be to send a written agreement to abutters.

Mr. Maki – You provided pictures? Mr. Smith Fuss & O'Neil submitted updated comments, one of which was access to the bog. Those graphics are for that purpose. Mr. Maki – Has the Fire Department looked at these? Mr. Smith – They haven't seen that, exactly, but it is described in their letter. Mr. Cole – The PB did a site visit and visited several abutters. The applicant has done a lot of work to secure a landscape plan and budget. If the Board closes the Public Hearing, we can review conditions.

Mr. Maki - Anyone in the audience have a question?

Chuck Howard, 68 Center Street –

Since our conversation with Borrego and the site visit, the leaves have come down. Mr. Howard distributed pictures to the Board. The original agreement, with 6' trees, was good when the leaves were still up. After doing some measurements, I would say a 20' tree would do a better job. Mr. Maki – Something will need to be worked out. Mr. Fargus – Mr. Howard and I spoke yesterday. The proposed screen on 3 abutters properties, was budgeted for about 20 trees. We felt things were agreed upon yesterday; I will defer to the Board to determine what to do. We are providing a budget to each abutter and could be left up to the land owner. Mr. Howard – It is substantially more expensive, but needed. Mr. Smith – I believe Mr. Howard is referring to the area that drops off. The budget provided should be able to provide adequate screening. Mr. Howard – I would like to go along the property line and build up. The budget you provided wouldn't accommodate a 20' tree. Mr. Maki – Before we approve a decision, we would like to see the agreements with the abutters. The abutters are going to have to work with Borrego on this. Mr. Fargus – I would prefer that the Board decide on this. Elise Howard – You are all welcome to come back to see how it is now that the leaves are all down. Mr. Hoffman – Originally, when we did the site walk, we talked about the screening at the peak of the backyard; now you are referring to the property line. Elise Howard – If we put the screening up on the hill, it will take some of our property. Mr. Fargus – I feel that we could work it out and would accept it as a condition. Ms. Bogart – I took pictures when we did the site visit. I do see the difference between my picture and the one you provided today. Mr. Maki – The elevation is the problem. The placement is in question; top of hill, bottom of the hill, etc. Mr. Fargus – I am committed to reach some agreement with you; maybe a mixture of the two sizes.

Mark Townsend, 10 harvest view way –

There were some things discussed during the site visit that I want to make sure are conditioned.

- Lighting oriented toward the swamp
- "No touch zone" – keep any forested land the same.

Mr. Smith – the lighting that we use are adjustable and are easily oriented. Mr. Sinclair – Are they normally off? Mr. Smith – They are motion activated, in an enclosed area. Mr. Sinclair – I didn't see fencing around the array? Mr. Smith – There is none around the array. Behind the modules will be a poly mesh. Mr. Sinclair – Is that approved as a safeguard for any voltage over 30 volts? Mr. Smith – Per the NEC, it needs to be not readily accessibly. The equipment area is surrounded by 6' fence. Mr. Sinclair – We need to know if the mesh is UL approved to safeguard those items. The NEC is pretty clear. Mr. Smith – We will take a look at that.

Mr. Maki – No further questions? Ms. Bogart – I appreciate you working with a local landscaper. There is one house on Center Street that hasn't responded; there is no landscape plan for that property. I don't think the resident is responsible for this. I think you should still be responsible for talking to them. Mr. Fargus – So if we did a potential screening solution, if they reach out to us, would that be suitable? Ms. Bogart – Yes, I think they have the worst view. Mr. Maki – It would be good to follow up on this property. Mr. Fargus – We accept a condition of providing a budget for this property. Mr. Sinclair – I don't see the decommissioning analysis; did you provide a copy? Mr. Smith – We did provide a copy to the Board. Mr. Maki – That will be written up in the decision that is to be voted on at our next meeting. Mr. Sinclair – The information on the FD Concerns, the ramping, do we have documentation from the FD that they are good with that? Mr. Fargus – The ramp or the project? Mr. Sinclair – The ramp is the key. Mr. Fargus – There are a lot of ramps that would work, we gave one example and will probably be contingent on the Building Permit. Mr. Sinclair – I want to make sure that the FD is happy with the condition. Mr. Hoffman – If we get in touch with the neighbor before the next meeting, they may want to say something. We shouldn't close the Public Hearing.

