



approved 5/14/19

Town of Carver, Office of Planning and Community Development

Planning Board Public Hearing Meeting Minutes, for proposed zoning amendments, March 5, 2019, Carver Town Hall, Meeting Room #11. This meeting was videotaped for cable cast area 58, channel 15.

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

Also Present: Stephen Cole, Planning Director; Andy Glimes, Fuss and O'Neil

Absent: Kevin Robinson, Member; William Sinclair, Member James Hoffman;

Bruce Maki, Chairman, opened the meeting at 5:07 7:00 PM followed by the pledge

Mr. Cole – We are reconvening to discuss amendment 7 & 8.

#7 – The definition of Craftsmen/Tradesmen

#8 – Consideration of two overlay districts for marijuana in adult use.

At our last meeting, we did approve 6 amendments. In your packets, you will find all 8 amendments.

Zoning Amendment 1:

To amend Section 3580 of the Town of Carver Zoning Bylaw as follows:

1a –

Amend Section 3580.25.1 to allow reduced setbacks for large-scale ground-mounted solar photovoltaic installations ("LSGMSPI"), to a minimum of 50 feet, provided standard setbacks and screening requirements are waived in writing by all direct abutters in a Residential Agricultural (RA) zoning district. An affidavit signed by all owners of record of all direct abutters within a Residential-Agricultural zoning district must be on file with the Planning Board and referenced in the Special Permit Decision.

1b –

Amend Section 3580.25.1 to allow setbacks be reduced to a minimum of 12.5 feet by right where abutting arrays are proposed in mutual partnership/ownership or common ownership that transcend existing lot lines.

1c –

Amend Section 3580.21.2 to provide that when one project is proposed on multiple contiguous parcels, only one single application is required.

AMENDMENT 1 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 2:

To add a new section (Section 3580.70) to the Town of Carver Zoning bylaw to allow for Dual Use Large-Scale Ground-Mounted Solar Photovoltaic Installations ("LSGMPI"):

2a

To add a new Section addressing required setbacks and screening for SMART/Dual Use Arrays as described in the chart provided to the Board.

Residential/Agricultural with an Array height of 8'+ and setback of 200' (Planning Board may reduce setbacks, but in no instance shall setbacks be less than 25', when abutting a Residential/Agricultural district.), with Abutters notification at 300' (100% screening shall be attained from the greater of abutting street grade or yard grade. Topographical situations may require flexibility in either setback or screening decisions.)

2b

To allow setbacks of a minimum of 12.5 feet, if arrays are abutting a bog or other agricultural use as defined in G.L. c. 128, § 1A provided standard setbacks and screening requirements are waived in writing by all direct abutters in a Residential Agricultural zoning district.

2c

To allow setbacks of a minimum 25 feet provided standard setbacks and screening requirements are waived in writing by all direct abutters in a Residential Agricultural zoning district.

AMENDMENT 2 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 3:

To amend Section 2230 of the Town of Carver Zoning by-Law, Use Regulation Schedule, Sub Section C., Industrial Uses, Large scale ground mounted solar photovoltaic installations, to provide that the use is allowed in the following zoning districts upon the grant of a Special Permit by the Town of Carver Planning Board: RA, GBP, IA, IB, IC and AP as follows:

C. Industrial	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
Large scale ground mounted solar photovoltaic	SP*	N	N	N	N	SP*++	SP*	SP*	SP*	SP*++	N

AMENDMENT 3 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 4:

To amend Section 2230 of the Town of Carver Zoning by-Law, Use Regulation Schedule, Sub Section B., Commercial Uses, Commercial Wood Processing, to provide that the use is allowed in the following zoning districts upon the grant of a Special Permit by the Town of Carver Planning Board: RA, HC, GBP, IA, IB, IC and AP as follows:

B. Commercial	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
Commercial Wood Processing ⁷	SP*	SP*	N	N	N	SP*	SP*	SP*	SP*	SP*	N

⁷ Minimum sites of 5 acres in all districts.

