

APPROVED
3-8-16

**Carver Zoning Board of Appeals
Meeting Minutes for February 18, 2016**

Members Present: Stephen Gray, Chair; Sharon Clarke, Vice-Chair; James Nauen; Steven Maynard; Frances Mello.

Also Present: Marlene McCollem, Planning Director

At 7:06 p.m., Chairman Gray opened the February 18, 2016, meeting of the Carver Zoning Board of Appeals.

Minutes:

On a motion by Mr. Nauen, seconded by Mr. Maynard, the minutes of November 18, 2015, were approved unanimously.

On a motion by Vice-Chair Clarke, seconded by Mr. Maynard, it was voted unanimously to table the minutes of December 15, 2015, until the next meeting.

Correspondence:

1. Letter of 2/11/16, relating lease arrangement for new singular wireless tower is terminated. Copy of termination of lease at Zero Federal Road in Carver, is to put the Board of Appeals on notice that they were not exercising their rights.

Public Hearing: Case No. 16-973: Petitioner: Timothy and Deborah Dempsey, 22 Cranberry Circle, Carver, MA 02330.

The Petitioner is seeking a variance, pursuant to Sections 2320 and 5222 of the Carver Zoning By-Law, in order to build a garage within the minimum setbacks in a Residential Agricultural District, shown on Map 42A, Lot 19.

Mr. Timothy Dempsey, with his service dog, Bear, presents his intentions. The applicant submits a plan of the proposed detached garage. He also passes out photographs regarding properties in order to illustrate that a garage is common to the neighborhood. He is requesting a variance in order to accommodate a handicap situation (designing for wheelchair), as he has Parkinson's Disease and is planning for the future. He notes his wife is also ill. A garage would allow for his vehicles to be covered during the winter.

The Board questions the applicant concerning design and distances. The garage will be twenty-two feet wide, which he feels is small, but adequate. He has a four-foot pathway between the house and garage, which will allow for a ramp to lead from the house to the garage. The proposed detached garage requires a 10 foot side setback according to Section 2320. The proposed garage will be 6 feet from the side lotline, requiring a variance of 4 feet.

Mr. Maynard asks about the placement and construction of the ramp, which will meet ADA standards. Vice-Chair Clarke asks the applicant to identify the area in which the septic system is located on the property, which is on the other side of the yard. Chairman Gray explains to the applicant and those present the procedure for a variance. A letter from the Department of Inspections is in error, and is so noted, as the dimensional relief needed is for sidelot requirements, not front lotline requirements. According to Chairman Gray, in order to grant a variance, the Petitioner needs to demonstrate one of three things on the property, according to MGL 40A, Section 10, ie unusual shape, soil conditions, or topography. Per Mr. Dempsey, the topography (elevation) is extreme on the conforming side of the yard, as well as the presence of the septic system and leaching field. Chairman Gray notes that he satisfies two of the three conditions.

Chairman Gray invites public comment.

Mrs. Robin Nickerson of 20 Cranberry Circle speaks and identifies her property as the lot closest to the proposed garage. She expresses concern that the proposed garage would be too close to her home, especially with the loss of trees and vegetation for construction. She refutes Mr. Dempsey's photographs of homes in the neighborhood with garages, and both admit that they do not know the actual lot line distances, or whether a property has a variance from the Board of Appeals.

Mrs. Nickerson suggests that it would be acceptable for them if the garage could be attached to the home, and having a distance of 10 feet from the property line. This would require a variance of 20 feet, as the dimensional requirement for an attached garage is 30 feet from the side lotline. The soil conditions and topography concerns remain the same.

Chairman Gray asks for further questions from the public and there are none.

In open discussion among Board members, Mr. Dempsey states that he would be agreeable to attaching the garage, and it would create a safer access and egress from the home to the garage. He would like to begin construction as soon as it is possible. As the property has frontage on Wenham Pond, the question was raised concerning input from the Conservation Commission. Mr. Dempsey reveals that he is a new member of the Conservation Commission and is familiar with Mr. Nauen as a fellow member. Chairman Gray and Vice- Chairman Clarke express concern that this information was not disclosed at the opening of the hearing, giving the Board the opportunity to question Mr. Nauen on his confidence to render a fair and impartial decision on the merits of the application, without the appearance of a conflict of interest. Mr. Nauen feels he does not need to recuse himself. Chairman Gray polls the Board members and it is decided that Mr. Nauen may continue to participate.

Mr. Nauen introduces a letter from the Massachusetts Office of Disability concerning accommodations that may be considered for handicapped individuals and local zoning regulations. This letter was made part of the record

Vice-Chairman Clarke requests a new plan that will illustrate the 10 foot variance. Mr. Dempsey states that the second floor will have some storage, but no electricity or separate plumbing.

The Board determines that a site visit is required. It is scheduled for Saturday, February 20, 2016, at 9:30 am. The hearing is duly continued until March 8, 2016 at 7 PM.

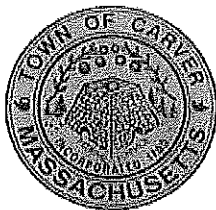
Ms. McCollem states that her office is in receipt of the application and necessary paperwork for a 40B project and that there is a 30 day timeframe to open the hearing. Following discussion of dates and availability of members of the Board, it is decided that the date for opening the hearing will be March 18th at 4:00 p.m. in Room 4. This is to be a procedural opening only, with no evidence or testimony allowed. That hearing will be continued on April 7, 2016, at 7 PM, tentatively scheduled for Room 1, depending on availability. Individual Board members will not accept any questions, calls, or communications from the public outside the public meetings. All public information is available on the Town of Carver website.

Adjournment:

On a motion of Mr. Maynard, seconded by Vice-Chair Clarke, the meeting adjourned at 8:17 p.m.

Attachments:

1. Agenda for the ZBA meeting of February 18, 2016
2. Minutes of November 18, 2015
3. Correspondence of 2/11/16 regarding wireless tower



TOWN OF CARVER

Zoning Board of Appeals

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PUBLIC MEETING NOTICE

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, SECTION 20B

CARVER ZONING BOARD OF APPEALS

February 18, 2016

7:00 PM

Carver Town Hall Room #4

AGENDA

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, SECTION 20B

- A. PUBLIC HEARING: Case No. 16-973:** Petitioner: Timothy & Deborah Dempsey; 22 Cranberry Circle, Carver, MA 02330.

The Petitioner is seeking a variance, pursuant to Sections 2320 & 5222 of the Carver Zoning By-Law, in order to build a garage within the minimum setbacks in a Residential Agricultural District, shown on Map 42A, Lot 19.

- B. Minutes** - November 17 & December 15, 2015 – Discussion and possible vote.

- C. Correspondence** (if any)

- D. Adjournment**