



CARVER ZONING BOARD OF APPEALS MINUTES OF APRIL 7, 2016 MEETING

Present: Stephen Gray, Chair; Sharon Clarke, Eric Mueller, Steven Maynard; Frances Mello. Also present: Marlene McCollem, Planning Director, Judy Barrett and Marianne MacLeod, Recording Secretary.

Chair, Mr. Gray, opened the meeting at 7:04 P.M.

MINUTES: March 8 and March 18, 2016.

Chair asked Board for any amendments to March 8, 2016 meeting minutes.

Motion made by Sharon Clarke to accept, seconded by Steven Maynard the minutes were approved unanimously.

Chair asked Board for any amendments to March 18, 2016 meeting minutes. Sharon Clarke made a motion to accept minutes as written seconded by Steven Maynard and the minutes were approved unanimously.

Continuation of a PUBLIC HEARING: Comprehensive permit: Petitioner: Draper Home Improvements, LLC; off of Plymouth Street, Carver, MA 02330 (Assessor's Map 18-Lot 8).

The petitioner is requesting a comprehensive permit, pursuant to 760 CMR 56.00, in order to develop a 39-lot subdivision on 17.81 acres in a Residential Agricultural District, shown on Map 18, Lot 8.

Mr. Gray gave a little background information regarding this hearing. A developer can attain all the local permits and approvals necessary for an affordable housing project through a single application, filed with the local ZBA. Other Boards are entitled to weigh in with suggestions and concerns, but eventually the decision has to be made by the ZBA. Chap. 40-B statute allows developers to bypass local zoning bylaws and ordinances as well as subdivision rules, regulations and local wetlands bylaws, exclusion state regulations and Title V codes. Towns that have 10% of housing stock restricted as affordable, Zoning Boards must generally grant whatever waivers are necessary to make a project economic. However, Zoning Boards must waive the request of these waivers to any local concerns, such as public health, safety and environment. These are kept in mind throughout the process. The state does not recognize manufactured homes and

mobile homes as qualified affordable housing. Carver is about 3% for qualified affordable housing.

This developer is represented by counsel, Mr. Robert Kraus. We are aware neighbors have also attained counsel to represent them. Mr. Gray wants to make sure attorneys "cc" each other. With regard to members of the public, Mr. Gray asked all future emails be directed to the Carver Planning office.

Mr. Gray wanted to point out that Eric Mueller is also a member of the Carver Board of Health. He has not participated in any votes as a member of the Board of Health relating to this 40-B project. Mr. Gray asked Mr. Mueller if he feels he can be impartial and unbiased. He replied yes he can. He has chosen to recuse himself from the Board of Health seat and to be strictly part of this Board. Mr. Gray asked all board members if they had any issues with this. All said no.

Mr. Gray then asked Attys. Kraus and Glick if they opposed Mr. Mueller being on the Board, both replied "no".

Mr. Draper requested the hearing be postponed until May. Because this Board only meets roughly once a month, Mr. Gray refused the postponement. First, he did not read anything in letter demonstrating Mr. Draper could not be present tonight. Secondly, the announcement for tonight's hearing had already gone out. The public had already been notified and it would be difficult to get the word out of a postponement. He asked Mr. Draper if he wished to renew the request for postponement. Mr. Kraus said they are ready to proceed.

Next Mr. Gray introduced the Board members. In addition, Judy Barrett is present as a consultant to the Board, through a state grant. She has a lot of experience in 40-B housing. He also introduced Marlene McCollem, the Town Planner.

Mr. Neil Glick, Esq., representing neighbors, wanted to point out to the Board that the application is grossly inadequate, missing major aspects of ZBA forms for 40-B project, major aspects of the state's application requirements, and some of the information is inadequate or in error. He said the ZBA does not have a complete application in front of them. He asked that the Board reject the application, without prejudice, so that everyone could start fresh with an appropriate application, completed in accordance with the town and state requirements, and have the hearing re-started.

Mr. Kraus responded that the Hearing has been opened and everyone is here on a continuation. He stated that Mr. Draper was invited to apply for a 40B by Mr. Hunter, former Carver town planner. Requirements of 56-04, 2, which are the regulations, he feels they have provided the necessary information to allow them to move forward. There has been no determination that the application was deficient by Mass housing. He feels there are no grounds for not moving forward.