AMENDMENT 4 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 5:

To add a new section (Section 3660) to the Town of Carver Zoning by-Law to allow for Commercial Wood Processing Operations:

Definition:

Wood processing categories include sawn timber, wood-based panels, wood chips, paper and paper products and shall include further processing of timber, wood chips, cellulose and other prefabricated materials with additives.

Purpose:

For the purpose of enabling commercial wood processing operations to conduct business in appropriate zones in town; to preserve the quality of life and character of the community to insure public safety; to safeguard property values and protect land rights among competing interests and uses.

The provisions set forth in this section shall apply to the import, export, operation and processing of the natural wood products not exempt by G.L. c. 40A s. 3 or G.L. c. 125 s. 1A.

Applicability:

Except where exempt under G.L. c. 40A s. 3 or G.L. c. 125 s. 1A, commercial wood processing operations shall submit to the Planning Board an application for Special Permit. Lots with less than 5 acres shall also submit application for Site Plan Review. Site Plan shall clearly identify an area on site to be used for spreading and extinguishing combustible materials in case of a fire. The pre-defined area must be maintained for the duration of the operation. Relocation or amendment to the pre-defined area location shall be acceptable with the approval of the Planning Board. A water supply area shall be well-defined on a plan and in close proximity to the storage piles. Access roadway to the water supply area shall be an "all weather" road and maintain a 12' wide clearance. Storage and piling of wood material shall not exceed a volume greater than 1700 cubic yards and shall not exceed 13' in height, 26' wide and shall not be greater than 275' in length. Wood material shall be spaced a minimum of 30' apart. Multiple storage piles shall maintain 30' clearance between adjacent storage piles. Storage piles shall be a minimum 30' removed from tree lines and structures. Gates installed on the property shall be at least 12' wide and a key, if locked, shall be provided to the Carver Fire Department.

Setbacks:

Front, rear and side setbacks shall be at least 100 feet on the applicant's property; provided, however, that where the lot is located on less than 5 acres, the Planning Board may reduce setbacks to not less than 50 feet provided noise mitigation and screening are adequately addressed. Vegetated screening shall be provided for a minimum of 50% of specified setback.

Enforcement:

The Zoning Enforcement Officer is hereby designated and authorized to enforce this by-Law.

AMENDMENT 5 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 6:

To amend Section 5222 of the Town of Carver Zoning by-Law, to delete "residential" as shown below in strikethrough and add "zoning" as show below in bold type:

5222. – To hear and decide appeals or petitions for variances from the terms of this by-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances in any ~~residential~~-zoning district of the Town.

AMENDMENT 6 WAS RECOMMENDED for TOWN MEETING at 2/26/19 Meeting.

Zoning Amendment 7:

To amend Article VI of the Town of Carver Zoning by-Law, definition of the "Craftsman/Tradesman" to delete "etc." as shown below in strikethrough:

Craftsman/Tradesman shall mean retail and/or service provided by a worker who practices a trade or handicraft, one who creates or performs with skill or dexterity, especially in the manual arts, such as a jeweler, cabinet maker, frame person, etc.

Discussion (From 2/26/19):

Mr. Cole – the word "etc." appears in bylaw. "Etc." should be removed as it refers to a subset of handy craftsmen. It does not refer to what is a craftsman/tradesman. Mr. Maki – What is a frame person? Mr. Robinson – Frame person could be for pictures and/or a carpenter. Ms. Bogart – Should "such as" be removed as well? Mr. Cole – If that is the will of the board. Mr. Robinson – Would it be a problem to put "example"? Mr. Cole – I think that we would want to avoid that.

Audience comments:

Mr. Serkey - As the Board knows, I represent the person would has generated the need for this. I am asking that this amendment have the following additional language:

"Provided that this amendment will not apply to any case in which a Special Permit application was filed prior to the date amendment is passed by town meeting."

Mr. Sinclair – Mr. Serkey, could you provide a copy of the language? Mr. Serkey – Yes. Mr. Sinclair – I would also like to have town counsel review.

