



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

Phone: (508) 866-3450; Fax: (508) 866-3430

Meeting Minutes of December 3, 2019

@ 7:00 PM

Carver Town Hall Room #4

Present: Stephen G. Gray, Chairman; Sharon Clarke, Vice-Chairperson; Members: Eric Mueller, Frances Mello, and Alan Germain.

Also present: James W. Walsh, Director of Planning, Environmental and Permitting; Recording Secretary, Kelly Dicarli

Meeting Opened: 7:00 P.M.

- A. Minutes: Reviewed Minutes of October 29, 2019 meeting
Member Germain made a Motion to accept the minutes. Seconded by Member Mueller. Voted and passed unanimously, 5-0.
- B. Minutes: Reviewed Executive Session Minutes of October 1, 2019
Vice-Chairperson Clarke made a Motion to accept the minutes and to release them publicly. Seconded by Member Germain. Voted and passed unanimously, 5-0.
- C. Minutes: Reviewed Executive Session Minutes of October 29, 2019
Member Mello made a Motion to accept the minutes and to release them publicly. Seconded by Member Mueller. Voted and passed unanimously, 5-0.
- D. Public Hearing: Case No. 127-10-1 (continued): Petitioner: RosenBuds LLC, requesting a Variance pursuant to Article 27, Zoning By-Law Changes - Section 5000.5 (2) Location and Dimensional Controls, to allow a non-medical marijuana establishment within 500 feet of a religious facility. Property is located at 318 Tremont Street in Carver, MA (Assessor's Map 127, Lot 10-1) in the Industrial A District.

Chairman Gray noted that on December 2, 2019, the Zoning Board of Appeals received an email from Michelle Rosen (absent) principal of RosenBuds LLC, indicating that the Petitioner had pursued suggestions made by the Board at its last meeting and that certain unspecified complications had arisen with regard to the proposed site. Although her email indicated that these complications were believed to be solvable, more time was needed. Accordingly, the Petitioner asked that the Petition be withdrawn without prejudice at this time.

Chairman Gray further noted that when a Petitioner requests a withdrawal without prejudice, this means that the Case is no longer active and is no longer being pursued at that time, but could be revived going forward.

Chairman Gray then invited discussion by the Board Members. No comments were voiced.

A Motion was made to close the Public Hearing: Case No. 127-10-1, and duly seconded. Voted and passed unanimously, 5 – 0.

Vice-Chairperson Clarke made a Motion to allow the Case to be withdrawn without prejudice. Seconded by Member Mueller. Voted and passed unanimously, 5-0.

- E. Public Hearing: Case No. 50-8 & 10A (**continued**): Petitioner: SunRaise Development LLC, requesting a Variance pursuant to Sections 2230 and 5222 of the Carver Zoning by-Law for property located at 0 Fuller Street in Carver, MA (Assessor's Map 50, Lots 8 & 10A) seeking a variance from minimum 150 linear feet of frontage for property with approximately 40 linear feet of frontage along Forest Street for a proposed 5 MW large scale ground mounted solar photovoltaic installation in a Residential Agriculture area.

The reason for the request is that Sarah Stearns, Beals & Thomas Inc., representing the Petitioner, is seeking a 110-foot frontage variance, as according to Section 2230 of the By-laws, the required frontage is 150 feet.

Chairman Gray invited further comment from Ms. Stearns at this time.

Ms. Stearns (present) distributed revised site plans after Board Members requested during the last meeting a conceptual plan for bog one (1) and bog two (2). She noted this was the preferred design of the solar developer and land owner and that the solar array will be placed on the cranberry bogs themselves.

James W. Walsh, Director of Planning, Environmental and Permitting (present), stated that he had received an email from Vice-Chairperson, Sharon Clarke, requesting that Ms. Stearns and Bruce Maki, Chairman of the Planning Board, be present. Mr. Walsh noted that he had spoken with Mr. Maki (absent) and the Building Commissioner, Robert Frances (absent), regarding the frontage requirements.

Mr. Walsh discussed past solar projects in the Town of Carver involving similar requests as to frontage and rear lot provisions.

Chairman Gray then summarized the definition of "frontage" in the by-Laws. He noted that the forty (40) feet of frontage in this instance is not, in actuality, forty (40) feet, as the Petitioner does not intend to use this forty (40) feet to gain actual access to the proposed building site as required, as it is wet. In his opinion, it seemed that the Petitioner would require a variance for the full 150 feet of frontage the by-Law requires based on the project as proposed. Chairman Gray asked Mr. Walsh if he agreed with the accuracy of this statement.

Jim Walsh stated "apparently so."

Ms. Stearns stated that she originally approached the Planning Board informally to discuss this proposed solar project and there were discussions regarding the frontage issue at that time. She confirmed during this ZBA Hearing that there is no plan to use Forest Street where the forty (40) feet of frontage is located for actual access to the proposed building site.

Chairman Gray asked Ms. Stearns about a possible rear lot approach to the proposal, per Sections 2340-2345 of the by-Laws and if this were something she might be willing to explore with the Planning Department of the Town. Ms. Stearns noted this approach was possible, however, she had not yet examined whether the proposal, or a variation thereof, could fit the criteria of Sections

2340-2345. Chairman Gray discussed with Ms. Stearns that a short continuance of the Case might be appropriate so as allow her to complete her due diligence and speak with the Planning Department regarding the proposed site.

Vice-Chairperson Clarke also spoke regarding her concerns about the lack of frontage and the granting of a variance when the existing frontage is not going to be used to access the building site, per the by-Law definition of frontage.

Chairman Gray concurred with Vice-Chairperson Clarke. He also observed that the Petitioner had not yet convinced him that there was a distinctive shape, soil, or topography issue pursuant to M.G.L. c 40A that would allow the granting of a variance in this instance. He again mentioned that a rear lot approach might be helpful for Ms. Stearns.

Chairman Gray requested that Ms. Stearns notify the Board if there was any intent not to proceed at the next meeting.

Member Germain made a Motion to continue the Public Hearing: Case No. 50-8 & 10A for the next meeting of January 21, 2020 at 7 P.M., which Motion was duly seconded by Vice-Chairperson Clarke. Voted and passed unanimously, 5-0.

- F. Correspondence (if any): Email from Michelle Rosen, principal of RosenBuds LLC, requesting a withdrawal without prejudice.
- G. Next Zoning Board Meeting: Tuesday, January 21, 2020 at 7 P.M.
- H. Adjournment: Member Germain made a Motion to adjourn. Seconded by Member Mello. Voted and passed unanimously, 5-0.

Meeting adjourned at 7:35 P.M

Respectfully submitted,

Kelly DiCarli