Judy Barrett shared that she feels there is not a complete application. The submittal to Mass housing is not the same as what is received by the Board. Regulations require any project with 5 or more units will have a site development plan. She suggests the applicant accept an extension so that the application can be complete.

Sharon Clarke feels the completed application and completed proper plan would start the clock ticking and that is where the Board needs to be. As for the deficiencies, she is not comfortable starting anything.

Mr. Mueller feels that the 180 days should definitely start with a completed application. Ms. Mello defers to the expert.

Ms. Barrett explained that there should be an expert engineer to review the complete application.

Mr. Krauss said 56-04 and 56-05 are parallel revisions with respect to documentation. ZBA has no rules adopted or associated with 40-B. He stated that the Board can approve it, deny it or approve it with conditions.

Mr. Krauss would like to start the process and continue with an extension if necessary. He would like to continue the hearing.

Mr. Glick responded that he does not object to Ms. Barrett's proposal. The only thing he would add is not only would the time for decision be extended, but the public input as well. They would need the time to see a complete application. 56-05 states you can only open the hearing once you have a completed application, within 30 days.

Mr. Krauss made one final comment. The hearing was convened and continued to today. The board did open it.

Mr. Gray said more information provided is better for the developer, as well as neighbors in Carver. His review of the application reveals that parts of the application clearly are incomplete. Attachments are missing. There are omissions in answers to questions. His concern is that the Board has as much information as possible, so when they get ready to address the "meat of the issues," there will be an understanding of all aspects. The Board is responsible for making an informed judgement. Mr. Gray feels the point Ms. Barrett made is fair and we should be asking the petitioner, at this point, when they will be ready to present a detailed application. He stated they are properly before the Board, but the information is not complete and there are important parts missing.

Mr. Krauss stated he submitted additional paperwork tonight to be included as part of the proposal.

Mr. Gray indicated that they have some knowledge of what is being proposed; he asked again when the developer will be able to provide this information.

Mr. Krauss asked what specific information is needed.

Mr. Gray indicated Ms. McCollem handed both attorneys a memo, which she read aloud.

Mr. Gray thanked Ms. McCollem for this information.

Mr. Krauss can understand needing a waiver list. Engineer is here and ready to address septic system and nitrogen deduction. He asked, exactly where is the plan deficient?

Ms. McCollem recommended plans be developed by a professional engineer. A preliminary subdivision plan is needed. Ms. Clarke said there are no side lots, distances or setbacks. The Board wants a topography map as well. The Board should have info on measurements from existing wells and existing structures on abutting properties.

Mr. Gray asked Ms. Barrett if she had any information to add. She stated that the Board needs additional information than what they have now.

Mr. Gray added that peer review is going to be an important part of this. They will select and hire an engineer and an environmental scientist, which will be used for peer review. They will need detailed data so that they can properly review and advise the Board.

Mr. Krauss asked for a five minute break. Mr. Gray granted this.

The meeting came back to order. Mr. Krauss reiterated they will work with the Board. He asked if Mr. Draper could say a few words - just to show the project to the community so that they can have a foundation of the work, even though there are further submissions needed.

Mr. Gray allowed Mr. Draper a few minutes to speak and give a very broad overview.

Mr. Draper began by stating that the previous town planner approached them to take on this project. There have been multiple plan changes already. He grew up in Carver and was looking to purchase a house and ended up in Plymouth. He thought it would be a good way to give back to the community, a development that they could be proud of. He wants to make an attractive product, which is the ultimate goal. Homes would consist of 3 bedrooms, a 2-car garage, all at an affordable price. He noted that on the TV screen is the 4th rendition of the project, which is the most current.

Mr. Gray said is not inclined to listen to the engineer tonight, as there are still moving pieces and a lot more detail is needed.

Mr. Krauss again asked if Mr. Parker, the engineer could generally describe the project.

Mr. Gray asked the Board if they would like him to speak. They were 2 in favor, 2 against and Mr. Gray said he has 3 minutes to speak.

Mr. Parker shared that the plan on the TV screen complied with Mass housing's requirements. The objective is to make this the best it can be for the community. There will be compromise. There is a wetland scientist, Brad Holmes, flagging wetlands this coming week. Control work on the perimeter has been completed. The crew will continue with the topography. He would like Mr. Mueller and Ms. McCollem to look at the septic that is proposed.