Updated Discussion 3/5/19 –

Mr. Cole –

We did hear from Attorney Serkey to add language (see above). If the Board is amenable, I will add that to the language for Town Meeting. Mr. Maki – Mr. Sinclair requested legal review. Mr. Cole – Without that etc., the applicant would not be able to proceed. It is my belief, re: this case, that the pending ZBA case has been dismissed with prejudice. They are on the agenda for the Planning Board, next Tuesday. Mr. Maki – The "etc.", expands the amount of different crafts? Mr. Cole, specifically the Manual Arts and not intended to be an exhaustive list. Mr. Maki – So it doesn't limit it to Jeweler, Cabinet Maker and Frame Maker? Mr. Cole – No, it doesn't. Mr. Maki – I do not have an issue with removing the "etc." I think everyone was okay with this. We held it to this

meeting for Mr. Serkey's add on language. Mr. Sinclair asked to take this to town counsel. Mr. Cole confirmed that the language is okay. Ms. Bogart – I think that getting rid of the "etc." is good. Mr. Cole – The proper determination should be made through the ZBA. Removing "etc.", would not prevent someone from coming in for this.

Motion to accept Zoning Amendment 7, with Attorney Serkey's additional language: Ms. Bogart

Second: Mr. Hoffman

Approved: Unanimous 3-0

Zoning Amendment 8:

To amend the Town of Carver Zoning by-Law for purposes of regulating non-medical (recreational-use) marijuana establishments within the town, including establishments for the cultivation, processing, testing, product manufacturing and retail sale of non-medical (recreational-use) marijuana establishments, which uses shall be allowed pursuant to the issuance of a Special Permit and Site Plan approval within a designated marijuana overlay district. And to further amend the Town of Carver Zoning by-Law by adding a new Section – Non Medical Marijuana Overlay District at the end of Article IV, Special Uses, as follows and further, to authorize the Town Clerk to make such revisions to the numbering and lettering of such subsection to ensure conformity with the Zoning by-Law.

Mr. Cole – Two prior proposals were defeated. I've worked with a few people to come up with a good compromise. In North Carver, the by-Law seeks to create an overlay district for growth facilities and test labs. Most of the area is North of Shaws (URP). There are not many residents in this area.

In South Carver we are seeking retail. Original request included map 29 lots 1e and 1w. If the Board were to approve this, I am going to ask to remove those as they are Cole property and not suitable for this. South of Seipit there is a plaza with church (without daycare).

DISCUSSION:

Mr. Maki – How have these areas changed since last town meeting? Mr. Cole – There is more area. Mr. Maki – Any questions from any members? Ms. Bogart – My concern is south of Seipit, there are a few houses. In my opinion, I don't think anyone would want a marijuana facility as there neighbor. Can we move it further south to take it out of the residential area? Mr. Cole – South of Erikson's would work. Mr. Maki – Is that RA? Mr. Cole – Yes, a lot of them have active bogs. Ms. Bogart – So the parcels in the overlay are at Main and Tremont? There are two houses down at the town line too. Mr. Cole – All of these other lots are rather large. We can put in setbacks, etc. There is an audience member who is pursuing this business -

Kevin Hough, Back River Group – We have a few licenses. The state laws limit signage and proximity. I know the area you are referring to and we could do something there without affecting the residents. Mr. Cole – In packets, map 126, 127, etc., you can see the lot sizes. These lots are rather large. For those residents Jen mentioned