Mr. Sinclair – Do you have a deadline to begin/permits? Mr. Fargus – Yes, we do. Mass Smart Program opens up at the end of the month. We were hoping for a vote tonight. We are trying to go above and beyond. Mr. Sinclair – It is important to understand the financial picture on this. Mr. Fargus – This is a small project with tight margins. Qualifying earlier will help. Mr. Sinclair – Do you understand the 21-day appeals process? Mr. Fargus – Yes, I do. Mr. Cole – The State Smart Program is in done in blocks with lower incentive for each additional block. If this Board votes on the 27th, and you have your paperwork submitted on the 28th, block 1 may be exhausted already. Mr. Fargus – Multiple blocks will go on the first day. If we miss that, the economics really change. Mr. Sinclair – We can identify in the conditions for the screening / budget for the property that has not responded, I think, with that, the project can move forward. The residents that are here tonight appear to be getting their concerns addressed.

#6 updated re: clearing of land. - Mr. Hoffman – Applicant must maintain proper screening throughout the life of the project? Mr. Fargus – The screening on abutters properties come with growing season warranty, but we will not be providing maintenance of the screening for the life of the project. Mr. Cole – They lack site control. Mr. Maki – If something happens to something that is planted, it is up to the abutter? Mr. Fargus - Yes, the landscaper provides the growing season warranty.

John Callahan, 14 Harvest View. —

My concern is not the stuff on my property but with the project property being cleared more than it is. As long as that is a condition, I have no issue.

Motion to close public hearing: Mr. Sinclair

Second: Mr. Robinson

Approved: 4-1, Ms. Bogart

Mr. Cole – I have added a condition that signed agreements accepting adequate screening must be provided to the Board.

Mr. Maki – Use of the road way that went directly to the bog and the driveway. There was one that would get more use? Mr. Cole – It was communicated that roadway closest to number 68 be the main access.

Mr. Maki – Can we add that into the conditions as well? Mr. Cole – Yes.

Ms. Dahill - #6 – Add that it is still a working bog. It should specify that trees can't be removed. Mr. Maki – It does state that no vegetation be removed. That should cover this.

Motion to approve the application of Borrego Solar, with the conditions read: Mr. Hoffman:

Second: Mr. Sinclair

Approved: 4-1, Ms. Bogart

- On the application of DPH Realty Trust, requesting a Special Permit and Site Plan Review pursuant to sections 2230 and 3900 of the Carver Zoning by-Law for property located on 0 South Meadow Road, on Assessors Map 112, parcel 1-5 in Carver, MA to construct at 54-unit "pocket neighborhood style" Townhouse Development.

Ed Angley, Attorney and Sarah Stearns, Beals and Thomas. This is a 30-acre parcel. We have placed the units on the east side. We are attempting to keep open land on South Meadow Road. There will be 55+ age group and will place fewer demands on the town. The road will be maintained by the HOA. This will give older residents an alternative to mobile home parks.

Ms. Stearns – We were in front of this Board a year ago with a 19 lot, single family subdivision. We are here today with a new plan. We have taken the Boards concerns and included them in our design. The 55 + open space is much larger than required. We have met with the Fire Department; with minor improvements made. We submitted a revised traffic study and incorporated as many of Mr. Mueller's recommendations as possible. We met with you, technical review and FD. We are here tonight and would be happy to schedule a site visit. I am very flexible for any members that would like to see it. We have requested some waivers that are listed.

- A vegetated buffer with houses on the east side
- Concern over large storm water basin being an eye sore. We have come up with a low impact system for the site and have met with Fuss & O'Neil with specifics for drainage design.