Mr. Gray asked Ms. Barrett's opinion if the Board should move tonight, established by motion, with the selection of peer review experts, engineer and environmental scientist?

She said yes. Typically the Board will authorize the staff to conduct the process and get someone on board: 1) Authorize procurement process and 2) secure from applicant a continuance date that makes sense for them, so they can address the missing pieces of information so there will be a complete application and information for peer consultants to review. At that point the 180 days would begin.

Mr. Gray asked the Board their thoughts. Mr. Maynard agreed. Ms. Mello would like to pass this along to the staff and do it now. Mr. Mueller said to move forward. Ms. Clarke asked if that would involve getting the deposits and finances in place ahead of time. Ms. McCollem said funds would need to be in hand before contracts are signed. Procuring and negotiating the contract can start now. Ms. Barrett and Ms. McCollem have experience with consultants who are experienced doing this.

Mr. Krauss asked if he could suggest some people.

Mr. Gray first asked members of the Board, if they should authorize the hiring of both an engineer and environment scientists now? The consensus of the Board is yes, start the process. Ms. Barrett said get to three quotes. Ms. McCollem will solicit written quotations.

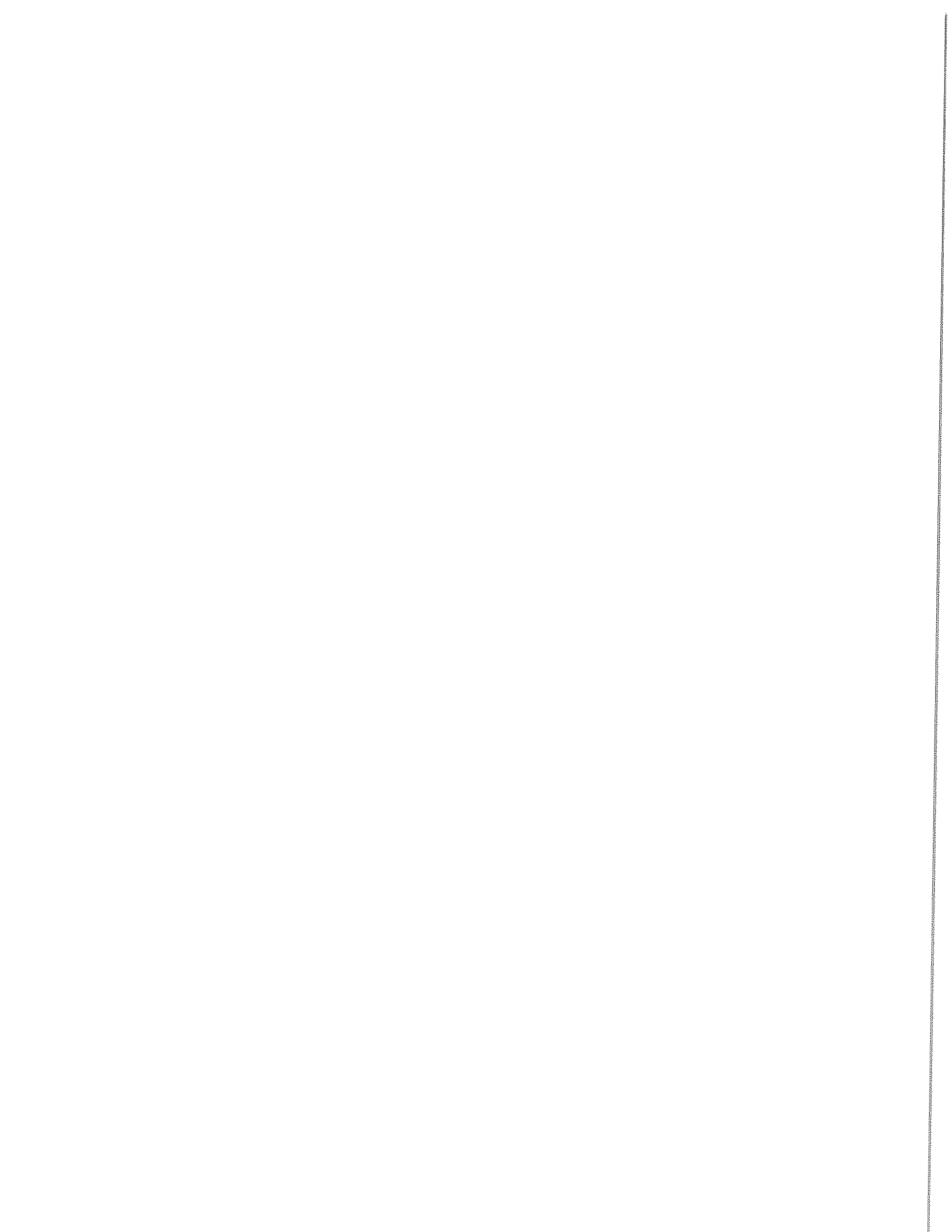
Mr. Gray told Mr. Krauss that they can submit some names. However, he suggested that Ms. McCollem and Ms. Barrett choose the experts. He felt it would be in the developer's best interest to not make suggestions.