(refer to map 9), you can see where Main street, Tremont and Seipet meet. The further you go down Tremont you will see the lots getting bigger. We are not changing the underlying zoning, just adding an overlay district. Ms. Bogart inquired to the number of licenses. We are proposing two licenses in total. Mr. Hough – A retail license will grant you the ability to grow as well. There is a limit on size of facility. Ms. Bogart – If you have retail, you could have a grow facility attached? Mr. Hough – Yes. Ms. Bogart – So if a retailer grows, then it's two licenses? Mr. Cole – They would have to be in different locations. When the URP comes on line, my expectation is that we are going to see an increase traffic in North Carver. Wareham already has a facility. Ms. Bogart – I have given this a lot of thought. I can see positives and negatives to putting both kinds of facilities in both parts of town. I am not sure there is a perfect fit for both licenses. I think we need to keep it away from residents. Mr. Maki – how much water would you use? Mr. Hough – You'd be surprised at how little it uses. A lot is reused. Mr. Maki – Most areas of Carver are well water. Mr. Hough – Having town water available would be beneficial. Mr. Cole reviewed Section 5000.5 and 5000.6 with the Board Members. Mr. Hoffman – Isn't there a church on Tremont? This would be an issue. Mr. Cole – It does say religious facility in 5000.5 – 2 c - Mr. Hough – I think they changed that; "religious" is pretty broad. It was very vague and they backed it out. Ms. Bogart – I think we should keep it. A religious facility does have children meet. Mr. Hoffman – If we took that out, it does state "or similar facility in which minors commonly congregate for a particular purpose in a structured and schedule manner" – wouldn't that cover church? Mr. Cole – That gives this Board flexibility. We could also limit hours of use for Sunday. It is my belief that "religious facility" be removed. There are other things this board could do. Let's say someone in South Carver doesn't want to see it there and they now state they are having religious services in their basement; this could complicate things. Ms. Bogart – Are church's classified differently, tax wise? Mr. Cole – There is a different assessing code; they are exempt from real estate taxes. I would be careful about using assessor's records for by-Laws. Ms. Bogart – As long as there is a way, if children are present on a regular basis, we can enforce the 500' rule, then I am okay with removing it. Mr. Hoffman – Is that open to our interpretation? Mr. Cole – What is the regularity they are at that site? I think that's where we should consider the rate of attendance. It opens up a lot of interpretation for this Board. Mr. Maki – Let's continue on and we will pick it up at our next meeting. Mr. Cole – If anyone is interested in doing a driving tour to look at these locations, I will talk with the TA and do a proper posting. Ms. Dahill – Maybe looking into that church to see if they have an active community. Mr. Hoffman – I know they do a lot of special events there. Mr. Cole reviewed the location of the church and its neighbors with the Board. I think Jen's proposal would be agreeable with the AG's office.

Ms. Bogart – I have done a lot of research on other towns. One town set a minimum separation of 750', between marijuana retail. They did not want two neighboring facilities. Home delivery – Several towns banned home delivery; we are allowing it. Mr. Hough – I am not well versed in that. You should check with the state to see what they are doing on that. The delivery piece is mostly on the medical side for those that can't get out. Mr. Cole – We could prevent a business within the town but can not prevent someone from another town from delivering it to a resident of our community. Ms. Bogart – If it's approved in other communities; did the AG approve it? Mr. Cole – I think it would be challenged. I would advise you to talk with Mr. Duphily on this. We have to make sure our by-Laws are enforceable. The state has been silent on this so far. We need to focus on broader issues and then as the state defines, we can focus on those (i.e. a café). If the state hasn't already taken up the issue; we should wait

on them; right now they can't deliver. Mr. Hough – The State will finish on their end and then bring it to you. Mr. Cole cited Section 5000.3, sub section c. Ms. Bogart referenced 5000.3 subsection f – retail is allowed to deliver to consumers.

5000.5 1.ii, 3 - Should read "to be substantially affected"

