



TOWN OF CARVER

Zoning Board of Appeals

108 Main Street

Carver, MA 02330

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

Meeting Minutes of August 25, 2020

@ 7:00 PM

CARVER TOWN HALL

MEETING ROOM #1

Present: Stephen G. Gray, Chairman; Members: Alan Germain, Frances Mello, and Eric Mueller

Also present: Recording Secretary, Kelly DiCarli

Absent: Sharon Clarke, Vice-Chairperson and Mark Poirier, Alternate Member

Meeting Opened: 7:00 P.M.

A. Minutes: Reviewed minutes of June 24, 2020

Member Germain made a motion to accept the minutes from June 24, 2020. Seconded by Member Mello. Voted and passed unanimously, 4-0

Chairman Gray requested to postpone the Zoning Board of Appeals re-organization vote to next meeting due to Vice-Chairperson Clarke absentee.

Member Germain made a motion to postpone the Zoning Board of Appeals re-organization vote till Tuesday, September 29, 2020. Seconded by Member Mueller. Voted and passed unanimously, 4-0

B. Public Hearing: Case No. 52-1: Petitioner: On the application of Kim Doherty, requesting a Variance pursuant to Section 2300 of the Carver Zoning by Law, for property located at 3 Watson Street in Carver, MA (Assessors Map 52 Lot 1) seeking a variance to side setbacks (30 feet is required, applicant is proposing 18 feet) to construct a 12 X 12 breezeway with an attached 24 X 24 garage in a Residential Agricultural District.

The Petitioner and a supporting family member were present. Stephen G. Gray initiated a discussion with the Petitioner regarding the presence of only a four Member Board at tonight's meeting rather than a five Member board. If the Petitioner were to move forward at this time, she was advised that she would require a unanimous decision from the Board in order to be granted the relief requested. Whereas, if a continuation were to be requested to a date when the full five Member Board were sitting, relief could be granted with a vote of 4-1. The Petitioner decided to move forward with his Petition.

Kim Doherty (petitioner) spoke and seeking a relief of 18 feet to construct a 12 X 12 breezeway with an attached 24 X 24 garage in a Residential Agricultural District.

Bob Kay (supporting family member and builder of the structure) reported the petitioner needs additional storage and garage to move safety from out to inside the house during the night.

Stephen G. Gray noted that M.G.L. c 40A requires that, in order for any variance to be granted by the Board, it must make a finding that there is something distinctive or unusual about the subject property, i.e. shape, soil, or topography, that would allow the Board to “break the by-Law,” as a literal enforcement would cause substantial financial hardship to a petitioner. Chairman Gray inquired what was distinctive about this property? Could the garage be built anywhere else on the property that doesn’t require a variance?

Ms. Doherty noted her neighbors have a garage on one side of the house to which her fence is located closely to this neighbor’s garage and the septic is located in the back yard.

Member Mueller noted the petitioner would need a variance on either side of her house (right side is posing 46 feet from property line and the left side is posing 38 feet from property line). Member Mueller noted the left side has existing well and existing gas line underground. Topography is not an issue as the land is flat.

Chairman Gray summarized the petitioner not able to place the garage in the back yard due to septic tank, petitioners house is tight to neighbors, and conflicts with well. Chairman Gray is satisfied with the state requirement and if they reorganize building plans would be financial hardship.

Chairman Gray invited discussion by the Board Members.

Member Mello inquired the style of garage. Mr.Kay noted it will be a one (1) story garage, small attic space, no heat, no water, however will have electricity.

Chairman Gray invited discussion for public comments.

Dale and Paul Sheey, 1 Watson Street neighbor of petitioner is in favor of construction.

Andrew Kellogg, 6 Watson Street, neighbor of petitioner is in favor of construction.

Motion was made that owing to circumstances, relating to soil conditions, shape and/or topography of the structure or lot, but not affecting the districted generally, a literal enforcement of the By-law would involve substantial hardship to the petitioner. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law.

Member Mello made a Motion to grant a Variance to by-Law Section 2300 for 12 feet set back due to soil condition of the lot described in above testimony. Seconded by Member Mueller, voted and passed unanimously, 4-0.

Chairman Gray noted any persons aggrieved by this decision may appeal to the court of competent, jurisdiction pursuant of the M.G. L. c 40A, Section 17, within twenty (20) days of the date of this decision is filed in the Office of the Town Clerk. At the end of the 20 days, if no one has appealed, the Applicant may pick up a certified copy of the Boards’ Decision at the Town Clerks office.

- C. Consideration of Removal Bond for Cell Tower Located 62A Wenham Road (Map 42, Lot 8), owned by SBA Communications Corporation, 8051 Congress Avenue, Boca Raton, FL

Chairman Gray noted it’s his understanding the Town Administrator handles these issues. Chairman Gray suggested to the Board Members due to the bond issues to refer this issue to the Town Administrator for appropriate action.

Member Germain made a motion to defer the consideration of Removal Bond for Cell Tower Located 62A Wenham Road to the Town Administrator. Seconded by Member Mello. Voted and passed unanimously, 4-0

- D. Discussion with Planner and Building Commissioner concerning review and procedures for Cases that are filed with the Planning Department and eventually appealed to the Zoning Board of Appeals.

Chairman Gray voiced there was a meeting with the Planning Board and Building Commissioner few weeks ago and reviewed concerning cases. Those who were present included: Stephen G. Gray; Zoning Board of Appeals Chairman, Frances Mello ; Zoning Board of Appeals Member, Bruce Maki; Planning Board Chairman, Richard LaFond; Carver Town Administrator, and Robert C. Francis, Building Commissioner (attended via Zoom). A packet created by Sharon Clarke; Vice-Chairperson of the Zoning Board of Appeals that provides instruction for submitting a zoning board appeal application was given to all meeting participants and will be distributed to all applicants.

Chairman Gray invited discussion by the Board Members.

Member Germain voiced no issues

Member Mueller noted this packet will better “streamline” the process

Member Mello noted this will give applications information they need.

Member Germain made a motion to accept the packet that entitles Town of Carver Instructions for Submitting a Zoning Board of Appeals Application and its entirety. Seconded by Member Mueller second. Voted and passed unanimously, 4-0

- E. Correspondence:
None

- F. Next Zoning Board of Appeals Meeting:
a. Tuesday September 29, 2020 at 7 P.M.

- G. Adjournment:

Member Germain made a Motion to Adjourn. Seconded by Member Mueller. Voted and passed unanimously, 4-0

Meeting adjourned at 7:46 P.M

Respectfully submitted,

Kelly DiCarli