Ms. Bogart – I would like to go for a site visit. Mr. Maki – Our main concern last time was with the two drainage basins. Ms. Stearns – We've shifted them and broken them into 4 smaller basins. The access road will be gated and locked (accessible by FD). Ms. Bogart – What is the anticipated selling price? Mr. Anglely - Between 350K and 450K.

Brian Abatiello, 15 Wade Street –

I am happier with what I am seeing now vs. then. They listened to us. My only concern was the low income. Mr. Anglely – The people that qualify could be teachers and municipal employees, etc. Mr. Anglely – Because it's a condominium, if there are any problems, it will be solved. There is also a HOA, they will hire someone. Open area, roadways, etc. will be managed by the HOA.

Mr. Cole – The Planning Department received the average sales price from John Buckley, Registry of deeds (9/2018 annual report) and in 2018 there was a 9% increase.

7 Bow Street – Came up to review the plan

Mr. Maki – Lets do a site visit. Ms. Bogart, Ms. Dahill?

Mr. Maki – Can you mark out the basins? Ms. Stearns – They won't be visible from Wade Street but we can map them out within the week. We can schedule a week out. Mr. Maki – Show entrance. Mr. Hoffman – Clearing / Vegetation clearing for abutters near the catch basin on the west? Ms. Stearns – With the redesign, we will not need to touch any of that now. We will stake the back edge (Wade Street) of that so you can see. Mr. Maki – When would you be able to mark everything? We could do a site visit next Tues/Wed. Ms. Bogart – I could not; perhaps schedule a different time that I can meet? Ms. Stearns – I can do it any time on Tuesday, I want to make sure everything is flagged first.

Site visit scheduled for Wednesday 11/21/18 at 8:00 AM. Meet at the Wade Street bog.

Motion to schedule a site visit on 11/21/18 at 8:00 AM: Mr. Hoffman

Second: Mr. Sinclair

Approved: Unanimous (5-0)

Motion to continue the public hearing for 0 South Meadow Road on November 27, 2018 at 7:00 PM: Mr.

Sinclair

Second: Ms. Bogart

Approved: Unanimous (5-0)

Minor Modification:

- Sampsons Pond –

Mr. Cole – You have a copy of an email from Art Borden. Man hole #10 never installed. Mr. Borden was looking to develop a small infiltration system; ground water will not be a problem. Mr. Borden will provide all necessary calculations and sizing to ensure that it will work.

Mr. Maki – Fuss & O’Neil said its okay. I am okay with it. Mr. Hoffman – This was back in July? Mr. Cole – Yes, payment was just received so it is now okay to move forward. Mr. Maki – The project is complete? Mr. Cole – It is fairly close to being done.

Mr. Moore – 12 South Main Street – Where is this project? Mr. Cole – Pine Ridge Project.

Motion to accept minor modification for Sampsons Pond LLC, as submitted: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (5-0)

Other Business:

Planning Board Member Notes:

- Mr. Hoffman –
- Mr. Maki –
- Ms. Bogart –
- Mr. Robinson –
- Mr. Sinclair - Happy Thanksgiving

Planning Director Notes:

Nothing additional tonight

Minutes – October 9, 2018 and October 23, 2018

Discussion – 10/9, Pages 5, 8 and 9 missing information; Page 9 125,000 should be 125%

Motion to approve the minutes from October 9, 2018, as amended: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (5-0)

Motion to approve the minutes from October 23, 2018, as written: Mr. Hoffman

Second: Ms. Bogart

Approved: Unanimous (3-0-2 Sinclair and Robinson)

Mr. Cole noted that members may vote on minutes if they were not present, according to the Attorney Generals Office.

Next Meeting date:

The next meeting has been scheduled for November 27, 2018 at 7:00 PM.

Adjournment:

Motion made to adjourn at 10:00 PM: Mr. Sinclair

Second: Ms. Bogart

Approved: Unanimous (5-0)