5000.5 1, ii, 6 – Jen would like to add language to make it more detailed. Mr. Maki – Under Site Plan Review – everything is put on the plan with views of the building, etc. Ms. Bogart – With this, it will show you what it would look like when you drive by. Mr. Maki – That's something to think about. Generally, the Civil Engineering office does the site plan and the architect generates a plan of the building. Generally, it's not part of the job to come up with this type of plan. Ms. Bogart – Because these things are supposed to be nondescript. Mr. Hough – I think what Mr. Maki is saying is that most applicants wouldn't know where to get something like this. It would be difficult to find someone to do this. Ms. Bogart – I don't think it is unreasonable to ask this. Mr. Hough – The state is very specific. Ms. Bogart – This is something on other approved by-Laws. I don't see a negative to that. Mr. Maki – It's not a negative but would be difficult to provide for many. We also generally, do a site walk. As someone that does this for a living, I can decipher what is going on in a plan; this is a very unusual request. Ms. Bogart – The subdivision off of Plymouth Street brought us images of the town houses. Are they required to provide those? Mr. Maki – No. Ms. Bogart – That is what I envisioned. Mr. Maki – How a site will look standing on the street, etc. would be a little more difficult. I think what we have in place gives us a pretty good idea of what we are looking at. Ms. Bogart – I would like to see it as part of the by-Law. Mr. Maki – I think they already do that. Ms. Bogart – Are they just going above and beyond? Ms. Bogart – Maybe it doesn't need to be as detailed but couldn't it be in the by-Law? Mr. Cole – What if the image (concept) isn't exactly what we get, do we suspend their project? There is no legal mechanism to enforce proof of concept. It just gives people an idea of what to expect. We are only going to have two licenses. We have never approved a project without a site visit. I think this is more helpful than any proof of concept. Ms. Bogart – I would like to see a proof of concept; it gives the project more realism to me. If we don't put it in the by-Law can we request them? Mr. Cole – This is new and we need to look at it fully. Can I work with you Jen and maybe inquire to the towns that have this in place? Mr. Cole – I recommend we continue the conversation at our next meeting so the Select Board staff can set up. Ms. Bogart – Before we go, many towns had different Sunday hours than they did Monday-Saturday. Mr. Maki – That's part of the conditions.

Questions or Comments from the audience:

Mr. Moore, 12 South Main Street –

Everything that is happening is being overly restrictive. I don't believe two retail facilities will open in South Carver. There are taxes that the town can receive, is that for grow or retail only? Mr. Cole – There will be a provision for the 3% Host Community Agreement and the 3% excise tax is for facilities. Mr. Moore – The Wareham facility is within 5 miles of South Carver. Why don't we open North Carver to retail? Plympton voted to allow retail; they could open right next to Tractor Supply. As a town, we should allow two retail facilities to get more of a retail tax base. We are missing an opportunity here by restricting retail. Mr. Cole – The language for MGL 64N section 3 states retail only

for local sales tax money. By restricting to South Carver, we are cutting our potential tax income in half. Mr. Moore – Regarding the Crossroads Church; there are more children that gather at Eriksons than Crossroads. Retail should be looked at more carefully. Mr. Cole – I can speak with town counsel regarding a retail in both North and South Carver. The Board agreed to look at that. Ms. Bogart – Would retail bring in more tax money than a grow facility? Mr. Cole – Most would be real estate and personal property; retail is all that plus 3%.

Mr. Cole – Thank you Jen for all of your research. Your knowledge is admirable.

Next PB is March 12. Our agenda has 2 Public Hearings. Would the board like to meet before this meeting at 6:00 instead of 5:00? We have made a lot of ground tonight? We have an RDA Meeting at 6:00 PM. This Board will meet at 5:30.

Motion to reconvene on 3/12 at 5:30: Mr. Hoffman

Second: Ms. Bogart

Approved: Unanimous (3-0)

Materials submitted for the proposed zoning amendments are available for review at the Town Clerk's Office and Planning Department at the Carver Town Hall, 108 Main Street, Carver MA 02330, during regular business hours. Any person interested or wishing to comment on the proposed amendments should appear at the time and place noted above, or submit written comment at least one week in advance of the hearing.

Carver Planning Board Proposed Public Hearing Schedule

~~Tuesday, February 26, 2019 at 5:00 PM~~

~~Tuesday, March 5, 2019 at 5:00 PM~~

Tuesday, March 12, 2019 at 5:00 PM

Tuesday, March 19, 2019 at 5:00 PM*

* If Necessary