Mr. Glick reiterated, the consultant needs a complete application for the peer experts to review. Mr. Gray agreed.

Next, the date of May 16th, a Monday, was mentioned. Mr. Krauss explained that they are looking for a 60-day window, and they are looking for a June date. Mr. Park, the engineer for the developer, indicated more than 60 days may be needed.

Mr. Krauss indicated they would like to look at July, which will require an extension of 180 days. He said he would send a waiver letter.

Ms. McCollem asked when will plans be done. Mr. Park said by June 15th.



If she gets them on June 15th, she wants the hearing scheduled no sooner than 3 weeks later, which would be no sooner, than July 6th. Ms. Barrett is available on July 21st. The Board will have a public hearing on July 21st.

A vote needs to be done authorizing hiring two peer review consultants – civil engineer and an environmental scientist.

Ms. McCollem asked if it is okay that both disciplines are procured by same firm?

Ms. Barrett explained that it is not atypical to do this.

Mr. Gray asked Attorney Krauss – are you agreeable to that? Yes, he's fine with that.

Mr. Glick prefers separate firms.

Ms. Barrett explained that you really want the most qualified people.

A motion to authorize the hiring of two peer review experts was made by Fran Mello and seconded by Sharon Clarke. There was no discussion. Motion was voted in favor unanimously.

Next, before a motion was made, it was questioned whether the Board wants to authorize Ms. McCollem to hire the peer reviewers. Mr. Gray says both Ms. McCollem and Ms. Barrett should assist in hiring of two experts.

Ms. McCollem said that the town administrator will handle the contract.

Ms. McCollem and Ms. Barrett will put together a list for the Board. Ms. McCollem suggested that a review team be established that will make the recommendation to the Board. The team would be one or two board members and Ms. McCollem and Ms. Barrett. Board members agree with this.

Fran Mello made a motion to appoint Ms. McCollem and Ms. Barrett to gather a committee with two members of the ZBA Board to review and select an applicant for contracts of civil engineer and environmental scientist. This was seconded by Eric Mueller, voted and passed unanimously.

Eric Mueller made a motion to include Steve Maynard and Sharon Clarke as Board representatives for the team. This was seconded by Fran Mello. Mr. Maynard accepts and Ms. Clarke accepts. Motion passed unanimously.

On July 21, 2016 the Board will come back to continue the Hearing, with detailed plans, as well as peer experts. Mr. Krauss asked if Mr. Parker could communicate with the professional staff, and was told yes, as long as Ms. McCollem is copied on all communications.

Mr. Gray asked Mr. Krauss if he had anything further to add. He replied no. Thank you.

Mr. Gray thanked Mr. Draper and Mr. Parker for their presentation.

Mr. Krauss will provide a letter that the 180 days starts on July 21, 2016. It will be available within 7 days from this evening.

Ms. Clarke then explained that typically the applicant presents their petition and then the public is invited to speak. The meeting notice will be published at the town hall. She also said abutters will not receive notice of future hearings.

Mr. Gray reminded the public to address any concerns to the office of the Town Planner.

A motion to adjourn was made by Eric Mueller and seconded by Steve Maynard. Voted and passed unanimously.

Meeting adjourned at 8:34 p.m.

Respectfully submitted,

Marianne MacLeod,
Recording Secretary

